

(No. 15.)



1860.

T A S M A N I A.

G L A M O R G A N.

Correspondence between the Honorable the Attorney-General and Mr. Graham,
Warden of the Municipality of Glamorgan, with reference to the appointment
of a Commissioner of the Court of Requests in the District of Glamorgan.

Laid upon the Table by Mr. Henty, and ordered by the Council to be
printed, 2 August, 1860.



Attorney-General's Office, 30th April, 1860.

SIR,

IN a conversation which took place on the occasion of your calling at my Office some time since, I understood you to say, that the Municipal authorities of Glamorgan would be willing that their Officers should perform the same duties as the Officers of the Government whom they superseded. In accordance with that view, it is proposed that Mr. Watson, who, I understand, has been appointed Council Clerk, should also perform the duties of Deputy Registrar of the Court of Requests, and the other duties performed by Mr. Bernard Shaw, late Police Clerk at Swansea.

On receiving the intimation of the approval of the Municipal Council, I will cause the necessary appointments and *Gazette* Notices to be issued.

I have, &c.,

FRANCIS SMITH.

The Right Worshipful the Warden of Glamorgan.

Swansea, 3rd May, 1860.

SIR,

I HAVE the honor to inform you that, upon receipt of your letter of the 30th ultimo, I immediately addressed Mr. Watson on the subject of its contents, and now forward his reply.

Mr. Shaw and myself have frequently talked the matter over, and consider that £50 a year would be a fair remuneration for the Government to give him; that sum to include *all* duties you may wish Mr. Watson to perform in the District of Glamorgan.

I have, &c.

A. GRAHAM, *Warden.*

The Honorable the Attorney-General.

(COPY.)

Swansea, 3rd May, 1860.

DEAR SIR,

I HAVE this moment received your note enclosing one from the Honorable the Attorney-General, in reference to certain duties performed by Mr. B. Shaw for the Government; and, in reply, beg to say that I am quite willing to undertake the same, or any other duties the Government may wish to carry out in Glamorgan, should they feel disposed to remunerate my services with a Salary of £50 per annum, which would then place me in same position as regards emoluments as Mr. B. Shaw.

In haste,

I am,

Your most obedient Servant.

THOS. WATSON.

A. GRAHAM, *Esq., Warden.*

In making this offer, I wish it to be understood that it is not to prejudice my claim for pension for Police Services.

THOS. WATSON.

Attorney-General's Office, 4th May, 1860.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 3rd instant, in reply to mine of the 30th ultimo, in which you enclose a letter from Mr. Watson, the Council Clerk of the Municipality of Glamorgan, offering to perform certain duties, formerly executed by Mr. B. Shaw, the late Police Clerk, for a remuneration, in addition to his salary as Council Clerk, of £50 per annum; and in which you express your own opinion that the sum demanded is a fair remuneration for the services required.

The only duties, that I am aware of, which the Council Clerk would be required to perform, beyond those of Clerk of the Bench, are those of Deputy Registrar of the Court of Requests, and Deputy Registrar of Births, Deaths, and Marriages, for the District of Glamorgan; and as the latter office is remunerated by fees, the sum of £50 per annum is, in fact, demanded for his services as Deputy Registrar of the Court of Requests.

I have now to inform you, that, inasmuch as the revenue given up by the Government to each Rural Municipality exceeds the previous expenditure of the Government within the same District, it was the intention, not only of the Executive, but also of the Legislature, that the officers of every Rural Municipality should perform the same duties as the officers of the Government whom they superseded; and, consequently, the Legislature made no provision for paying such officers out of the General Revenue. It has always been part of the duty of Police Clerks throughout the Colony to perform the duties of Deputy Registrars of Courts of Request established in their Districts, without additional remuneration for such duties; and it was anticipated that the Council Clerks who replaced the Police Clerks would perform the same duties.

I have to observe that, in the conversation referred to in my letter of the 30th ultimo, you took the same view as that above stated of the arrangements in question, and expressed your concurrence; and, therefore, it was with some surprise that I received the communication to which I am now replying.

Under the circumstances you will perceive that, unless the Council Clerk is to perform the duties of Deputy Registrar of the Court of Requests for Glamorgan, such Court cannot continue to be held within the District.

With regard to the office of Deputy Registrar of Births, Deaths, and Marriages, in case the Municipal Council should decline to instruct their Clerk to perform the duties without remuneration beyond the fees, the Government will be compelled to seek some other person for the office.

I have, therefore, the honor to request that you will, at your earliest convenience, convey to me the final decision of the Council upon the matters above referred to.

I have, &c.,

FRANCIS SMITH.

The Right Worshipful the Warden of Glamorgan.

Police Office, Swansea, 5th May, 1860.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 4th instant, and in reply beg to assure you of the wish of myself and the Council to do all we can to meet the wishes of the Executive Government. You say "it was the intention not only of the Executive but also of the Legislature that the Officers of every Rural Municipality should perform the same duties as the Officers of the Government whom they superseded." After such a declaration from you, I feel it my duty to say I am prepared to accept the office of Deputy Commissioner of the Court of Requests as it was held by my predecessor, and that Mr. Watson has consented to fill all the offices held by the late Police Clerk. I would suggest that you will give Mr. Watson the appointment of Deputy Registrar of Births, Deaths, and Marriages, instead of to the Chief District Constable as formerly; that Officer has been superseded by the appointment of a Superintendent of Police, but he is so much absent from the office on his police duties as to render it undesirable to vest the appointment in him.

You will please to understand that the disposal of Mr. Watson's services are placed in the hands of the Government, only to be called upon to act under the Warden and Council, and not under the authority of any other individual save the Executive Government.

The Council will also consent to Mr. George Farmer being appointed Summoning Officer, and to the processes of the Court being served by their Police Constables.

This offer is made contingent upon the Commissionership of the Court of Requests being vested in the Warden for the time being, as the Council would object to any other person having control over their Officers.

I trust this letter will be satisfactory, and tend to cement more strongly that good feeling which has hitherto existed between the Executive Government and the Municipal Council.

I have, &c.,

A. GRAHAM.

The Honorable the Attorney-General.

P.S.—Is it necessary to appoint a Deputy Clerk of the Peace?

A. G.

Attorney-General's Office, 25th May, 1860.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 8th instant, in reply to mine of the 4th, in which, referring to my statement that the officers of every Rural Municipality should perform the same duties as the Officers of the Government whom they superseded, you inform me that after such a declaration you feel it your duty to say you are prepared to accept the office of Deputy Commissioner of the Court of Requests, as it was held by your predecessor; and that, conditionally upon your receiving such appointment, the Council Clerk will be permitted to assume the office of Deputy Registrar of the Court.

I beg to observe, that though my statement referred to Ministerial Officers, and not to judicial persons, I should have been glad to have been enabled, consistently with my duty, to comply with your wishes; and it is owing to that inclination on my part that I have delayed replying to your last. I am of opinion, however, after very mature and anxious reflection that it would not be right to make the appointment, for the following reasons. Such an appointment would, of course, proceed on the principle that the jurisdiction of the Courts of Request would in all cases be vested in the Wardens for the time being, and consequently in persons who were liable to be changed annually. Now, though Municipal functions, and perhaps those of a Magistrate, may be safely vested in persons annually elected, I am not prepared to support the propriety of vesting the functions of a Judge of the Court of Requests in persons so elected, because that would amount to asserting that no experience is necessary for the discharge of those duties. If, indeed, the tenure of the office of Warden were permanent, there would be no more objection to appoint them Commissioners of Courts of Requests, than there is to the appointment of Police and other Stipendiary Magistrates to be such Commissioners; for the only justification for entrusting such jurisdiction to those Magistrates, seeing that they have not received a legal education, is, that from the permanent tenure of their offices they are enabled by continual experience to become qualified to dispose of the business in such a manner as, on the whole, to give reasonable satisfaction. Nor am I prepared to admit that judicial functions should be necessarily incident to an office of a distinct character, without regard to the qualification of the officer to perform such duties. A man may be a very good Warden and yet be quite unfit to sit as a Judge. The present Warden of a Municipality may be admirably qualified to be Commissioner of the Court of Requests, but how do we know what his successor may be?

I hope you will fully understand that my objection to adopt your suggestion is in no respect personal to yourself,—for I am far from saying that you are not well qualified to dispose of such business as ordinarily comes before Courts of Requests,—but proceeds on the general grounds above stated.

If I can possibly find the time to do so, it is my present intention (though I am not to be understood as pledging myself) to prepare a measure vesting the jurisdiction in question, or such part of it as relates to that class of cases most frequently arising, and for the disposal of which a legal education is not so indispensably necessary, in a Bench of Magistrates, so far at least as Rural Municipalities are concerned.

In the meantime, and until some other arrangement can be made, I trust that the Council will not object to their Clerk performing the duties of Deputy Registrar, and their Superintendent those of Summoning Officer, to the Court of Requests as it now exists.

I beg to assure you that it would have afforded me much satisfaction to have been enabled to concur in your suggestion, and that it is with considerable reluctance and regret that I have arrived at the opposite opinion: for I cordially reciprocate your desire to preserve the utmost cordiality between the Executive Government and the Local Authorities.

I have, &c.,

FRANCIS SMITH.

The Right Worshipful the Warden, Glamorgan.

Swansea, 30 May, 1860.

SIR,

I HAVE the honour to acknowledge the receipt of your letter of the 25th instant, in answer to mine of the 8th instant. It appears we have mistaken each other. You in supposing that I sought the appointment of Deputy Commissioner of the Court of Requests, and I in thinking that your letter of the 4th instant was tantamount to telling me it was my *duty to offer* to perform all the offices held by the gentleman whom I had superseded. Such was my impression on first reading your letter, and on looking over it again I cannot see how I could have arrived at any other conclusion. I merely mention this now in order to show why I first offered to accept the appointment in question.

As you state the only difficulty in the way of appointing me to the office, is the circumstance, that it would be an admission that the office of Warden carried with it the duties of Deputy Commissioner of the Courts of Requests, I would respectfully suggest, in order to get over the difficulty, that the appointment be made from *one* of the Council *not* being the Warden. This would in all cases give the Government the choice of five individuals, and in some whose tenure of office would be for three years. I think it would augur badly for Rural Municipalities to suppose for a moment that out of the six Councillors not one could be found possessing the same aptitude for the discharge of the duties of Deputy Commissioner of the Court of Requests as the gentlemen who at present fill those offices in the various Districts of the Colony; for I presume it will not be for a moment contended they were appointed to preside over the Courts of Requests from their great knowledge of the just obligations between Debtor and Creditor. I am happy to say that the business of the Courts of Requests here is very limited, not one case a month occurring on the average, so that but little inconvenience can arise from the operations of the Court being suspended for a few months, to enable you to submit your new measure to Parliament. I feel flattered by the manner in which you have expressed yourself of me individually; and much regret that I cannot, consistently with my duty, recommend the Council to allow their officers to act under any individual not a Member of the Council.

The conduct of the Municipal Officers is left entirely to me; and I feel proud to say every thing is working in the most satisfactory manner. It would, therefore, be unwise to agree to any alteration which may in the end cause dissatisfaction without producing any corresponding benefit.

I trust you will give me credit for being actuated by a sense of public duty only in not consenting to any of the Municipal Officers being placed under the authority of any person in the District unconnected with the Council; and I wish here to observe, that both Mr. Watson and Mr. Farmer will be happy to accept any appointment in Glamorgan, save and except the Court of Requests as at present constituted, from the Executive Government, and be responsible to it for the proper performance of the duties.

I have, &c.

A. GRAHAM, Warden.

*The Honorable the Attorney-General.**Attorney-General's Office, 22nd June, 1860.*

SIR,

I HAVE the honor to inform you, that, acting upon the consent of the Municipal Council of Glamorgan, conveyed in yours of the 30th ultimo, the Governor has been pleased to appoint Mr. Thomas Watson to be Deputy Clerk of the Peace for the District of Glamorgan.

I find, upon enquiry, that he holds the office of Deputy Registrar of Births, Deaths, and Marriages for that District.

I have, &c.,

FRANCIS SMITH.

The Right Worshipful the Warden, Glamorgan.