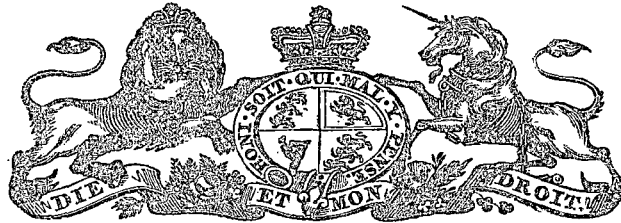


(No. 64.)



1865.

T A S M A N I A.

LEGISLATIVE COUNCIL.

CASE OF REV. J. STORIE.

ADDITIONAL CORRESPONDENCE.

Return to an Order of the Council dated September 12, 1865. (Mr. Innes.)

Laid upon the Table by Mr. Whyte, and ordered by the Council to be printed,
September 14, 1865.



St. Andrew's, Hobart Town, 11th September, 1865.

SIR,

TILL last Saturday I had no knowledge that the Rev. C. Simson had sent you an affidavit and letter of date the 28th August, charging me, and in the very teeth of facts, with making a false statement on oath. I may be wrong in judging that it was the duty of a Government Office, before consenting to receive and file such communications, to impart their contents to me, and to hesitate before allowing itself to be used as the agent in a public defamation. But I certainly am not wrong in deciding that it is my duty to submit a statement of the facts for the information of His Excellency, and of those who are or may be the Members of his Government.

The facts which I have to state are these.—In the suit *Storie v. Simson* and others, I filed two affidavits. In the first, replying to what I considered a vague and misleading statement in Mr. Simson's defences, I deposed as follows, p. 52 :—"The said Presbytery, in violation of the laws of the Church of Scotland, has not, and I believe it never has had, any formula or contract to which its Ministers have subscribed; and I say I have never subscribed any formula or contract." That no formula exists, and that I signed no such paper, are facts that remain uncontradicted.

In his subsequent affidavit, Mr. Simson stated his belief that I had signed a formula, and produced a paper which he alleged in evidence to be the Minute of my Induction. This paper was in my writing; was signed C. Simson, Moderator; and contained these words: "Mr. Storie then signed the following formula." [Here take it in.] "In my second affidavit I replied to Mr. Simson thus, p. 21 :—"To the best of my recollection and belief I never did subscribe any formula previously to or at the time of my induction; but, finding the Presbytery had no such document, I drafted a form and offered to sign it, if the other Members of Presbytery would do the same; but this they declined." And I still believe that statement to be strictly accurate. During the hearing of the suit, and before it, I endeavoured to exact the production of that paper, if in existence, and did not succeed. But I have been informed that after the hearing Mr. Simson put a paper into the hands of the Attorney-General bearing to be a formula, drafted by me, with my signature, and mine alone. That paper is the one thing needed to substantiate my evidence, but even the inspection of it has been refused to myself and my Solicitor.

I have lately come to the recollection or the knowledge of a few more facts in respect to that minute and that formula which it is necessary to detail. 1. In respect to the paper produced by Mr. Simson in evidence as the Minute of my Induction, that it is in reality no minute; that it is a paper drafted by me before the meeting to assist in guiding its proceedings; that it is not engrossed in the Presbytery Record; that it has never been signed either by Clerk or Moderator; that the Rev. Dr. Turnbull, the Moderator presiding at my Induction, did not sign, and has not been asked to sign it; and that to this paper, (found loose, unsigned, unauthenticated, and in respect to facts inaccurate), Mr. C. Simson was induced to attach his signature recently and wrongfully, in order to give it validity as evidence, adding to his signature, "Moderator," which he was not. And I say that the paper, so manipulated, has actually imposed on one of the Judges of the Supreme Court to the prejudice of public justice and truth.

2. In respect to the formula in my writing, and said to have my signature, I have to say, that the document is my property, written in my study, and signed, if signed at all, in the room where it was written; that it was not delivered as a signed deed, but it exists as a rejected overture, and is now dishonorably held and used. The Rev. Dr. Turnbull, and Messrs. M'Lean, Simson, and the late Mr. Dugall, were the Ministers present at my Induction. Mr. Simson does not venture to say that he saw me sign or deliver it, nor does Mr. M'Clean; and Dr. Turnbull, the presiding Moderator, distinctly recollects that I made an observation of this nature: "but why should I sign without them; they must sign too;" which left on his mind the impression that I had not signed, and would not sign. I have to add, that this paper has not been held back by me, but, being in the possession of the Defendants Mackersey and Simson, has been withheld in my despite, and as I believe to the detriment of public justice and truth; for, bearing my signature alone, this document would have been important evidence in support of my allegation that the Members of the Presbytery did deliberately refuse to enter into a written and formal contract, as by me proposed.

On Mr. Simson's conduct I mean to make no remark; but I enclose a Copy of two Letters which passed between us of date the 22nd and 24th of July, and from these it will be apparent that he prepared his affidavit and wrote that letter to you of the 28th August whilst possessing the means of having a distinct knowledge of the facts stated by me above.

In closing, I have respectfully to request that this Letter and the two enclosed may be communicated to the Legislative Council, that they may be there read and printed along with the other relative documents already on the Table of that Honorable House.

I have the honor to be,
Sir,

Your obedient Servant,

JOHN STORIE,
Minister of St. Andrew's.

The Hon. the Colonial Secretary.

I. *COPY Letter of the Rev. C. SIMSON to Rev. J. STORIE.*

O'Brien's Bridge, 22nd July, 1865.

SIR,

THE formula referred to in the Minutes of the Presbytery as having been signed by you when you were inducted was put into my hands some time ago by the Clerk of the Presbytery. It is not for me to point out the course which you ought to pursue with reference to it. If, however, immediate action be not taken by you, what may hereafter be done by myself or others will be matter of necessity.

I am, Sir,
Your obedient Servant,
C. SIMSON.

Rev. J. STORIE.

II. *COPY Letter in reply, Rev. J. STORIE to Rev. C. SIMSON.*

St. Andrew's, Hobart Town, 24th July, 1865.

SIR,

I HAVE received your Letter of the 22nd instant, in which you inform me that "the formula referred to in the Minute of the Presbytery as having been signed by me when I was inducted was put into your hands some time ago by the Clerk of the Presbytery."

Having made formal application that all papers bearing on the suit *Storie v. Simson* and others, and in the possession of the Clerk, should be produced, I certainly have very grave reason to complain that the document you mention should have been withheld till after the final hearing of the suit. It is my desire to be allowed, with my Solicitor, to examine that paper at once.

In respect to the formula, it is still my impression that it was prepared in my study on the day preceding the induction; that my name (if signed to it) was appended there and then. I still believe that it was not signed in the presence of the Presbytery, and for the reasons stated in my affidavit; and that it was not delivered. My recollection on this point is borne out by Dr. Turnbull, who was Moderator on the occasion, and whose impression is that I did not sign this formula in his presence, and that I objected to sign it. I am informed also, that neither you nor Mr. McLean remember my signing, and I would remind you that neither of you has sworn that I did. My legal advisers are of opinion that, in admitting the induction questions, I have admitted as much as it is believed can be contained in the formula. Whilst I am very willing that all these facts should be brought under the notice of the Supreme Court at once, and before any judgment is announced, I am advised that the suit having been heard, it is not in my power to supplement the evidence; but as the matter has arisen through the neglect of yourself and co-defendants, I am ready to concur in submitting to the Judges the document you hold, and the facts stated above.

At the same time it will be necessary to inform the Court that the document already given in evidence, and represented to be the Minute of Presbytery at my induction, is a paper that was actually drawn up by me previous to the meeting of which it professes to narrate the proceedings, and a paper that never had been signed, until you recently and improperly affixed your signature for the purpose of its production in the suit.

The threat with which you conclude is unbecoming a Minister of Christ, and reveals the ignorance by which you are blinded as to the consequences that may result to yourself and others.

I am, Sir,

Your obedient Servant,

JOHN STORIE.

The Rev. C. SIMSON, Moderator.

Colonial Secretary's Office, 13th September, 1865.

SIR,

I HAVE the honor to acknowledge the receipt of your Letter and enclosure dated the 11th instant.

I beg to point out to you that the documents you refer to as having been forwarded to the Government by the Rev. C. Simson were ordered by the Legislative Council to be laid upon the Table of the House; and that your observation, as to the "duty of a Government Office before allowing itself to be used as the agent in a public defamation," is as unjust and uncalled for as it is offensive.

In accordance with your request, your communication has been forwarded to His Excellency the Governor for his information.

I have, &c.,

JAMES WHYTE.

The Rev. J. STORIE, St. Andrew's.