

Queensland



Parliamentary Debates
[Hansard]

Legislative Council

WEDNESDAY, 6 SEPTEMBER 1865

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when my late office of Government Resident at Port Curtis was abolished, always laid claim to some compensation for the loss of my office. I believe myself, under the provisions of the Constitution Act, honestly and justly entitled to claim this compensation, not as a matter of favor, but as a matter of right. I have addressed your Excellency,—I have addressed the Secretary of State for the Colonies,—and from both his Grace the Duke of Newcastle and your Excellency I have received acknowledgment of the justice of my claims; but no overt act being taken by the Executive to support them, I have been compelled to endeavor to bring my case before the Legislative Assembly of the colony. To-night, I regret to say, the Legislative Assembly have refused even to give me an opportunity of stating my case to them, by denying me, on a division, the appointment of a select committee to consider it. I feel, therefore, it is not consistent with my character, or with the honorable position I have hitherto held in life, to continue in office in a colony which seems determined to inflict on me so grievous a wrong. I have expressed to the Legislative Council this evening my grateful thanks for the support, kindness, and attention I have always met with during my connection with that body, and I have now to tender to your Excellency a similar manifestation of my feelings, for the unvarying and cordial support I have always received from your Excellency. I have, &c.,

“M. C. O'CONNELL.

“To his Excellency the Governor, Sir G. F. Bowen, G.C.M.G., Government House.”

This morning, I had the honor of an interview with His Excellency, and at His Excellency's personal request I have consented, in order to avoid any interference with the public service, to hold office until the close of the session, which appears to be much nearer than I had expected. I may add, that any hesitation which I may have felt, in retaining my present position for so short a period, was entirely removed when His Excellency informed me that he was about to receive a deputation from the Council to request me to remain; and I take this opportunity of again expressing my warm appreciation of the kindness and support I have ever received at your hands. I can only say it will act as an additional stimulus in the discharge of my duty as your President.

The ATTORNEY-GENERAL: Mr. President, I must take the opportunity of congratulating the Council, that you have consented to resume the Chair, and I trust you will continue to occupy it with as much satisfaction to yourself as, I am sure, has been felt by honorable gentlemen around me.

The PRESIDENT: If the Council will so far favor me as to hear the statement which I am desirous of making, I shall be thankful; because I consider that, holding the honorable and dignified position of your President, I ought not to be liable to the imputation that from fickleness, or without reason, I have proposed to resign an office, which I

LEGISLATIVE COUNCIL.

Wednesday, 6 September, 1865.

Resignation of the President.

RESIGNATION OF THE PRESIDENT.

The PRESIDENT: Honorable gentlemen,—In reference to the statement I made from the Chair yesterday, I have now to state that in pursuance of the intention I then expressed, I addressed a letter the same evening to His Excellency the Governor, which I will now read to the Council:—

“MAY IT PLEASE YOUR EXCELLENCY,—I have the honor to place in your Excellency's hands the resignation of my office as President of the Legislative Council of Queensland. It is but due to your Excellency that I should, in this communication, clearly state my reasons for adopting this step, and they are these:—I have (as is known to your Excellency), from the period

hold to be one of very great honor,—an office which has been made light to me by the constant and unvarying support I have received from the members of the Council, ever since I have had the honor of occupying this seat. Honorable gentlemen, the causes that led me to take the step which I intimated from the chair yesterday evening it was my intention to take, are shortly expressed in the letter of resignation I have just read to you. But I am anxious to explain that the course I have pursued was not adopted on the impulse of the moment, from any temporary feeling of irritation. It was one I had long determined to adopt, if I found that the claim I had placed before the Government of this colony at the time of Separation was not allowed or admitted; and I think I shall be able to shew to you that my position has been one of considerable difficulty. When the Separation of Queensland from New South Wales took place, I held the office of Government Resident at Port Curtis, the Government Residency then extending from the ranges which divide the waters of the Brisbane from those of the Mary up to Cape Palmerston. I had been upwards of twelve years in the civil service of this country, always on frontier occupation. I entered upon the duties of Commissioner of Crown Lands for the Burnett district in the year 1848. I then stationed myself on the banks of the Burnett River, which was the extreme northern point of occupation in this colony. After remaining there for five years, I was removed at the request of the Government to Port Curtis—also a new settlement—situated at that time some hundred miles from any occupation. In those two situations I had to endure very considerable discomfort, which will be readily understood by honorable gentlemen as necessarily attaching to the occupation of new country. Separation then took place, and I found myself suddenly deprived of my office, and of any beneficial results which might have accrued to me from the twelve or fourteen years service I had a right to claim. It was intimated to me in a letter from the Colonial Secretary's Office, dated 4th February, 1860, that it was deemed inexpedient to continue the office of Government Resident, as the Executive Council, upon mature deliberation, had decided that, under the altered circumstances of the colony, the appointment of Government Resident at Port Curtis was no longer necessary or justifiable to the Parliament of Queensland. That is to say, certain political changes had been made in the Government of the colony, which no longer required a separate administrative office such as I then held. Now, I think, honorable gentlemen, you will feel with me that it is a hardship upon any man to be told suddenly that political changes have been made and that therefrom a continuance of his services is no longer required. I was not told that my services were useless; I was

not told that I had misconducted myself, or that I had failed in the proper discharge of my duties. It was simply intimated to me that certain political changes had been made which rendered my services for the future unnecessary. Of course, I had nothing to do but to bow to the decision of the Executive. They were pleased to communicate their decision in very complimentary terms, highly gratifying to me and to my family and friends. They expressed themselves in terms of praise in reference to the manner in which I had discharged the duties entrusted to me. My duties in Queensland commenced in 1848, and have continued up to the present time. At the period of Separation my position was this:—I held the office of Government Resident at Port Curtis with a salary of £700. I had a residence and had attached to me two orderlies—that is to say, I was not compelled to engage the services of a man-servant—a position which, as far as pecuniary results are concerned, I may fairly calculate as being quite equal to £1000 a year in Brisbane at the present time. With a view of obtaining compensation, I pressed my claim immediately upon the attention of the Government of Queensland, and I received many complimentary answers to my applications. But there appeared to be this difficulty, that the Government of Queensland thought my services had been rendered to New South Wales during the period that Queensland was a portion of that colony; and when I applied to the Government of New South Wales, they told me that I belonged to Queensland and that whatever claim I might advance in consequence of the abolition of my office, must be made to the Government of this colony. This was the difficulty, and of course it was not competent for any individual to decide the point. One Government alleging *prima facie*, that they had no right to reward services rendered to another Government, and the other, the Government of New South Wales, arguing that since I have been removed by separation from their services, I had no right to make a claim against them, and that they had nothing further to do with me. But it struck me, and I think very justly, that the origin and validity of my claim was founded upon the Constitution Act of New South Wales. Previous to the passing of that Act it was the fact, as I have no doubt honorable gentlemen are aware, that the Crown lands revenue of the colony was not under the control of the Council. There then existed but one Council composed of nominees, which had the control of the general revenue and the taxation of the people. The Crown land revenue was the property of the Crown, and was expended under warrants from the Governor without requiring the confirmation or the vote of the Legislative Council. When the Constitution Act was introduced, it was proposed by its framers that the Crown lands revenue should be transferred entirely to the

colony, and that a new legislature be constituted which should have power to direct the expenditure of the general revenue of the colony. This, of course, was a matter of consideration between the imperial and colonial authorities, and the Act was so drawn as to require that a civil list should be granted to her Majesty in consideration of the relinquishment of her rights over the Crown lands revenue. The preamble of the civil list in the Constitution Act is as follows:—

“And whereas the Legislative Council of New South Wales constituted under the Imperial Act passed in the session holden in the thirteenth and fourteenth years of the reign of Her present Majesty intituled “An Act for the better government of Her Majesty’s Australian colonies” are desirous that Her Majesty should owe to the spontaneous liberality of her people in this colony such grant by way of civil list in lieu of the provision contained in the schedule to that Act as shall be sufficient to give stability and security to the civil institutions of the colony and to provide for the adequate remuneration of able and efficient officers in the executive judicial and other departments of Her Majesty’s colonial service the granting of which civil list belongs constitutionally only to Her Majesty’s faithful people through their representatives in the said Legislative Council and Her Majesty’s most dutiful and loyal subjects the members of the said Legislative Council in Council assembled being desirous that a certain competent revenue for the purpose may be settled upon Her Majesty (to whom may God grant a long and happy reign) as a testimony of their unfeigned affection to Her Majesty’s person and Government having accordingly freely resolved in lieu of the aforesaid statutable provision for the like purpose to grant to Her Majesty her heirs and successors a certain revenue payable out of the consolidated revenue fund of this colony.”

That was the great change, the Crown lands revenue was transferred from the sole control of the Crown to that of the Legislature; and among the other provisions of that Act it was provided in the 51st clause, that—

“Not more than five thousand nine hundred pounds in each year shall be payable by way of pension or retiring allowance for the present incumbents of any office or department mentioned in the said schedule B who on political grounds may retire or be released from any such office or department.”

That is to say, a provision was made for pensions or retiring allowances to those officers, who, by the operation of the Act, on political grounds, might be released from office. In a further provision of the same clause, the particular officers to be affected by that clause were named—The Attorney-General, Solicitor-General, the Colonial Secretary, Colonial Treasurer, and Auditor-General. That formed the ground work of the Constitution Act for the various Australian colonies, for South Australia, Victoria, and Tasmania followed suit, and in each of those colonies the same provisions

were enacted. The officers varied according to the different offices constituted in each colony; but in all cases, those officers who, from political causes—from the establishment of responsible government—were removed from their offices, received that allowance which, according to the original arrangement in New South Wales, was the basis of a compact between the people and the Crown for the relinquishment on the part of the Crown of the Crown lands revenue. No Australian colony, until Queensland was established, has refused to meet its liabilities under this provision of the Constitution Act. They have had the Crown lands revenue handed over to them on the condition that those officers, who, after short or long service—and some persons have succeeded to these allowances whose term of office has been very short—should be released from office from political causes, should be provided for. The separation of Queensland was carried by the Orders of Council, passed by Her Majesty in Council in London. But there have been several oversights already proved to exist in these orders; and I am of opinion that this is also an oversight which might have very naturally arisen from the imperfect local knowledge in possession of the persons who framed these Orders in Council. They have, however, adopted generally the provisions of the said recited Act passed by the Legislature of New South Wales, including the taxes, imposts, rates, and duties, and among other things a civil list; and they have provided “That there shall be payable in every year to Her Majesty, for such civil list, Her heirs and successors, out of the consolidated revenue fund of this colony the several sums not exceeding in the whole the sum of £6,400, &c.” They adopted the principle, and have attempted to carry out its details; and that seems to me to be the point on which the difficulty arose which has haunted me ever since Separation. They established a civil list which gave the Governor £2,500, the Private Secretary £300, the Colonial Secretary £700, the Colonial Treasurer £700, the Judge £1,200, Public Worship £1,000, and so on. Now, I ask you, honorable gentlemen, to look at that civil list, and say whether, if the principle be adopted, it is not already sufficiently proved that the colony did not feel satisfied with the details which the constructors of the Orders in Council had provided? That civil list has been entirely altered; and all I now ask, and all I have asked from the beginning, is, that the civil list having been proved to be faulty, and altered in details, my case shall be included in the general provision and come under the same class. That has been my claim from the commencement. I have placed it before His Excellency the Governor, and before the Secretary of State; and I should have brought it before the Legislative Assembly long ago in such a form as would have at once met either with

approval or denial; but—unfortunately for my interest in this respect—I had the honor to hold the very dignified position of your President, and I could not, it seemed to me, consistently with the dignity of my office, approach the Assembly with a petition. Had I been a private individual, I should have presented my petition, and requested to be heard at the bar of the House in explanation of my claim; but my official position seemed to me to debar me from such a resource. The Executive Government, to whom I applied, did not appear inclined to take up my case as attaching to any duty on their part. I then applied to the Secretary of State, and I will read to the Council a portion of the reply which I received from the Duke of Newcastle. I may observe, the Duke of Newcastle had previously recommended that the claim of Captain Wickham, then Government Resident at Moreton Bay, who was precisely in the same position as myself—and if my claim should ever be granted, I am sure the Legislature of this colony will feel that Captain Wickham's claim cannot be refused; and, as far as my exertions go, I shall endeavor to obtain its satisfaction for his representatives. The opinion the Duke of Newcastle expresses is a very strong one, and conveys very fully what is the ordinary opinion of the Governments of civilized countries, in reference to cases such as those which I am now bringing under your consideration. His Grace stated, in conclusion:—

“The question, however, is one which I must consider as decided by that authority with whom the decision rests, and I cannot direct another probably unsuccessful application to be made on the part of the Home Government, though I should hear with satisfaction that the Legislature had, on reconsideration, taken a more liberal view of the services and claims of those officers.”

His Grace, having been disappointed at the ill success of his first recommendation, did not consider himself justified in subjecting himself to the chance of a second refusal, and contented himself with expressing a strong opinion of the justice of my claim. Having been obliged to abandon these resources, I had no course left but to endeavor to find some member of the Legislative Assembly to move that my case be taken into consideration by that House, which I did, and the result was, that the session before last an address to the Governor on the subject was moved and carried, and eventually an answer was received and laid on the table of the House by the Colonial Secretary, which stated that the Government considered my claim to be a just one. There, however, the matter rested. The opinion of the Government that my claim was a just one lay upon the table of the House, and, unless I moved again in the matter, I saw no probability of advancing the matter a further stage. I was, as I have before stated, in some difficulty on

account of my position as President of this Council, and I was long doubtful of the mode in which I should move in this question; when it was suggested to me, some ten days ago, that I might procure some honorable member of the Assembly to move for a committee to inquire into the validity of my claim—to see whether there was any justice in it—whether there was any claim at all deserving the consideration of the Assembly—and to deal with it as they might deem fit upon the evidence which might be laid before them. The fate of that application was decided, as honorable gentlemen are aware, last evening. I then learned that the Assembly had refused even to entertain the question, whether I had a claim upon the Government or not—they refused even to hear me—they refused to make any inquiry into the justice of the claim I had laid before the Government. Now, upon hearing the result of my application, I could not but feel—as I believe every honest man must feel who, having a claim which he believes to be a just one, cannot obtain a hearing—that I was ill-treated. If I had been in the lowest grade of the service, if I had been a turnkey in the gaol, a boatman, or a messenger in this House, and had a claim upon the Government, and could shew *prima facie* grounds for it, I should have felt myself hardly dealt with if I had not obtained a hearing; but holding the position I occupy as your President, I feel that, if I am worthy to hold it, it should at least be conceded to me that I have not advanced a claim which I do not believe to be a just one. I felt the refusal as an indignity to myself, and an indignity to the office I hold. I also felt, and still feel, that I have not received that measure of justice from the Government of this colony upon this question which I think I had a right to expect. Of course, in the action of the popular branch of the Legislature, there may be many individual opinions, and perhaps personal dislikes, which may influence the decision at which such an Assembly would arrive. I submitted, of course, as I am bound in common with every other subject of Her Majesty, to that decision of the Legislative Assembly, and I can only say that I regret it. I felt last evening that the only question left for me to consider was, whether I could consistently with my own honor continue to hold office in a colony which seemed determined to do me so great a wrong. It was under this feeling that I stated to you last night that I had determined upon resigning my office, and I have gone into this long explanation, which I thank you for having had the kindness to listen to, because I thought I was bound to clear myself in your eyes and in the eyes of the colony from the imputation of having acted with fickleness, or without sufficient consideration. I have a very pleasing duty to perform in thanking you for the kindness

which I have met with at all times from all honorable members of this Council—I have also to express my thanks for the kindness which has been extended to me out of doors. I have been in a position of considerable difficulty, but I trust I have succeeded in exonerating myself, at any rate, from the imputation of having acted inconsiderately, and that I have shewn to you, honorable gentlemen, that it was from no want of appreciation of the honor and dignity of the office I hold, or from any sudden impulse, that I determined to resign. I shall continue in my present position as long as the colony may be benefited by my doing so, and until I bring my claim to a successful issue—a claim which I am bound to insist upon, which I am told I ought to insist upon as my just due, as a debt due to me by this colony, for which this colony has received a very large consideration, to the last day of my existence.

The Hon. W. LANDSBOROUGH moved the adjournment of the House in order to have an opportunity of expressing his gratification at hearing that the honorable the President had consented to resume office. He believed there had been in the House, as well as outside, a general feeling of regret at the determination to resign, which the honorable gentleman had expressed on the previous evening. He felt convinced that if the claim which the President had laid before the Legislative Assembly had been brought forward at an earlier period of the session, it would have met with the consideration to which it was entitled. For his part, he felt that the claim of the honorable gentleman, who had spent some of the best years of his life in the service of his country, and whose services had met with such high encomiums upon all occasions, ought to be recognised by the Legislature.

The Hon. St. G. R. GORE said he wished to express, with other honorable gentlemen, his satisfaction that the honorable President had consented to resume his seat. He would take the opportunity of pointing out a slight error which had been committed, in stating that a deputation from the Council waiting upon the Governor, on the subject of the President's resignation. He was not aware that any deputation had been appointed, although a number of honorable gentlemen did wait upon His Excellency.

The Hon. W. WOOD explained, that there was hardly time to consult all the members of the Council, or a deputation would, in all probability, have been duly appointed. That being the case, those honorable gentlemen who met, waited upon His Excellency in their private capacity. In reference to the equity of the case, which the President had laid before the Council, he thought there could be but one opinion of it. He did not intend, however, to go into the question, and would content himself with expressing his gratification, as a member of

the Council, in seeing the honorable gentleman again in the chair; he had understood the President to say that he had withdrawn his resignation.

The Hon. G. HARRIS said he was not present when the President had acquainted the Council with his intention of resigning his high office, and he had been extremely surprised to learn from the papers that the honorable gentleman had come to such a determination. He thought the President had just cause for being aggrieved at the refusal by the Legislative Assembly to appoint a select committee to consider his claim,—they might at least have afforded him an opportunity of placing his grievance before the country. He regretted that he was absent when several honorable gentlemen called upon him to ask him to accompany them to Government House, as he should have been very happy to have accompanied them, and to have added his voice in deprecation of the President's resignation. He could only express a hope that the honorable President would continue for many years to come to occupy the chair which he so worthily filled.

The Hon. R. J. SMITH said he felt sure that not only every member of the Council, but the people of the colony generally, would deeply regret to lose the services of the honorable and esteemed President. He thought the other branch of the Legislature had been somewhat hasty in their decision, but he hoped they would reconsider it. He did think, however, there was some little excuse for them, considering the lateness of the session. The equity of the claim was another question, upon which he hardly liked to offer an opinion. But he must say that the letter from the Duke of Newcastle, which had been quoted by the President, appeared conclusive proof in favor of the claim. If the claim of Captain Wickham was a just one, there could be no doubt that the other was equally just. He hoped the honorable gentleman who had promised to support that claim, would yet be successful in obtaining what he considered to be justly his due.

The President again expressed his thanks, for the attention with which honorable gentlemen had listened to his statement, and the Honorable W. Landsborough having withdrawn his motion, the matter dropped.
