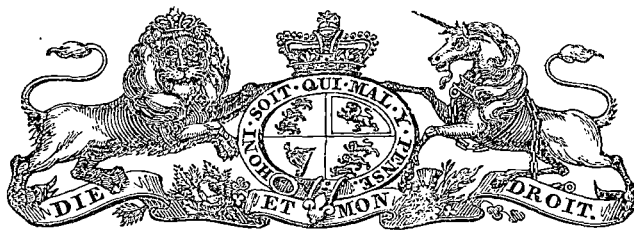


(No. 150.)



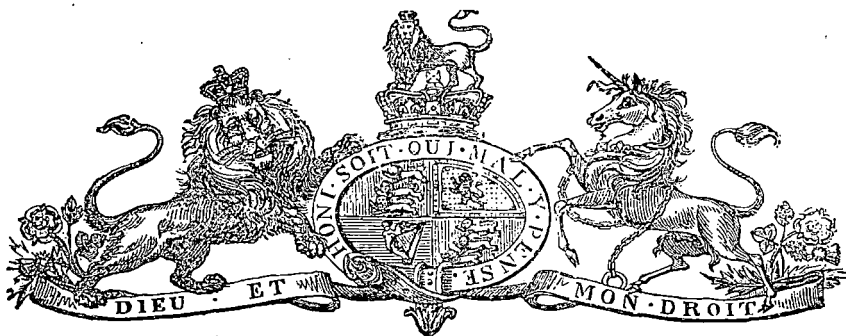
1887

PARLIAMENT OF TASMANIA.

HON. N. J. BROWN:

CORRESPONDENCE *RE* RESIGNATION OF HIS SEAT IN THE
FEDERAL COUNCIL.

Laid upon the Table of the Legislative Council by Mr. Fysh, and ordered by the
Council to be printed, November 29, 1887.



Premier's Office, Hobart, 18th November, 1887.

SIR,

I HAVE the honor to call your attention to the provisions of Clause Three of Act 49 Vict. No. 10, "The (Tasmanian) Federal Council Act, 1885," and to request that you will tender to His Excellency the Governor your resignation of the position you now occupy as a Representative of this Colony in the Federal Council of Australasia.

The Victorian Act in reference to this subject provides specially that, "whenever practicable, such Representatives shall be Responsible Ministers of the Crown"—an arrangement the convenience of which is obvious.

The opinion of Parliament was clearly expressed upon the subject in the discussion upon Clause Three, which discussion, I regret, has been too briefly reported by the Press. I am, however, so strongly of the opinion that the arrangement referred to is desirable, and that it is one which will be followed by all the federating Colonies, that I purpose to recommend to His Excellency the Governor in Council the Honorable E. N. C. Braddon and the Honorable B. S. Bird as successors to His Honor Mr. Justice Dodds and yourself.

I have the honor to be,

Sir,

Your obedient Servant,

*The Honorable N. J. BROWN, M.H.A.,
Parliament House.*

P. O. FYSH.

House of Assembly, Hobart, 21st November, 1887.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of 18th instant, in which you call my attention to the provisions of Clause 3 of Act 49 Vict. No. 10, "The (Tasmanian) Federal Council Act, 1885," and request me to tender to His Excellency the Governor my resignation of the position I now occupy as a Representative of this Colony in the Federal Council of Australasia. You at the same time express your opinion that an arrangement by which Representatives in the Federal Council shall be Ministers of the Crown only is so desirable, that you believe it will be adopted by all the federating Colonies.

The question whether a Member of the Federal Council who ceases to be a Minister should thereupon and therefore resign his seat in the Council is thus raised for the first time in this Colony, and it is one of considerable public importance.

I beg, first, to invite your attention to the provisions of the Federal Council Act of Queensland, under which the qualification of Representatives are stated to be solely membership of the Executive Council or of the Legislative Council or Legislative Assembly; and to the provisions of the Tasmanian Act on the same subject, from which it will appear that the sole qualification required for the Tasmanian Representatives is that they shall be Members of the Legislative Council or of the House of Assembly. It is true that the same clause in the Tasmanian Act contains a provision that any Representative may be removed by the Governor; and although this power was evidently intended to be only used in any case of incapacity or misconduct, yet I am compelled to assume that it is to this particular portion of the clause that you have ventured to call my attention. Not to assume this would be to deprive your words of all meaning.

With reference to your statement that the opinion of the Tasmanian Parliament was clearly expressed in favour of the view that the Members of the Federal Council shall be, "whenever practicable, Responsible Ministers of the Crown," as provided in the Victorian Federal Council Act, I am unable to find, either in my recollection of the debates on the Bill or in the press reports, anything that can justify such an assertion. On the contrary, I have a very clear recollection that both at the Conference at Sydney at which the Enabling Bill was drafted and agreed to, and in subsequent discussions, both in public and privately, that have occurred upon the subject, the prevailing opinion has been that the Council should be so constituted as to remove it as far as possible from the influence of petty local dissensions and party feeling. It has been held that while it is obviously convenient

and proper that the Premier of any Colony or a trusted colleague, as representing the majority in the Legislature for the time being, should be one of the Representatives, yet that, apart from this consideration, the Representatives should be chosen for their fitness to deal with large questions outside of the local affairs of the Colony, rather than with any reference to the accident of their being, or not being, at any particular time during the tenure of their seats in the Council, in the position of Ministers of the Crown. It was contended, and I think rightly, that the joint public opinion of the Colony on matters of general Australasian interest should be represented in the Council, and not the chance majority of the hour exclusively. If I am reminded that the late Government appointed two of its Members as Representatives in the Council, I can only say in reply that at the time these appointments were made I held and expressed the same views as I do now.

If my late colleague, Mr. Justice Dodds, had remained with me a Member of the Federal Council, I readily admit that in order to enable the Premier of the Colony to take his seat in the Council it would be so reasonable and right as to be virtually mandatory, although not legally so, that one of the two Members should tender his resignation; and I believe that in such a case there would have been no objection to deciding, either by lot or otherwise, which of the two Members should retire.

You will observe that in the Victorian Act there is a proviso that, even if a Minister of the Crown retires in accordance with the provisions of the Statute, yet he may be re-appointed. From this it is evident that even the Victorian Legislature did not regard it as indispensable that the Members of the Council should be invariably Ministers of the Crown.

As to the question of convenience to which you refer, I am not aware of any inconvenience that ought to arise from the fact that the Representatives acting together in an assembly such as the Federal Council may take opposing views upon comparatively small local affairs. Certainly no such inconvenience would arise from any disinclination on my part to co-operate cordially with my colleague whoever he might be, or to observe those rules of loyalty and discretion which any Member of the Executive Council is bound to respect. I conclude, therefore, that the convenience to which you refer is neither the public convenience nor mine, but that of yourself and your colleagues.

After due consideration I have decided to afford you an opportunity to reconsider your request before giving my final answer. I shall be glad, therefore, if you will as early as possible inform me whether you adhere to the terms of your letter now under reply.

I have dealt with the question raised by you on public grounds only, and apart from personal considerations; but I cannot conclude this letter without expressing my opinion that, considering our relative positions in connection with the establishment and the working of the Federal Council, the request that you have conveyed to me is extremely discourteous, and had it come from any one less habitually studious than you are to avoid intentional offence, I should regard it as insulting.

I have, &c.

The Honorable P. O. FYSH, Premier.

NICHOLAS J. BROWN.

Premier's Office, Hobart, 22nd November, 1887.

SIR,

I HAVE the honor to acknowledge the receipt of your communication dated yesterday, and to repeat the request made in my letter to you bearing date the 18th instant.

That request was made upon public grounds only, and regardless of those considerations of friendship with yourself which in other than public matters would influence my action.

I have, &c.

The Hon. N. J. BROWN, M.H.A., Parliament House.

P. O. FYSH.

Molle-street, Hobart, 23rd November, 1887.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of 22nd instant, in which you repeat the request made to me in your letter of 18th instant as to the resignation of my position as a Member of the Federal Council of Australasia.

In reply, I have the honor to inform you that I decline to comply with your request. If I were to comply with it I should become a party to the establishment of a precedent which I believe would be mischievous.

I have, &c.

The Honorable P. O. FYSH, Premier.

NICHOLAS J. BROWN.