

Enclosure 2. in No. 6.

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To his Excellency the Right Honourable Sir Charles Bagot, G. C. B., Governor General of British North America, &c. &c. &c.

Report of a Committee of the Executive Council, present, the Honourable Mr. Sullivan in the Chair, Mr. Daly, Mr. Harrison, Mr. Hincks, Mr. Lafontaine, Mr. Baldwin, Mr. Small, and Mr. Morin, on the claim of George Ryland, Esquire, late clerk of the Executive Council for Lower Canada.

May it please your Excellency,

The Committee of the Executive Council have felt much embarrassment in considering the claim of George Ryland, Esquire, late clerk of the Executive Council for Lower Canada.

The case of Mr. Ryland appears to be strictly as follows; he was appointed clerk of the Executive Council in the year 1838, on the death of his father, the former incumbent, he having previously for many years filled the situation of assistant clerk.

His income while clerk of the Council averaged 1,030*l.* currency. The salary being 500*l.* sterling, equal to 550*l.* currency; the remainder being made up of fees on official business, and of an allowance of 50*l.* sterling for stationery, which latter sum, obviously not sufficient to pay for the supply of stationery necessary for the office, and supposed to be made up out of the fees, ought not to be taken into account as forming a part of the net income.

On the union, Lord Sydenham having in contemplation the abolishment of the fees, according to the Upper Canada system, and the placing the clerkship on a lower salary, entered into an arrangement with Mr. Ryland for his retirement from the office in the following terms, as appears by Mr. Secretary Murdoch's letter of 23d August 1841.*

* Page 16.

"His Excellency is willing to guarantee to you an income equal to the sum to which you would be entitled as a retiring allowance were your employment in the public service altogether discontinued. Assuming your income on an average of the last three years to be 1,030*l.* currency, and your length of service as a public officer to be twenty-four years, you would be entitled, under the scale established by the 4 & 5 Will. 4. cap. 24., to a retirement equal to 515*l.* currency. That amount, therefore, his Excellency is willing to guarantee to you, by making up your emoluments from the employment in the public service which may hereafter be assigned to you to that extent, should they be insufficient of themselves to do so; should they exceed you will of course be entitled to the excess."

In pursuance of this arrangement, Mr. Ryland was appointed registrar of the district of Quebec, on the proclamation of the registry ordinance of Lower Canada, an office the emoluments of which it was supposed at the time would be far above the amount guaranteed, but which, according to Mr. Ryland's statement before the Committee, fall not only below that amount, but below the actual disbursements of the office.

Setting out of consideration for the present the question to arise on the guarantee, and supposing Mr. Ryland's claim unaccompanied by it, the Committee have to submit the following observations:—

1st. They do not recognize the principle, that officers whose income has by reason of fees increased to any amount, and who hold their office during pleasure, have any vested right on those fees, or any right but the equitable one, that the income of the office should be kept up to an amount proportioned to the duties and responsibilities of the situation.

2d. And still less upon the union of the provinces has any officer employed under the new establishment any right to have the emoluments of the office kept up to any sum which he may have received under the old.

3d. And, therefore, if the Government had upon the formation of the new order of things appointed Mr. Ryland clerk of the Council of the United Province, he would have had to content himself with such income as was thought sufficient for the office.

4th. And if Mr. Ryland had, in preference to being so appointed, been given an office equivalent or more than equivalent to the new office of clerk of the Council, even if it did not amount to the income of the old office, he would have lost nothing which under any circumstances he could have retained.

5th. And if the new office to which he should be appointed were, contrary to expectation, or by reason of any change in the law thought necessary by the Legislature, to be reduced as to its income, the incumbent would have no claim, except to favourable consideration, if it were found consistent with public interests to promote him in some other manner.

Lord Sydenham, however, chose to guarantee to Mr. Ryland an income of 515*l.* currency per annum in his new office.

But the Committee of Council do not see how it is in your Excellency's power to fulfil this pledge. There are no funds at the disposal of your Excellency for such a purpose, and if the matter were submitted to Parliament it is obvious that the case must be discussed on its merits only, and that the guarantee of the Governor would not be held binding on Parliament.

Were the Committee of Council in a position to propose to your Excellency the fulfilment of the guarantee of Lord Sydenham, they would feel it necessary, in any view of the case, to deduct from the stated annual average income the sum of 50*l.* allowance for stationery. Taking another view, the Committee would feel obliged to say that the guarantee was improvident in stating the retirement to be in proportion to the former income, which, under the circumstance of retaining office, could not have been continued; and in reference to the comparative statement of disbursement and receipts in the office of registrar, the Committee would have to remark upon what appears to them an extravagant expenditure in proportion to the amount of business done.