

Enclosure in No. 7.

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Sir,

Quebec, 9th February 1844.

I have had the honour of receiving your letter of the 30th ultimo, communicating to me, by the direction of his Excellency the Governor General, the observations of Her Majesty's Secretary of State on my memorial and claim for indemnity, and for a fulfilment of the engagement entered into with me by Lord Sydenham. My Lord Stanley observes that before Her Majesty's Government can be called upon to fulfil that engagement I am bound to do one of two things, either to show that the condition imposed by Lord Normanby's Despatch, No. 53*, 3d July 1839, (namely, that I should have no claim to pension if in the event of a union of the provinces it should be found impossible to continue my services,) has been withdrawn by the same authority, or I must explain satisfactorily the reason of my withholding from Lord Sydenham the real terms prescribed by this despatch, on which I held the office of clerk of the Executive Council. I trust that I shall be able to satisfy his Lordship on one at least if not both of these points, one of which he considers to be necessary for me to establish before Her Majesty's Government can be called upon to fulfil the engagement entered into with me. I trust that I can show that I did not receive the appointment in question upon the terms of Lord Normanby's despatch; that I did not withhold from Lord Sydenham a knowledge of that despatch; that Lord Sydenham had it more than once before him; that he knowingly and advisedly, with a full knowledge of the circumstances of my case, and upon the opinion of the then Secretary of State expressed to him respecting it, entered into the engagement of which I claim the fulfilment; and, finally, that my situation and claims were not and are not those of a person newly appointed to an office, likely soon to become vacant, and to which such a stipulation as that in Lord Normanby's despatch could properly apply, but those of a person long before in the public employment, and receiving an appointment in reward of his father's public services and his own.

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The first point and the last being nearly connected, I shall direct my observations to them together.

I received my appointment as clerk of the Executive Council, not from Lord Seaton or Lord Sydenham, but from Lord Durham, under the following circumstances.

So far back as 1852 my father, the late clerk of the Executive Council of Lower Canada, applied to be allowed to retire from the Council Office in my favour.

This application was again renewed in 1836, and agreed to by the Secretary of State, subject to the approval of the then Governor in Chief, Lord Gosford, who in his answering despatch, dated 9th August 1836, "fully admitted the claims of both father and son to the favourable consideration of His Majesty's Government on account of *their public services*, and objected to the manner only of rewarding them simply because he was averse "to hereditary succession to office." The subject was nevertheless left open till the arrival of Lord Durham, to whom the final settlement of the question was submitted. His Lordship, through his Secretary, Mr. Charles Buller, proposed, as I can prove by documents in my possession, that in lieu of the Council Office I should receive the appointment of Receiver General, then hourly expected to become vacant by the death of the incumbent, Mr. Hale, a method of discharging my claims which he considered as less liable to objection than the other. The sudden death of my father, however, previous to that of Mr. Hale, and his Lordship's subsequent determination to relinquish the government, induced him at once, in order to secure my rights, to issue a commission under the great seal conferring on me the unconditional appointment of clerk of the Executive Council of Lower Canada, and confirming me in all the rights, privileges, and emoluments of office vested in my predecessor, and Lord Durham at the same time desired me, in case I should prefer the Receiver Generalship which he had intended for me, to apply to him on its becoming vacant (which it shortly afterwards did), when his whole interest should be used to obtain my translation to it.

The office therefore was given to me precisely on the terms and in the manner in which offices in the colonies or in England are commonly held; determinable indeed at Her Majesty's pleasure, but according to invariable usage to be held during good behaviour; and I may here observe, that the office was and is one of a merely ministerial nature, and carrying with it no political weight or influence.

That my appointment was not notified by Lord Durham to the Secretary of State was owing either to his sudden departure from Canada or to his not considering it an office of such a description as required Her Majesty's confirmation. But to the want of that notification Lord Normanby's subsequent despatch owes its origin.

Happening, in the spring of 1839, to see in the London Gazette a notification of Her Majesty's confirmation of two appointments made by Lord Durham not long before my own (those of the present Chief Justice, Sir J. Stuart, and of his brother, the late Solicitor General), I complained through Lord Seaton that mine had not been noticed, from no other motive than a fear that the difference in the mode of proceeding might infer a difference in the stability of my situation. It was with natural surprise that in August following I received from Lord Seaton communication of Lord Normanby's despatch, referred to by Lord Stanley, as the answer to my complaint, by which it appeared to me that it was attempted to change the tenure of a situation I had already held for several months as an absolute appointment.