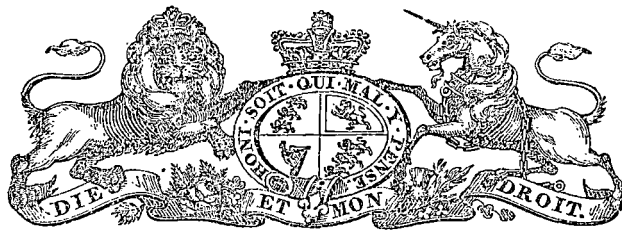


(No. 78.)



1865.

T A S M A N I A.

FIELDING BROWNE, ESQ.

PETITION TO THE GOVERNOR IN REGARD TO HIS PENSION.

Laid upon the Table by the Colonial Treasurer, and ordered by the House to be printed, 25 August, 1865.



T. GORE BROWNE, *Governor.*

The Governor transmits to the House of Assembly a Petition presented to him by Mr. Fielding Browne, upon the subject of his Claim to Pension for loss of office.

Government House, 22 August, 1865.

Hobart Town, August 16, 1865.

SIR,

HAVING received a communication from the Colonial Secretary, acquainting me that the Petition which I had the honor of requesting Your Excellency to transmit to the House of Assembly will not be received by the House in consequence of being addressed to the Speaker and Members of the House, but that if I would address the Petition to Your Excellency you would be pleased to forward it to the House by Message, I now have the honor to enclose the Petition accordingly addressed to Your Excellency.

I have the honor to be,
Sir,

Your Excellency's obedient Servant,
F BROWNE.

His Excellency the Governor.

To His Excellency Colonel THOMAS GORE BROWNE, C.B., &c.

The humble Petition of Fielding Browne, of the Middle Temple, Barrister-at-Law.

SHOWETH :

THAT your Petitioner was, by Warrant under the hand of His Excellency the Governor, made on the 28th day of March in the year of our Lord One thousand eight hundred and forty-five, by virtue of an Act of the Legislature of Tasmania, appointed Judge of the Criminal Court of Norfolk Island, and that he held the said office until the year One thousand eight hundred and fifty-five, when that Island ceased to be a Dependency of Tasmania.

That the terms of remuneration thereof were One hundred Pounds a month while absent on duty from Tasmania, being at the rate of the Salary of the Puisne Judge of the Supreme Court.

That there were not any fixed periods for holding the Sessions of the Court, but your Petitioner was required to be in readiness to repair to Norfolk Island whenever he should be called upon to do so.

That the uncertainty in the periods of holding a Session of the Court produced much interruption and injury to the private business of your Petitioner.

That, on his acceptance of this office, he was led to believe that two Sessions of the Court would be held in each year, and that consequently the emoluments thereof would be Five hundred Pounds a year ; whereas only Five Sessions of the Court were held during the Ten years he held the office, and the amount which he received was only at the rate of One hundred Pounds a year.

That the duty of your Petitioner being to try the Criminals sent from Tasmania who committed offences in Norfolk Island, as well as those who were sent from the Mother Country, his services in his capacity of Judge of Norfolk Island were equally beneficial to the interests of Tasmania as to the former. Nevertheless, notwithstanding many communications on the subject between the Imperial and Local Governments, your Petitioner has not received either Pension or Compensation from either Government.

That your Petitioner has performed the duties of Commissioner of the Court of Requests for several years without any remuneration.

That, by Letters Patent under the hand of His Excellency the Governor and the Public Seal of Tasmania, bearing date the 26th day of May in the year One thousand eight hundred and fifty-four, your Petitioner was appointed Commissioner of Insolvent Estates for Hobart Town, the average emoluments whereof have been Five hundred Pounds a year.

That your Petitioner received a Letter from the present Honorable Colonial Secretary, dated June 15, 1863, expressing his regret that it had become his duty to inform him that the exigencies of the Colony required his retirement from the Public Service, at the same time assuring him that the independence and integrity of character displayed by him in the performance of the onerous duties of the various offices held by him in the Public Service of the Colony were fully appreciated, and which he trusted would have due weight when the question of his retiring allowance should be under consideration.

That your Petitioner, feeling greatly aggrieved by such intimation, addressed a Letter dated 20th July, 1863, to the Right Honorable the Secretary of State through Your Excellency, requesting him to withhold his assent from the desire of the Government of Tasmania to deprive him of his office.

That, together with his said Letter, Your Excellency was pleased to transmit to the Secretary of State a Minute signed by the present Honorable Colonial Secretary, dated 22nd July, 1863, to the effect that the Government were fully alive to the claims made by your Petitioner in his said Letter to the Secretary of State, and that, appreciating the position held by him in the Public Service, the Executive were prepared to submit to Parliament a measure to secure to him a Pension for life, although he was in error in supposing that the amount would equal that of his full salary: that there was no intention to deal out to him the strict measure of Compensation to which by Law he was entitled, but that they were desirous of providing for his declining years by making to him such an allowance as the nature of the office and the finances of the Colony would warrant, provided they could obtain the sanction of Parliament to their proposition.

That, upon the receipt of such Letter of July 20, 1863, and of the Minute of 22nd July, 1863, the Secretary of State declined to interfere in the matter.

That, on the 1st day of June in the year One thousand eight hundred and sixty-four, your Petitioner was deprived of his office of Commissioner of Insolvent Estates by the Government; but they have declined to submit any measure to Parliament for securing to him the amount intended by their Minute of 22nd July, 1863, so transmitted to the Secretary of State, and have dealt out to him the strict measure of Compensation to which by Law he is entitled in respect of his office of Commissioner of Insolvent Estates, viz.—a Pension of One hundred and twenty-five Pounds.

Your Petitioner begs leave to represent to Your Excellency, that although the holders of judicial offices in England are within the scope of the general Pension Act of that Country, yet in cases in which they are required to relinquish them for the public advantage the Imperial Parliament, in their anxiety to preserve the independence and uprightness of those entrusted with such important functions, and which they deem so essential to the impartial administration of justice, invariably make a special enactment in such cases as they occur securing Pensions for life to the full amount of the Salary enjoyed while in office; as, for instance; when the duties of Commissioner of Insolvent Estates were united to the Bankrupt Court, and in the instance of the abolition of the offices of the Twelve Masters in Chancery, Pensions for life to the full amount of their Salaries, to the extent of Forty thousand Pounds a year, were by special enactment secured to them.

This principle, which the Imperial Parliament has in its wisdom adopted in such cases, is of equal value to the welfare of Tasmania, has been acted upon by the Legislature in various instances, as in the cases of the retirement of the late Sir John Pedder and Mr. Hone, who held judicial offices, and in other cases of gentlemen holding appointments of other descriptions, viz.—Messrs. Burnett, Power, and Burgess.

Your Petitioner therefore prays that Your Excellency, taking into consideration the admission of the integrity and efficiency with which he has for Twenty years performed the onerous duties of the various important offices which he has held in the service of Tasmania, the injury arising to his interests through the disappointment of the expectations held out to him on his appointment to the office of Judge of Norfolk Island, the discharge of the duties of Commissioner of the Court of Requests without any reward whatever for a length of time, will be pleased to adopt such measures as may be requisite to give effect to the Minute of 22nd July, 1863, in order that such provision may be made for him by way of Pension for life as shall be consistent with justice.

And your Petitioner, as in duty bound, will ever pray.

F. BROWNE.

Hobart Town, 16 August, 1865.