

(No. 53.)



1891.

PARLIAMENT OF TASMANIA.

CAMPBELL TOWN ELECTION:

CORRESPONDENCE.

Ordered by the House of Assembly to be printed, July 29, 1891.



CAMPBELL TOWN ELECTION.

Campbell Town, 16th June, 1891.

SIR,

I HAVE the honor to request that you will be so good as to furnish me with a copy of the correspondence *re* alleged irregularities in the preparation and revision of the Electoral Roll for this District, by A. M. Johnson, which took place in February last.

I have the honor to be,
Sir,

Your obedient Servant,

E. DOWLING, *Returning Officer Electoral District of
Campbell Town.*

The Honorable the Chief Secretary.

Chief Secretary's Office, 19th June, 1891.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 16th instant, requesting to be furnished with a copy of the correspondence respecting certain alleged irregularities in the preparation and revision of the Electoral Roll for the Campbell Town District.

In reply, I have to inform you that it is not the practice of the Government to supply copies of official departmental correspondence that may take place between individuals and the Government,—a course from which they regret, in this instance, they deem it inadvisable to depart.

I have, &c.

P. O. FYSH.

E. DOWLING, *Esquire, Returning Officer,
Electoral District of Campbell Town.*

Campbell Town, 20th June, 1891.

SIR,

I HAVE the honor to acknowledge receipt of your letter of 19th instant, in reply to mine of 16th instant, requesting to be furnished with a copy of certain correspondence, in which you say that it is not the practice of the Government to supply copies of official departmental correspondence that may take place between individuals and the Government—a course from which you regret, in this instance, it is deemed inadvisable to depart.

I desire to point out that the correspondence in question contained direct charges of irregularity against me, as an officer of the Government, made by an individual; and as the subject in question

will probably come before the Supreme Court shortly, I consider that I had a right to that correspondence to enable me to place myself in a position to reply to any questions that may be asked me in the event of my being a witness in the case.

Seeing that you were fully aware of all the circumstances of the case (*vide* my letter of 13th February last, and my following letter requesting you to take such steps as you may deem fit), my only course is to throw the entire responsibility of any alleged irregularity in the Roll upon the Government, there having been ample time between the date of the correspondence and the 10th March to remedy any defects, if defect there was.

I regret that you have not deemed it advisable to afford me that assistance which, as a Public Officer appointed to carry out duties imposed upon me by Act of Parliament, I consider I am entitled to.

I have, &c.

E. DOWLING, *Returning Officer.*

The Hon. the Chief Secretary.

THE whole of the correspondence in this matter is referred to the Hon. the Attorney-General, who will kindly enable Chief Secretary to reply.

P. O. FYSH.
23. 6. 91.

It does not appear from the correspondence in this matter that the Returning Officer ever requested the Chief Secretary to advise him in regard to it, or to obtain for him the advice of the Law Officers of the Crown upon it. Nor does it appear that the Returning Officer has been made a party to any litigation in reference to which he might look to the Government for advice and assistance in his capacity as a Public Officer. I can see no ground whatever upon which he ought to be furnished with a copy of the correspondence to which he refers.

A. INGLIS CLARK.
24 June, 1891.

Chief Secretary's Office, 25th June, 1891.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 20th instant, in which you express your regret that you have not been furnished, as you requested, with a copy of the correspondence respecting the alleged irregularities in the preparation and revision of the Electoral Roll of Campbell Town, to which you consider yourself entitled.

Having forwarded the entire correspondence to the Honorable the Attorney-General for his perusal, he has returned it with the following Minute:—

“It does not appear from the correspondence in this matter that the Returning Officer ever requested the Chief Secretary to advise him in regard to it, or to obtain for him the advice of the Law Officers of the Crown upon it. Nor does it appear that the Returning Officer has been made a party to any litigation in reference to which he might look to the Government for advice and assistance in his capacity as a Public Officer. I can see no ground whatever upon which he ought to be furnished with a copy of the correspondence to which he refers.”

I have, &c.

P. O. FYSH.

E. DOWLING, *Esquire, Returning Officer,*
Electoral District of Campbell Town.

101, *Macquarie-street, Hobart, 22nd June, 1891.*

SIR,

CAMPBELL TOWN ELECTION PETITION.

WE are instructed by Mr. E. Dowling, the Returning Officer, to apply to you for a copy of the correspondence as to the alleged irregularities in the preparation and revision of the Roll for Campbell Town, which took place with Mr. A. M. Johnson in February last. We have before us copy of your letter dated 19th instant addressed to Mr. Dowling, refusing a similar request made by him; but we have the honor to point out that if the Returning Officer's conduct is complained of, he is, by the Electoral Act, made a party to this Petition; and we feel sure that you do not

desire to deprive him of any information which he may require to defend himself. Mr. Dowling feels aggrieved at your refusal to allow him to inspect or obtain copies of documents to which he is a party, and in which he is interested purely in his official capacity; and he trusts that, on reflection, you will either furnish us with a copy or allow us to peruse the correspondence.

We have, &c.

DOBSON, MITCHELL, & ALLPORT.

The Hon. the Chief Secretary.

Chief Secretary's Office, 25th June, 1891.

GENTLEMEN,

I HAVE the honor to acknowledge the receipt of your letter of the 22nd instant applying, under instruction from Mr. E. Dowling, the Returning Officer for the Electoral District of Campbell Town, for a copy of the correspondence connected with the alleged irregularities in the preparation and revision of the Electoral Roll.

In reply, I have to inform you that the whole of the correspondence was forwarded for the perusal of the Honorable the Attorney-General, who has returned it with the following Minute:—

“It does not appear from the correspondence in this matter that the Returning Officer ever requested the Chief Secretary to advise him in regard to it, or to obtain for him the advice of the Law Officers of the Crown upon it. Nor does it appear that the Returning Officer has been made a party to any litigation in reference to which he might look to the Government for advice and assistance in his capacity as a Public Officer. I can see no ground whatever upon which he ought to be furnished with a copy of the correspondence to which he refers.”

I have, &c.

P. O. FYSH.

Messieurs DOBSON, MITCHELL, AND ALLPORT,
101, *Macquarie street.*

[*In continuation of Paper No. 53.*]

(Return to an Order of the House.—Mr. Lewis.)

Laid upon the Table of the House by the Hon. Treasurer, and ordered to be printed, 19th August, 1891.

Campbell Town, 3rd February, 1891.

SIR,

I BEG to bring under your immediate notice the illegal way in which the Court of Revision for the revising the Electoral Roll for this District in the House of Assembly has been held here yesterday.

It would appear that, in accordance with the 41st Section of "The Electoral Act," 54 Vict. No. 13, the date fixed for holding of the Court of Revision of the said Electoral District of Campbell Town was fixed for last Thursday, the 29th ult.; but, when the appointed time arrived, no Magistrates appeared, and only the Returning Officer,—consequently the whole thing lapsed, as the Returning Officer had no power to adjourn the Court; but, strange to say, on the face of this the Council Clerk took upon himself to send notices to a number of Magistrates to attend the Court here yesterday, and, in accordance with the said notice, a number of Magistrates attended, and proceeded to revise the said Roll in a most unfair and illegal manner.

Under the above circumstances, I trust you will cause a fresh notice to be published, fixing the day for holding the Court of Revision of the Electoral Roll for this District, according to law.

I have the honor to be,
Sir

Your obedient Servant,

A. M. JOHNSON.

The Hon. P. O. FYSH, Chief Secretary, Hobart.

REFERRED to the Hon. the Attorney-General.

P. O. FYSH.
5th February, 1891.

I THINK that this letter should be referred to the Returning Officer for his observations.

A. INGLIS CLARK.
6th Feb., 1891.

The Honorable the Chief Secretary.

REFERRED to the Returning Officer for the Electoral District of Campbell Town for any observations he may wish to offer.

JAS. ANDREW, *Actg. U. S.*
11th February, 1891.

As Johnson states, the Court of Revision was fixed for the 29th ult. On that day no Magistrates attended; no Electors were present; and no notices of objection had been received. The only course to adopt, it appeared to me, was, as a Magistrate, to adjourn the Court. Looking at the provisions contained in the 16th Sect. 8 Vict. No. 13, and 9th Sect. of 21 Vict. No. 10, I believed that I had the power to do so; and I requested the Council Clerk to issue notices to the Justices to attend on February 2nd.

I am not aware of any unfair or illegal proceedings on the part of the Court, as alleged by Johnson, who was present but made no objection as to the constitution of the Court, but protested strongly when not permitted by the Court to assist them with his advice; but, in the only two cases in which he was interested, he was permitted to appear.

E. DOWLING.
Campbell Town, 13th February, 1891.

WILL the Hon. the Attorney-General kindly advise the Chief Secretary as to Mr. Dowling's reply?

For the Chief Secretary,

JAS. ANDREW, *Actg. U. S.*
18. 2. 91.

WILL the Crown Solicitor be so good as to advise whether any illegal act has been committed by the Returning Officer?

A. INGLIS CLARK.
19. 2. 91.

Campbell Town, 4th February, 1891.

SIR,

I HAVE further to bring under your notice the unfair and illegal way in which the Returning Officer has prepared the Electoral Roll for Campbell Town for the year 1891.

The said Roll appears to be one mass of errors; and very few of the names are inserted on it according to law, or the Memo. of the 2nd of December issued from your Office to all Returning Officers.

Through the said errors a large number of names have been left on the Campbell Town Electoral Roll of persons that do not possess any qualifications, &c.

Also, to make matters worse, the Court of Revision (illegally held here) on the 2nd instant, declined to correct the said errors, notwithstanding I called the attention of the Court, but simply because the Returning Officer's Assistant objected to my interference,—a nice state of affairs.

Also, the Court of Revision altered the qualifications of several names that were on the said Roll,—a most illegal course.

Also, the Court struck some names off the new list who were qualified.

Also, the names of several persons have been omitted from the said Roll.

Under the above circumstances, I trust you will cause an investigation to be held concerning this matter, or another sitting of the Court to be held.

I have, &c.

A. M. JOHNSON.

*The Hon. P. O. Fysh, Esq., M.L.C.,
Chief Secretary, Hobart.*

REFERRED to the Returning Officer for the Electoral District of Campbell Town for any observations he may desire to offer.

For the Chief Secretary,

JAS. ANDREW, *Actg. U. S.*
12. 2. 91.

To such general and sweeping charges, emanating from such a source, I scarcely deem it necessary to make any observations. I am only aware of one name accidentally left on the Roll.

I am not responsible for the action of the Court, which I believe to have been legal throughout. It rests with the Hon. the Chief Secretary to take such action as he deems necessary.

E. DOWLING.
Campbell Town, 13th February, 1891.

Campbell Town, 30th April, 1891.

SIR,

Re Campbell Town Electoral Roll.

WHAT has been done about the illegally prepared Electoral Roll for this District in the House of Assembly, and which said matter I brought under your notice some time back? Surely you are not going to have an election on such an illegal document!

Trusting to hear from you,

I have, &c.

A. M. JOHNSON.

The Hon. P. O. FYSH, Chief Secretary, Hobart.

THE Chief Secretary requests that the Honorable the Attorney-General will enable him to reply to Mr. Johnson's letter forwarded on the 18th February last.

B. TRAVERS SOLLY.
7th May, 1891.

SECT. 59 of "The Electoral Act" provides that when a Roll is not perfected the Roll for the preceding year is to be used; but as the Roll for the current year appears on its face to have been regularly made out and to be a perfect Roll, I do not know who has the power to declare it to be invalid until it is so held to be by a competent Court, and as using the old Roll would have the effect of disfranchising about One hundred Electors, besides entitling a great number of persons to vote who have no legal qualification, I advise the Chief Secretary not to interfere, and to inform Mr. Johnson to that effect.

EDW. D. DOBBIE.
14th May, 1891.

I concur.

A. INGLIS CLARK.
14th May, 1891.

Chief Secretary's Office, Hobart, 6th May, 1891.

SIR,

I AM instructed by the Chief Secretary to acknowledge the receipt of your letter of the 30th ultimo, and in reply to inform you that he is expecting to receive a communication from the Law Officers of the Crown upon the subject referred to.

I have, &c.

B. TRAVERS SOLLY.

A. M. JOHNSON, *Esquire, Campbell Town.*

Chief Secretary's Office, Hobart, 16th May, 1891.

SIR,

IN reply to your letter of the 30th ultimo, having reference to the alleged illegality of the Electoral Roll for Campbell Town, I have the honor to inform you that the Law Officers of the Crown consider that as the Roll for the current year appears on its face to have been regularly made out, it would be most undesirable to use the Roll for the preceding year (as provided for under Section 59 of the Electoral Act in cases where the new Roll has not been perfected) unless the new Roll should be declared invalid by a competent Court, inasmuch as by reverting to the previous Roll above One hundred Electors would be disfranchised, besides entitling a great number of persons to vote who have no legal qualification.

I have &c.

P. O. FYSH.

A. M. JOHNSON, *Esq., Campbell Town.*

Campbell Town, 30th May, 1891.

Re Electoral Roll.

SIR,

In reply to yours of the 16th inst., *re* Campbell Town Electoral Roll, I may say I felt surprised when I read it, and more particularly the Law Officer's Opinion,—viz., "that the Roll for the current year appears on its face to have been regularly made out," &c.

In reply to this most extraordinary opinion, I may again say the Roll for Campbell Town for the year 1891 has not been prepared in accordance with the Electoral Act (54 Vict. No. 13), and has not been regularly made out, and I defy the Crown Law Officers, and all the members of the legal profession in Hobart, to say to the contrary.

I say it was a most monstrous piece of business to see the illegal way in which the (illegally constituted) Court of Revision revised the Roll, and, notwithstanding my protest, they would persist in their illegal course, being led by the Returning Officer's assistant.

I must again ask for an investigation in this matter, as I consider Mr. Bennett has been illegally elected, as the Roll used at his Election is the one I complain of.

I have, &c.

A. M. JOHNSON.

The Hon. P. O. FYSH, Esq., Chief Secretary, Hobart.

Chief Secretary's Office, 4th June, 1891.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 30th ultimo, having reference to the question of the legality of the Electoral Roll for Campbell Town, and asking that an investigation may be made into the matter, as you consider that Mr. Bennett has been illegally elected.

In reply, I would, in the first place, desire to disabuse your mind of the common error that Ministers possess judicial functions.

It is not in their power to call upon the Returning Officer to take any action. He can obtain advice from the Law Officers of the Crown, but he is not bound to act upon it, and in the matters referred to by you the rejected Candidate or the Electors have the remedy in their own hands.

The Electoral Act, 54 Victoria, No. 13, Part 5, Sections 158 and 159, provide for any defeated Candidate to petition the Supreme Court, or one-tenth of all the Electors on the Roll, provided such petition shall be in the hands of the Clerk of the Supreme Court within Twenty-one days next after the declaration of the Poll, and upon security by deposit or otherwise of the sum of One hundred Pounds.

I have, &c.

P. O. FYSH.

A. M. JOHNSON, *Esq., Campbell Town.*