

I am here obliged to refer to facts for which I can only pledge my own veracity; but I owe it to myself to state, that in a personal interview with Lord Seaton, at which Mr. Attorney General Ogden was present, when I expressed my intention of remonstrating to the Secretary of State against the construction put by Lord Normanby on the terms of my appointment, Lord Seaton discouraged the proceeding, on the ground (which was confirmed by Mr. Ogden's view of the case) that Lord Normanby's despatch was founded on a mistake as to my position and rights, and that I might make myself perfectly easy as to its effect. I actually drew up, however, and sent to Lord Seaton, a memorial of remonstrance to the Secretary of State, but was advised again to withdraw it; and that I did so under the impression so given to me that the despatch could not affect me is certain from the note I received from and the answer I sent to Lord Seaton's private secretary, of the 14th August, the draft of which I have fortunately preserved, but of which, being in the tone of familiarity belonging to private friendship, I cannot give a full copy. In that answer I begin by stating, "as you agree with Sir John that it is unnecessary to remonstrate, and that Lord Normanby's despatch cannot by any possibility be brought to bear against me, you may destroy my official communication," &c., &c.; and in the conclusion I added, "I have already consulted the two persons you mention (one of whom was the then Attorney General Ogden), but they too are both of opinion that the despatch must be considered as a dead letter."

I afterwards applied, through Lord Seaton, to have the mandamus which had been issued by the orders of Lord Normanby for granting me a provincial commission under the great seal antedated to the period when I had actually been commissioned in the province; my object in this application being to secure my seniority in the event of a union taking place and the office of clerk of the Executive Council, then vacant in Upper Canada, being filled up.

The answer to this application was conveyed in a letter from Lord Sydenham's (then Mr. Poulett Thompson's) Secretary, Mr. Murdoch, dated 21st October 1839, a few days only after his Excellency's arrival, by which I was informed that his Excellency had received a despatch from the Secretary of State, Lord John Russell, to the effect that my mandamus had been issued to my agent in England before the arrival in England of Sir John Colborne's despatch on the subject. I particularly refer to this letter here, because it appears to afford conclusive proof that Lord Sydenham must then have been made aware by the Secretary of State of the previous correspondence, and all the circumstances connected with my appointment, and must consequently from the first have had a knowledge of Lord Normanby's despatch of the 3d of July preceding.

Upon this latter point (one most deeply affecting my feelings and character, in consequence of the view of it intimated by Lord Stanley,) I must first observe, that even if the character which I trust I have established in the public service should not have protected me from the imputation of having entrapped Lord Sydenham into the arrangement he made with me in 1841, by withholding from him the knowledge of Lord Normanby's despatch, there were circumstances which rendered such an attempt at concealment so hopeless that nothing but infatuation could have led me to make it. I was perfectly aware of Lord Sydenham's unfavourable disposition towards me, and that I could expect nothing from him but a strict and searching examination of any claim I should put forward; any attempt at a concealment of facts recorded in his own despatch book must have been followed by immediate detection and disgrace, and his own Secretary, Mr. Murdoch, who had been in the Colonial Office during the whole previous correspondence, when Lord Normanby's despatch was written, and perhaps transcribed it himself, and to whom every step of my negotiation with Lord Sydenham for retiring from the office was fully known, was at hand to guard Lord Sydenham, and to aid in the detection.

Not long before the arrangement in question was made with me by his Lordship, I had occasion in June 1841 to bring before him, through Mr. Secretary Harrison, a question relating to fees of office which I claimed in Upper Canada as clerk of the Council*; the Union had then been in force some months, and I continued sole clerk of the new Council under my old commission, and founded my claim to the fees in question upon the terms of that commission and of my mandamus. These documents were laid before Lord Sydenham, whose attention was also called to the despatches relating to my appointment; notwithstanding an unfavourable opinion which Lord Sydenham had intimated when this claim was first brought before him, he was convinced, upon a closer investigation, that I had right on my side, granted me money compensation for the fees in question which I consented to waive, and afterwards explicitly told me that he considered the letters patent I held as not to be interfered with, unless on the ground of personal misconduct on my part.

But it may be asked how could Lord Sydenham hold this opinion with Lord Normanby's despatch before him. Because he must, as Lord Seaton had done before him, have considered that despatch as founded on a misconception of my actual position, and as not applying to an office already filled up by competent authority, and held by me for several months before that despatch was written; and because he had received a subsequent communication from Lord John Russell, intimating his desire that I should not be disturbed in the possession of my office.

* See Letter, 7th July 1841, to Mr. Secretary Harrison. Page 27.