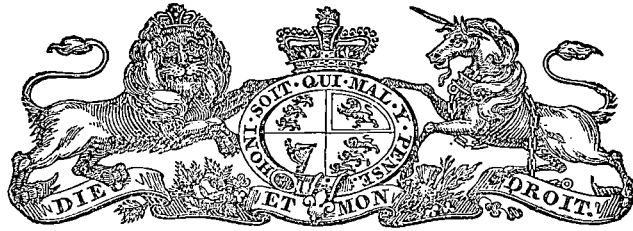


(No. 69.)



1880.

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T A S M A N I A.

LEGISLATIVE COUNCIL.

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**JUDGES' QUALIFICATION AMENDMENT  
BILL :**

**REPORT OF SELECT COMMITTEE.**

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Brought up by Mr. Chapman; and ordered by the Council to be printed  
September 23, 1880.



*REPORT from the Select Committee on the Judges Qualifications Amendment Bill;  
with Minutes of the Proceedings of Committee.*

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MEMBERS OF THE COMMITTEE.

MR. INNES.  
MR. MOORE.  
DR. AGNEW.  
MR. GELLIBRAND.

MR. CROWTHER.  
MR. AIKENHEAD.  
MR. CHAPMAN.

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DAYS OF MEETING.

17, 20, 22, 23 September.

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R E P O R T.

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THE Select Committee on the "Bill to amend the Law in respect to the Qualification of the Judges of the Supreme Court has the honor to report that the Committee held four meetings; and having taken into consideration the present state of the law of the Colony generally in respect to the appointment of Judges, their retirement and superannuation, and the changes contemplated by the said Bill, the Select Committee is of opinion that it would be inexpedient to proceed with the Bill until after certain questions not dealt with in it have been disposed of by Parliament.

The Select Committee has learned that the Act 27 Vict. No. 4, which abolished the "system of giving superannuation and other allowances to persons having held Civil offices in the Service of the Colonial Government, as burdensome to the Finances of the Colony without being advantageous to the Public Service," not having contained any provision expressly repealing the Judges Pension Act (17 Vict. No. 24), the state of the law at present admits of the retirement of a Chief Justice on his attaining Sixty years of age on a pension of One thousand, and a Puisne Judge of Eight hundred, pounds per annum, or, if health should have failed, without any limitation as respects either age or length of service in either case.

The Select Committee, although unanimous in the opinion that a liberal pension should be secured to the Judges of the Supreme Court on their retirement, consider that the age of Sixty years might be extended without impairing the efficiency of the Bench or the public confidence in the capacity of those occupying it; and recommends that the present law should be amended before occasion has arisen for any new Judicial appointment which would come under the operation of the present law: the Committee is also of opinion that pensions should bear a proportion to the actual services of the recipients.

The Select Committee does not consider that it would be expedient, in opening the Bench to the Colonial Bar, that this change should be adopted without qualifications, to be applied equally to Colonial and English Barristers. It is therefore recommended that the minimum age of eligibility to the Bench should be Forty years, and the minimum of professional experience, either as an English Barrister or a Colonial Barrister or Barrister and Solicitor, should be Fifteen years.

The Committee is not prepared to recommend the adoption of the clause in the Bill which proposes to confer a right on the part of the second Judge to be promoted to the Chief Justiceship, in the shape in which that proposal is submitted.

In making their Report the Select Committee desires to express a unanimous opinion that in the appointment of a new Judge no priority of claim in the Attorney-General at the time should be in any way countenanced; and precautions ought to be adopted by the Executive to invest the action of the Governor in Council in making such appointment with befitting form and solemnity.

The Resolutions of the Committee are appended to this Report.

THOS. D. CHAPMAN, *Chairman.*

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### RESOLUTIONS.

1. That the present state of the law in regard to the appointment of Judges to the Supreme Court is unsatisfactory, and requires amendment before any new appointment should be made to the Bench.
2. That no person should hereafter be appointed a Judge of the Supreme Court of this Colony who is under Forty years of age.
3. That no person should be appointed who is not a Barrister of the United Kingdom of Fifteen years standing, or a Barrister or a Barrister and Solicitor on the Roll of the Supreme Court of this Colony of Fifteen years standing.
4. The Committee desires to place on record its unanimous opinion that, in considering the appointment of a Judge to the Supreme Court, the gentleman holding the office of Attorney-General for the time being has no priority of claim to such appointment, but that the appointment should rest with the Representative of the Crown on the advice of his responsible Ministers in Council assembled.
5. With respect to retiring allowances the following scale was approved of:—
 

	£
Chief Justice, at 60 years, provided he shall have served 15 years.....	750
Ditto, at 65 years, provided he shall have served 20 years .....	900
Ditto, at 70 years, provided he shall have served 25 years .....	1200
Puisne Judge, at 60 years, provided he shall have served 15 years.....	600
Ditto, at 65 years, provided he shall have served 20 years .....	800
Ditto, at 70 years, provided he shall have served 25 years .....	1000
6. The Committee is of opinion that it is not expedient in the appointment of a Chief Justice to limit the selection to the Puisne Judge for the time being.
7. That, in the event of either Judge becoming afflicted with some permanent infirmity disabling him from the due execution of his office, he should be entitled to retire from the Service with an allowance of Five hundred Pounds per annum.

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### MINUTES OF THE MEETINGS.

FRIDAY, SEPTEMBER 17, 1880.

The Committee met at 12 o'clock.

*Present*—Mr. Innes, Mr. Aikenhead, Mr. Gellibrand, Mr. Moore, Dr. Agnew, Dr. Crowther, Mr. Chapman (Mover).

Mr. Chapman was appointed Chairman.

The Committee deliberated.

Adjourned at 1:15 to Monday, 20th September, at 2 P.M.

MONDAY, SEPTEMBER 20, 1880.

The Committee met at 2:15 o'clock.

*Present*—Mr. Innes, Mr. Gellibrand, Dr. Crowther, Mr. Chapman, Mr. Moore.

*Resolved*—

1. That the present state of the law in regard to the appointment of Judges to the Supreme Court is unsatisfactory, and requires amendment before any new appointment should be made to the Bench.
2. That no person should hereafter be appointed a Judge of the Supreme Court of this Colony who is under Forty years of age.

3. That no person should be appointed who is not a Barrister of the United Kingdom of Fifteen years standing, or a Barrister or a Barrister and Solicitor on the Roll of the Supreme Court of this Colony of Fifteen years standing.

4. The Committee desires to place on record its unanimous opinion, that, in considering the appointment of a Judge to the Supreme Court, the gentleman holding the office of Attorney-General for the time being has no priority of claim to such appointment, but that the appointment should rest with the Representative of the Crown on the advice of his responsible Ministers in Council assembled.

5. With respect to retiring allowances the following scale was approved of:—

			£		
Chief Justice, at 60 years, provided he shall have served	15 years	.....	750		
"	65	"	20 years	.....	900
"	70	"	25 years	.....	1200
Puisne Judge, at 60	15 years	.....	600		
"	65	"	20 years	.....	800
"	70	"	25 years	.....	1000

The Committee adjourned at 4 P.M. till Wednesday, 22nd September, at 2.30 P.M.

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WEDNESDAY, SEPTEMBER 22, 1880.

The Committee met at 2.40.

*Present*—Mr. Innes, Mr. Aikenhead, Mr. Gellibrand, Dr. Crowther, Dr. Agnew, Mr. Moore, Mr. Chapman.

*Resolved*—

1. That the Committee is of opinion that it is not expedient in the appointment of a Chief Justice to limit the selection to the Puisne Judge for the time being.

2. That, in the event of either Judge becoming afflicted with some permanent infirmity disabling him from the due execution of his office, he should be entitled to retire from the service with an allowance of Five hundred pounds per annum.

The Committee adjourned at 3.45 P.M. until 2.30 P.M. to-morrow.

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THURSDAY, SEPTEMBER 23, 1880.

The Committee met at 3.15 P.M.

*Present*—Mr. Innes, Mr. Aikenhead, Dr. Agnew, Mr. Moore, Mr. Chapman, Mr. Gellibrand.

The Chairman presented a Draft Report, which was adopted—Mr. Moore dissenting.