

(No. 38.)



1877.

SESSION II.

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TASMANIA.

HOUSE OF ASSEMBLY.

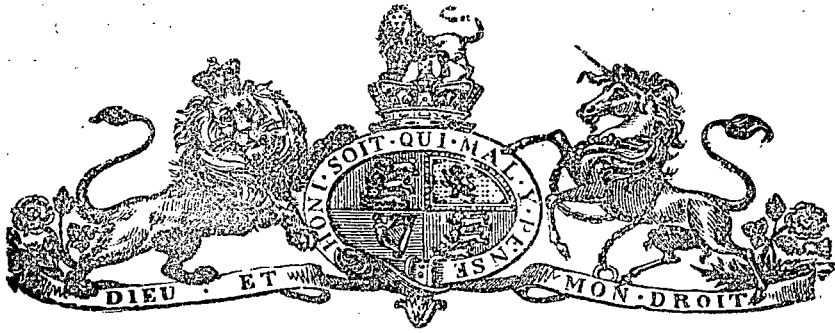
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MR. HENRY'S CLAIM.

CORRESPONDENCE AND AWARD.

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Laid upon the Table by the Colonial Secretary, May 1, 1877, and ordered by the House to be printed.



*Hobart Town, 30th October, 1876.*

DEAR SIR,

You were kind enough to say that you would move the House to compensate me for the loss I sustain in cancelling the lease I held of a portion of the Esplanade at Deloraine for manufacturing purposes.

I beg to say for your information that I cannot give in detail my expenditure during the time (over 2½ years) I have been engaged in acquiring the necessary information in connection with a project of this nature, and therefore the sum claimed by me, £200, is only an approximate estimate of my loss in surrendering the lease, whereby my outlay both in time and money have been rendered useless. I have employed at various times an engineer, surveyors, and millwrights. In 1874 and 1875 I obtained a continuous daily record for four months in each year of the rise and fall of water in the river and its branches adjacent to the township. Believing as I did that the Order in Council granting me a lease was as effectual as a lease, I immediately had plans and estimates for the necessary buildings prepared, and likewise was negotiating for the purchase of the necessary machinery.

I remain, dear Sir,  
Yours truly,

SAMUEL HENRY.

A. DOUGLAS, *Esq.*

*Colonial Secretary's Office, 26th January, 1877.*

MEMO.

THE Solicitor-General will be good enough to settle the deed of submission in Mr. Henry's claim. The Government do not wish to dispute that Mr. Henry has a claim for compensation, but they dispute the amount. The deed of submission should, therefore, direct the arbitrators to confine their decision to such an amount as Mr. Henry can prove that he has actually and immediately expended, and thereby lost in consequence of the surrender of his lease.

When deed of submission has been settled, the Solicitor-General is requested to get an appointment and to proceed with the case on behalf of the Government.

THOS. REIBEY.

*The Solicitor-General.*

Mr. Henry's claim has been settled to-day by payment to his solicitor (pursuant to Mr. Henry's written authority) of the amount awarded by the arbitrators, together with half of Mr. Morriss's costs; and I now forward award and copy, Mr. Morriss's receipted bill, and all documents remaining in my possession connected with this case to the Colonial Secretary.

ROBT. P. ADAMS.  
20th April, 1877.

*The Hon. Colonial Secretary.*

*Stone Buildings, Hobart Town, 26th January, 1877.*

DEAR SIR,

HENRY WITH THE GOVERNMENT.

I HAVE submitted to Mr. Henry the alteration made by you this afternoon in the draft agreement of reference; and I am instructed to inform you that he objects to the question to be submitted to the arbitrators being limited to "the amount which Mr. Henry can prove that he has actually and immediately expended and thereby lost in consequence of the surrender of his lease."

The Government have admitted that Mr. Henry has a claim, and have agreed that the amount of such claim shall be decided by arbitration. Previously to the Colonial Secretary's letter to you this

afternoon no intimation was ever given to Mr. Henry that the powers of the arbitrators were to be limited as above mentioned. He contends that the agreement he made with the Government was that the written claim forwarded by him with his letter to the Colonial Secretary of 18th November last should be the claim to be referred to the arbitrators.

I therefore submit that the words of limitation above mentioned should be omitted from the agreement, and that Mr. Henry's written claim of £207 5s. be submitted to the arbitrators for their decision, they to have power to allow the whole or any part thereof as they may see fit.

Yours truly,  
 The Solicitor-General. (Signed) JNO. T. MORRISS.

Mr. Morriss's letter is referred to the Hon. the Colonial Secretary.

ROBT. P. ADAMS.  
 27. 1. 77.

THE Solicitor-General is requested to settle the submission in Mr. Henry's case, so that the arbitrators may proceed as though the claim of Mr. Henry attached to the papers formed the *particulars* in his case. All the items in that claim should go before the arbitrators, and they should have power to allow or disallow any of them.

C. HAMILTON BROMBY.  
 29th January, 1877.

THE Solicitor-General will be good enough to proceed with this case as soon as possible.

THOS. REIBEY.  
 29th January, 1877.

Stone Buildings, 30th January, 1877.

DEAR SIR,

HENRY WITH THE MINISTER OF LANDS AND WORKS.

THE agreement of reference herein has been executed by Mr. Henry this morning, and I now forward same (with draft) for execution by the Minister of Lands. I shall be glad if you can get this done without delay, so that an appointment may be obtained as quickly as possible, as Mr. Henry is very anxious to get out of town.

Yours truly,  
 The Solicitor-General. (Signed) JNO. T. MORRISS.

THE agreement of reference is forwarded for execution by the Minister of Lands and Works, it having already been executed by Mr. Henry.

R. P. ADAMS.  
 30. 1. 77.

THE agreement of reference, duly executed by the Hon. the Minister of Lands and Works, is returned to the Solicitor-General.

GEORGE F. LOVETT.  
 30. 1. 77.

HENRY AND MINISTER OF LANDS AND WORKS.

Mr. Morriss appears to watch case for Mr. Henry, who is to conduct his own case.

Agreement of reference received by Morriss. Henry has abandoned legal claim.

Adye Douglas tabled motion for £200 compensation for Henry.

*Henry makes his Statement.*

In 1873, in consequence of conversation with Moore, employed persons to take rise and fall of Meander in 1874-5.

Payment to Edwards (£12 12s.) made to satisfy Mr. John Field.

As far as my claim goes I have no legal standing.

Henry, sworn, says :—About 1874 Edwards advised me to erect mill on Thomas Field's land adjoining township. Moore had said he would favourably entertain my application for a lease of a

site. Had to abandon first site because railway was to run through. First site selected on Field's land through which railway was to run, and consequently levels taken by Edwards were useless. I have included all the items from the commencement. Field had actually agreed with me for the site of a lease. Afterwards employed Edwards again to come up: he is a mechanical engineer of Carrick. Sorell thought mill site might be altered higher up on Field's land. Then thought of applying for first site on township. (*See plan.*) Sorell's level for first site all taken from levels taken for site on Field's land.

*Item 1, £30.*—My own men did this work. They had to go down daily in 1874-5. Consider my application was made in 1873. Paid millers 35s. per week, house, and 28lbs. flour per week. Sometimes man had to go two or three times a day and take or more hours. During that time I had to pay his wages. Paid nothing extra, only took him away from work. He had to go near John Field's. My memo. of charges was prepared for Parliament on 30th November, 1876. Howe kept record of dates as kept by Mr. Winter. [Henry undertakes to furnish data as to this charge.] Miller not paid extra or employed over hours. He was clerk and managing man. Had to do his work myself or his subordinate.

*Item 2, Edwards' Surveying, £12 12s.*—Not sure if I have voucher for this. Edwards is dead. He stayed with me about a week. His work was on Field's land—partly employed on the Esplanade. It was necessary to survey in the Esplanade for the purpose of site on Field's land. The charge for surveying had reference to site on Field's land and Esplanade. [To forward voucher.]

*Item 3, Sorell's Charge, £29 8s.*—Paid Sorell's extra charge previous to this. It is not claimed. Necessary to satisfy Field. It was to corroborate Edwards' levels.

*Item 4, Henry's Expenses of Travelling.*—Have no record of this sum—no data. Had to go to Launceston many times to see Douglas, as Field was dilatory. Could not attempt to give data. Did not come expressly on this business. I might or might not have done without travelling at those particular times. Went specially to Launceston to see Moore and remained in town. I then went to the Iron Mines, but should not have gone if I had not wanted to see Moore.

*Item 5, Solicitor-General's Fee, £5 5s.*—Admitted as paid.

*Item 6, Loss of Time, &c., £100.*—Have incurred no cost in purchasing machinery—purchased none. Been corresponding for 2½ years. Have bought several works on engineering. Negotiated with Wm. Degraes. Got information from periodicals to which I subscribe. Got plan of wheels from Gwynne, but no charge has been made. This item is a personal charge. Money out of pocket is represented by periodicals purchased. I did travel to Longford to see Affleck, miller, who was acquainted with turbines. My loss sustained by having lease cancelled is made up thus. I contemplated putting up flour and saw mill. Can find no other site.

*James Monaghan Dooley, Surveyor, sworn:* Think item No. 2 fair. Two guineas a day fair charge. Know site No. 2. Should consider £25 per annum for 30 years a fair valuation of the land. Site over half acre. Fee simple worth £800; that is, in connection with water power. Not worth £20 to build cottage on.

Hobart Town, 27th February, 1877.

GENTLEMEN,

WE have made and published our Award respecting the matters referred to us by Samuel Henry and the Honorable Christopher O'Reilly being and as Minister of Lands and Works for Tasmania. It is at the office of Mr. Rowland Davies, 67, Macquarie-street, Hobart Town, ready to be delivered. The charges for it are Nine Pounds and Fourteen Shillings.

Yours obediently,

E. J. MANLEY.  
R. H. DAVIES.

To the Hon. CHRISTOPHER O'REILLY, *Minister of Lands and Works,*  
and to Mr. Solicitor-General.

	£	s.	d.
Fee to Mr. Davies . . . . .	6	6	0
Charges for preparation of Award . . . . .	3	3	0
Stamp on Award . . . . .	0	5	0
	<hr/>		
	£9	14	0

*In the Arbitration between Mr. SAMUEL HENRY and the Government of Tasmania.*

I, the above-named Samuel Henry, hereby authorise Mr. J. T. Morriss, of Hobart Town, in Tasmania, solicitor, to receive such amount as may be payable to me by the Government by virtue of the Award herein.

Dated this 20th day of April, 1877.

SAMUEL HENRY.

Witness: J. COMPTON PENNY, *Hobart Town.*

TO ALL TO WHOM these presents shall come we EDWARD JOHNSTONE MANLEY of Hobart Town in Tasmania Esquire and ROWLAND DAVIES of Hobart Town aforesaid Civil Engineer send Greeting. WHEREAS by an Agreement under seal bearing date the thirtieth day of January one thousand eight hundred and seventy-seven and made between SAMUEL HENRY of Deloraine in Tasmania aforesaid Esquire of the one part and the Honorable CHRISTOPHER O'REILLY of Hobart Town aforesaid being and as the Minister of Lands and Works for Tasmania aforesaid of the other part. AFTER RECITING that by an Indenture dated the second day of October one thousand eight hundred and seventy-six and made between FREDERICK ALOYSIUS WELD Esquire (being and as Governor of Tasmania) by and with the advice of the Executive Council of the one part and the said SAMUEL HENRY of the other part His Excellency the said Governor demised and leased unto the said SAMUEL HENRY his executors administrators and assigns—Firstly the right of constructing and maintaining along the Esplanade on the Meander River at Deloraine aforesaid a certain mill-race or watercourse with certain other rights therein mentioned for the term of fifty years from the date of the said Indenture and that by the same Indenture His Excellency the said Governor also demised and leased unto the said SAMUEL HENRY his executors administrators and assigns all that piece or parcel of land containing three roods and twenty-four perches situate in the Town of Deloraine aforesaid for the purpose of erecting a mill and manufactory thereon to hold the same unto the said SAMUEL HENRY his executors administrators and assigns for the term of thirty years from the date of the said Indenture AND THAT by an Indenture dated the twenty-sixth day of October one thousand eight hundred and seventy-six and made between His Excellency the said Governor of the first part the said SAMUEL HENRY of the second part and Her Majesty the Queen of the third part the said SAMUEL HENRY surrendered and yielded up the said several rights and the land severally demised by the said recited Indenture unto Her Majesty the Queen Her heirs and successors AND THAT by a letter dated the eighteenth day of November one thousand eight hundred and seventy-six addressed to the Honorable the Colonial Secretary for Tasmania the said SAMUEL HENRY submitted to the Government of Tasmania a claim for compensation in respect of the said surrender such claim amounting to the sum of Two hundred and seven pounds and five shillings the particulars whereof are shown in a certain Memorandum indorsed on the said letter AND THAT the Government of Tasmania had admitted that the said SAMUEL HENRY was entitled to some compensation in respect of the said surrender and it had been agreed that the amount to be paid to the said SAMUEL HENRY by the said Government should be referred to arbitration as thereafter mentioned IT WAS BY THE NOW RECITING INDENTURE AGREED by and between the said SAMUEL HENRY and the said CHRISTOPHER O'REILLY being and as Minister of Lands and Works as aforesaid to refer and the said parties thereto did thereby refer the said claim and the amount thereof to be paid to the said SAMUEL HENRY to the award order arbitrament final end and determination of us the said EDWARD JOHNSTONE MANLEY (the Arbitrator appointed on behalf of the Government of Tasmania) and ROWLAND DAVIES (the Arbitrator appointed on behalf of the said SAMUEL HENRY) so that we might make and publish our Award of and concerning the same ready to be delivered to the parties thereto on or before the first day of March next or such further day as we the said Arbitrators might from time to time enlarge the time for making our Award by writing under our hands endorsed thereon AND THAT the costs of preparing and executing the now reciting Agreement and of the said Reference and Award should be in the discretion of us the said Arbitrators who might award by whom and in what manner the same should be paid NOW KNOW YE that we the said EDWARD JOHNSTONE MANLEY and ROWLAND DAVIES having taken upon ourselves the burthen of the said Arbitration and having perused the aforesaid claim of the said SAMUEL HENRY and heard and duly considered all the allegations and evidence of the said respective parties of and concerning the same and the matter in difference so referred as aforesaid do make and publish this our Award in writing of and concerning the said matter so referred to us as follows (that is to say) WE DO HEREBY AWARD AND DIRECT that the Government of Tasmania pay to the said SAMUEL HENRY the sum of EIGHTY-SIX POUNDS THREE SHILLINGS AND SIXPENCE (part of the said claim) as and for compensation in respect of the said Surrender AND WE DO FURTHER AWARD AND DIRECT that one moiety of the costs of preparing and executing the said recited Agreement and of the said Reference and this our Award be paid by the said SAMUEL HENRY and the other moiety by the Government of Tasmania AS WITNESS our hands and seals at Hobart Town aforesaid this twenty-seventh day of February in the Year of Our Lord one thousand eight hundred and seventy-seven.

Signed sealed and delivered by the said EDWARD }  
JOHNSTONE MANLEY and ROWLAND DAVIES }  
in the presence of  
JNO. T. MORRIS, *Solr., Hobart Town.*

E. J. MANLEY. (Seal.)  
R. H. DAVIES. (Seal.)

I ACKNOWLEDGE that I have this day received from the Crown Solicitor the sum of Eighty-six pounds three shillings and sixpence by the within-written Indenture awarded to be paid to the within-named Samuel Henry. (£86 3s. 6d.)

Dated this twentieth day of April, 1877.

JNO. T. MORRISS, *Solicitor for the said SAMUEL HENRY.*

*Stone Buildings, 15th March, 1877.*

DEAR SIR,

HENRY WITH THE GOVERNMENT.

I HAVE taken up the award herein on behalf of Mr. Henry, and now beg to forward you a copy thereof.

Yours truly,  
(Signed) JNO. T. MORRISS.

*The Solicitor-General.*

*Stone Buildings, 19th April, 1877.*

SIR,

HENRY WITH THE GOVERNMENT OF TASMANIA.

THE award made herein directs that the costs shall be paid one moiety by Mr. Henry, and the other by the Government. I have delivered to the Solicitor-General Mr. Henry's bill of costs in the matter, amounting to the sum of £59 8s., £40 10s. part thereof being for fees, &c. in connection with the award and witnesses' expenses. According to the practice these costs cannot be taxed by the proper officer without making the award a rule of court, which must be done in term. The Solicitor-General informs me he has perused the bill of costs, and proposes to tax same at the sum of £34 1s. 6d. (the witnesses' expenses being reduced by £22 8s.). My client will consent to this taxation in order to facilitate a settlement of the matter, and I have now the honor to request that the Government will be good enough to instruct the Solicitor-General to tax the costs at the above sum of £34 1s. 6d.

I have the honor to be,

Sir,

Your obedient Servant,  
JNO. T. MORRISS.

*The Hon. the Attorney-General.*

I SUPPOSE there is no objection to this. I recommend that the Government do consent.

C. HAMILTON BROMBY.  
19th April, 1877.

APPROVED.

THOS. REIBEY.  
19. 4. 77.

WILL the Solicitor-General be so good as to tax these costs as requested?

C. HAMILTON BROMBY.  
19th April, 1877.

*Stone Buildings, 20th April, 1877.*

DEAR SIR,

HENRY WITH THE GOVERNMENT.

WILL you be good enough at your earliest convenience to forward me a cheque for £103 4s. 3d., the amount payable by the Government herein, as follows:—

	£	s.	d.
Amount of award .....	86	3	6
Half costs as taxed by consent.....	17	0	9
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	£103	4	3
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Yours truly,  
JNO. T. MORRISS.

*The Solicitor-General.*

*EXTRACT from the Bill of Costs in the Arbitration between Mr. SAMUEL HENRY and the Government:—*

	£	s.	d.
Bill of Costs .....	59	8	0
Taxed off by consent .....	25	6	6
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	£34	1	6
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I have taxed these costs at £34 1s. 6d. by consent, and in accordance with the Attorney-General's instructions received this day.

ROBT. P. ADAMS.  
19th April, 1877.

RECEIVED the sum of £17 0s. 9d., half costs as taxed.

JNO. T. MORRISS,  
Solicitor for the said SAMUEL HENRY.  
20th April, 1877.