

CORRESPONDENCE

RELATIVE TO THE

APPOINTMENT OF THE PRESENT ATTORNEY-GENERAL.

(Return to an Order of the House of Representatives, No. 9, 22nd June, 1870.)

That there be laid upon the Table of this House—"Copies of all Documents and Correspondence relative to the appointment of the present Attorney-General."

(Mr. Gillies.)

WELLINGTON.

1870.

CORRESPONDENCE RELATIVE TO THE APPOINTMENT OF THE ATTORNEY-GENERAL.

No. 1.

The Hon. the COLONIAL SECRETARY to the Hon. JAMES PRENDERGAST.

MY DEAR MR. PRENDERGAST,—

Wellington, 22nd December, 1866.

I have received your letter* of the 14th instant, relative to the office of Attorney-General.

In reply to your queries, the Government is of opinion that the Attorney-General should conduct all prosecutions on behalf of the Crown or State at the Seat of Government; and also, when required by the Government prosecutions of an important character at other places, receiving in both cases the ordinary fees for so doing, on the scale at present paid to the respective Crown Prosecutors.

In the event of any vacancy occurring in the Bench of the Supreme Court during his tenure of office, the offer of filling it, if he should wish to do so, should, in the opinion of the Government, be made to the Attorney-General. But it must be clearly understood with respect to this question, that the present Ministry cannot undertake to bind their successors, who may possibly entertain a different opinion on this subject. As it is most important that no further delay should take place in appointing an Attorney-General, both as respects the preparation of Bills for the ensuing Session and on other grounds, I would be obliged if you would let me have your decision as to accepting the office as soon as possible.

Faithfully yours,
E. W. STAFFORD.

The Hon. James Prendergast.

No. 2.

MEMORANDUM by the Hon. JAMES PRENDERGAST.

As I have been invited to make a memorandum on Mr. Stafford's letter, I do so. Some points in the letter of Mr. Stafford to myself relating to the office of Attorney-General are capable of being misunderstood. Crown Prosecutors conduct ordinary prosecutions at the scale of fees specified in the *Gazette*; but in extraordinary prosecutions, and in all matters as to which the scale of fees specified in the *Gazette* does not apply, they are paid the ordinary fees chargeable by the profession, subject to taxation. I presume that it is intended that in the ordinary prosecutions at Wellington, the Attorney-General would be paid according to the scale in the *Gazette*; but in extraordinary prosecutions, and in matters as to which the scale in the *Gazette* does not apply, he would receive payment in the same manner as Crown Prosecutor at present, namely, not according to any scale, but the ordinary fees received in the profession, subject to taxation.

The letter does not notice other matters which may become the subjects of litigation. I presume if the Attorney-General acts either as Solicitor or Counsel for the Crown in any litigated matters—as for instance, in informations for intrusion on Crown Lands, proceedings in *seire facias*, informations against trustees in Charity matters—he would be entitled to ordinary costs or fees.

I venture also to suggest that though the present Ministry cannot bind their successors, yet in creating a new office, or in appointing to an office, they may give such an assurance and expression of opinion as would be respected by their successors. Perhaps Mr. Stafford's letter might be worded a little differently on this point.

J. PRENDERGAST.

No. 3.

The Hon. the COLONIAL SECRETARY to JAMES PRENDERGAST, Esq.

Colonial Secretary's Office,

Wellington, 25th March, 1867.

SIR,—

I have the honor to enclose a Commission under "The Attorney-General's Act, 1866," issued by the Governor, in the name and on behalf of Her Majesty, under the Seal of the Colony, appointing you to be Her Majesty's Attorney-General for New Zealand.

The salary provided by the Act for your present office is one thousand pounds (£1,000) per annum; but in consideration of the very onerous and responsible duties devolving on you, and of the sacrifice which you have made in accepting a permanent office at the Seat of Government, the Government will authorize you to draw at the rate of twelve hundred pounds (£1,200) per annum, the additional sum being provided out of the Civil List.

In any ordinary prosecutions which you may have to conduct at Wellington on behalf of the Government, you will be entitled to the ordinary fees according to the scale published in the *New Zealand Gazette* of 3rd March, 1864, No. 8; but in extraordinary prosecutions, and in matters to which the scale does not apply, you would receive the ordinary fees received in the profession, subject to taxation.

In the event of any vacancy occurring in the office of Judge of the Supreme Court in the Colony, while you hold the office of Attorney-General, you will be entitled to have the appointment to such vacant office offered to you.

I have, &c.,

James Prendergast, Esq., Attorney-General.

E. W. STAFFORD.

APPOINTMENT OF THE ATTORNEY-GENERAL.

No. 4.

WARRANT of APPOINTMENT of ATTORNEY-GENERAL.

G. GREY, Governor.

VICTORIA, by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen,
Defender of the Faith:

To JAMES PRENDERGAST, Barrister at Law of the Supreme Court of New Zealand, Esquire:
Greeting.

WHEREAS by an Act of the General Assembly of New Zealand intituled "The Attorney-General's Act, 1866," it is provided that it shall be lawful for the Governor, in the name and on behalf of Her Majesty, from time to time to appoint, by commission under the Seal of the Colony, a fit and proper person, being a Barrister of the Supreme Court of New Zealand, to be Her Majesty's Attorney-General in and for the Colony: Now know you that I, Sir George Grey, the Governor of the said Colony, reposing especial trust in the integrity, prudence, and ability of you, the said James Prendergast, do, in pursuance of the power and authority in me vested by the said Act, hereby, in the name and on behalf of Her Majesty, appoint you, the said James Prendergast, to be Her Majesty's Attorney-General in and for the Colony of New Zealand: To have, hold, exercise, and enjoy the said office and place to you the said James Prendergast, during good behaviour, together with all and singular the rights, privileges, powers, authorities, rank, and precedence whatsoever, to the said office and place belonging or in any-wise appertaining.

In testimony whereof, we have caused these our letters to be made patent, and the Seal of our said Colony to be hereunto affixed.

Witness our trusty and well-beloved Sir George Grey, Knight Commander of the Most Honorable Order of the Bath, our Governor and Commander-in-Chief in and over our Colony of New Zealand and its Dependencies; and issued at Wellington, in New Zealand aforesaid, on the twenty-fifth day of March, in the year of our Lord one thousand eight hundred and sixty-seven, in the thirtieth year of our reign.

E. W. STAFFORD.

No. 5.

The Hon. the COLONIAL SECRETARY to the Hon. JAMES PRENDERGAST.

Colonial Secretary's Office, (Judicial Branch,)

Wellington, 3rd January, 1867.

SIR,—

Referring to your appointment as Attorney-General, I have the honor to state that the Government accedes to the proposals contained in your Memorandum on my letter of 22nd December last, and your private note to the Hon. Major Richardson, and that the sum of £100 will be allowed for the expenses of your removal from Dunedin to Wellington. I have to request that you will come to Wellington as soon as possible.

I have, &c.,

The Hon. James Prendergast, Dunedin.

E. W. STAFFORD.

No. 6.

The Hon. W. FOX to JAMES PRENDERGAST, Esq.

MY DEAR MR. PRENDERGAST,—

Government Offices, Wellington, 30th May, 1870.

The terms of the arrangement on which you accepted the office of Attorney-General from the late Government have come incidentally under discussion, and it is thought right that the conclusion arrived at should be communicated to you.

The late Government seems to have exceeded its power in attempting to bind a future Government in reference to an appointment not vacant. But looking at the case apart from any pledge to which the late Government may have committed itself, the present Government will be prepared to offer to you the first puisne judgeship which may fall vacant during your tenancy of the non-political office of Attorney-General, and their own tenure of office as a Ministry. In case of the Chief Justiceship falling vacant, the Government would hold itself free from all previous pledges.

I have, &c.,

J. Prendergast, Esq., Attorney-General.

WILLIAM FOX, Premier.

No. 7.

JAMES PRENDERGAST, Esq., to the Hon. W. FOX.

MY DEAR MR. FOX,—

Wellington, 30th May, 1870.

I have to thank you for your communication relative to my claims to promotion to the Bench.

I have, &c.,

The Hon. W. FOX.

J. PRENDERGAST.

Extract from a Letter from the Attorney-General to the Hon. the Colonial Secretary.

"I think it should be noted and explained by a note on the correspondence laid before the House, that, notwithstanding anything that appears in the correspondence and memoranda, the Attorney-General does not and has never received any fee for work done as Solicitor in his office; that work is done in the office, but without cost to Government.

"The Attorney-General receives Counsel's fees in cases in which he appears for the Crown. Fees have been claimed and paid only in two cases since I have held office, namely, the prosecution at Hokitika for sedition, and those at Wellington for treason. The correspondence would lead one to suppose that a different state of things existed."

28th June, 1870.

"J. PRENDERGAST."