

(No. 171.)



1884.

PARLIAMENT OF TASMANIA.

R. FITZSIMONS' PENSION CLAIM :

REPORT FROM THE SELECT COMMITTEE, WITH MINUTES
OF PROCEEDINGS AND EVIDENCE.

Brought up by Mr. Pillinger, and ordered by the House to be printed,
November 4, 1884.



SELECT COMMITTEE appointed on the 30th October, 1884, to inquire into and report upon the Petition of RICHARD FITZSIMONS to His Excellency the Governor in Council, laid upon the Table of this House on 24th October.

MEMBERS OF THE COMMITTEE.

MR. ATTORNEY-GENERAL.
MR. GRAY.
MR. W. T. H. BROWN.
MR. REIBEY.

MR. LAMB.
MR. DOOLEY.
MR. PILLINGER (*Mover.*)

DAYS OF MEETING.

Friday, 31st October. Tuesday, 4th November.

WITNESSES EXAMINED.

Mr. R. Fitzsimons.
Mr. H. E. Smith, Chief Clerk, Chief Secretary's Office.
Mr. W. H. Windsor, Under Treasurer.
Mr. Newman, Record Clerk, Chief Secretary's Office.
Mr. E. C. Nowell, Clerk of the Executive Council.

MINUTES.

FRIDAY, OCTOBER 31, 1884.

The Committee met at 2-30.

Present.—Mr. Brown, Mr. Gray, Mr. Pillinger, Mr. Dooley, Mr. Reibey, and Mr. Lamb.

Mr. Pillinger was voted to the Chair.

The following Papers were laid on the Table :—

1. Superannuation Act.
2. House of Assembly Paper 79, 1875, containing Minute of Governor in Council fixing scale under 5th Section Superannuation Act.
3. Ditto 72, 1872, Orders of the Governor in Council under the Superannuation Act.
4. R. Fitzsimons' Pension Paper, with certificate of Head of Department thereon (Appendix A.)
5. Petition of Richard Fitzsimons, House of Assembly Paper 164, 1884.

Mr. H. E. Smith, Chief Clerk, Chief Secretary's Office, was called in, and having been examined, withdrew.

Mr. W. H. Windsor, Under Treasurer, was called in, and having been examined, withdrew.

Mr. R. Fitzsimons was called in, and having been examined, withdrew.

Ordered that Mr. E. C. Nowell, Clerk of the Executive Council, be summoned to produce a copy of the Order of the Governor in Council granting a Pension to R. Fitzsimons, for Tuesday, the 4th November, at 11 A.M.

The Committee adjourned, at 3-40 P.M., till Tuesday, the 4th inst. at 11 A.M.

A letter was forwarded to the Chief Secretary, requesting him to forward the Pension Papers of Messrs. Power and Scott for the information of the Committee.

TUESDAY, NOVEMBER 4, 1884.

The Committee met at 11.

Present.—Mr. Dooley, Mr. Gray, Mr. Pillinger (Chairman).

The Minutes of last meeting were read and confirmed.

Mr. E. C. Nowell, Clerk of the Executive Council, was called in, and produced a copy of the Order of the Governor in Council granting a Pension to Mr. R. G. Fitzsimons.

Mr. Nowell having been examined, withdrew.

Mr. R. G. Fitzsimons was called in and further examined.

Mr. R. G. Fitzsimons withdrew.

Mr. Newman, Record Clerk, Chief Secretary's Office, produced the Pension Papers of Messrs. Scott and Power.

Mr. Newman having been examined, withdrew.

The Draft Report was drawn up and agreed to.

The Committee adjourned *sine die*.

R E P O R T.

YOUR Committee beg to report that they have had before them "The Superannuation Act," 24 Vict. No. 15, and Minute of the Executive Council of 9th June, 1862, Paper No. 79, approving of the adoption of the scale of Retiring Allowances to be granted under the said Act.

That the Pension Paper of Mr. Richard Fitzsimons shows that the requirements of the Act, and of the sixth section thereof, and of the conditions imposed by the aforementioned Minute, have been in all respects complied with, the applicant having had a certificate from the head of his Department that "he was promoted to the Chief District Constablenesship of the District of Kingston, and subsequently, on the public grounds of efficiency, transferred to Sorell. He has been a useful and efficient officer, ever ready and zealous, and I can with pleasure testify to his having discharged his duties with diligence and fidelity."

On reference to Paper 72 of 1882, Orders of Governor in Council granting arrears, such arrears were so granted in the cases therein set forth.

That the allegations of the said Richard Fitzsimons in his petition to His Excellency in Council, now before your Committee, have been fully proved by the documentary and oral evidence before them.

That an error has been made in the Petitioner not having received the full amount to which, by the documents and evidence aforementioned, he is, by the Act 24 Vict. No. 15, and the Regulations thereunder, entitled, and that five years should have been added to his period of service, which would entitle him, from the date of the abolition of his office, 1st July, 1862, to 1st July, 1884, at the rate of £12 per annum, being the difference annually between the amount received by him and the amount to which we find he is so entitled.

And we recommend that justice be done the Petitioner.

4th November, 1884.

ALFRED PILLINGER, *Chairman*.

E V I D E N C E.

FRIDAY, OCTOBER 30, 1884.

MR. H. E. SMITH, *called in and examined*.

1. *By the Chairman.*—Your name? Henry Edwin Smith.
2. You are Chief Clerk in the Chief Secretary's Department? I am.
3. Do you produce the papers in connection with the pensions of Messrs. Power and Scott? I do not.
4. For what reason? They are in the custody of the Chief Secretary, not in mine.
5. Will you look at Fitzsimons' pension paper—the certificate of the Inspector of Police that his duties were discharged with fidelity is in accordance with the requirements of the 6th Section of the Superannuation Act, is it not? It is.

CORRIGENDUM.

In line 20 of Report, *for* “ £12” *read* “ £12 10s.”

6. That certificate would, under the Executive Council Minute, 9th June, 1862 (*Vide H. A. Paper 79, 1875*), entitle the applicant to have his pension computed under the 5th clause of the Superannuation Act? It would.

7. And under that clause five years' service would be added? Yes.

8. Which would entitle him to an addition of £12 10s. to his pension? It would.

Mr. Smith withdrew.

MR. WILLIAM HENRY WINDSOR *called in and examined.*

9. *By the Chairman.*—Your name? William Henry Windsor.

10. You are the Under Treasurer of Tasmania? I am.

11. Can you tell me how the Police Clerks were paid in 1862? Through the Police Magistrates.

Mr. Windsor withdrew.

MR. R. FITZSIMONS *called in and examined.*

12. *By the Chairman.*—Your name? Richard Fitzsimons.

13. You are a retired member of the Civil Service? I am.

14. Since what year? July, 1862.

15. Your office was abolished in that year? Yes, the district having taken Municipal action.

16. You obtained the certificate of the head of your Department as to your duties having been discharged with diligence and fidelity? I did (*Vide Appendix A*).

17. What was your office? Chief District Constable, and for a short time Police Clerk.

18. You have read the Minute of the Executive Council of the 9th June, 1862 (*Vide H. A. Paper 79, 1875*). I have.

19. And under it you claim that you be awarded 5 years additional service? I do.

20. Section 7 of the Superannuation Act provides that when any diminution of allowance is made the Order in Council granting such allowance shall state the grounds on which the diminution is made—Does any reason exist for such a reduction being made in your case? None whatever,—as shown by the certificate of the head of my Department on my pension paper now before you.

21. You have alleged your pension to be erroneously computed? I have.

22. And that you have only recently discovered the error? Only during this year.

23. You petitioned the Governor in Council on the subject on the 17th July last? Yes.

24. And received a letter from the Private Secretary stating that the Governor had forwarded the petition to his Ministers? I did (letter produced).

25. During your service as Chief District Constable were you considered an active officer? In his certificate the head of my Department says so.

26. And you often had to risk your life in bush service? I had.

27. The late Premier believed that your case was one deserving consideration? He did.

28. You claim to be entitled to 5 years additional service? I do; and put the computation before you :—

“*Mr. Fitzsimons.*—Special Annual Allowance by way of compensation on account of the abolition of his office, 1st July, 1862, under 5th Section 24 Vict. 15, and Regulation by Governor in Council of June, 1862—

Salary	£150 a year.
Allowance	50 a year if not allowed.

13 years' service.

5 years added under 5th Section No. 24 Vict 15, and Regulation of
June, 1862, made by Governor in Council.

18

Computation, leaving out £50 a year allowance—

	Salary	£150 a year.
18 of amount a year	{	18 years.
		60 2700

£45 a year should be allowed.

Received by Mr. Fitzsimons 32 10s. a year.

£12 10s. more per year should have been allowed.

29. Then there would be arrears of special annual compensation from 1st July, 1862, to 1st July, 1884? There would.

30. Who was Police Magistrate at Sorell when your office was abolished? Mr. Robert Blyth, from whom I received the following certificate :—"Sorell, October 25, '84. Mr. R. Fitzsimons did the duty of Police Clerk at Sorell up to the 1st July, 1862, and for about two months previously becoming a Rural Municipality, and served in the office with diligence and fidelity. He was also doing duty as Chief District Constable from August, 1858, with diligence and fidelity. I may say that it was at my urgent request that Mr. Fitzsimons was sent to Sorell to put a stop to a system of lawlessness and outrage that prevailed, and that he deserved high praise for his success. ROBERT BLYTH."

31. Is there anything further you would like to say? I see by Section 11 of this Act that the Order in Council authorising my retiring allowance should have been laid before the House of Assembly within 20 days after its meeting. This was not done in my case.

32. You have, then, complied with all the requirements of the Sixth Section of the Superannuation Act, and also with that of Minute of the Executive Council, as far as the production of a certificate from the head of your department is concerned, and with all conditions entitling you to the additional 5 years' service claimed by you? I have.

Mr. Fitzsimons withdrew.

TUESDAY, NOVEMBER 4, 1884.

MR. E. C. NOWELL, *called in and examined.*

33. *By the Chairman.*—Your name and position? Edwin Cradoc Nowell, Clerk to the Executive Council.

34. Do you produce a copy of the Order of the Governor in Council granting a pension to Mr. Fitzsimons? I do. (*See Appendix B.*)

35. That is an Order under the 6th Section of the Act, is it not? That does not appear in the Minute; there was nothing to show under what authority it was made.

36 Will you please look at Mr. Forster's certificate on Fitzsimons' pension paper: that certificate is the one required by the 6th Section of the Superannuation Act, is it not? It is evident from the wording that it is the certificate required under that Section.

37. Had there been any documents such as pointed out in the 7th Section of the Superannuation Act, they would have been entered in the Executive Minutes? Certainly, and such a description is negatived by Mr. Forster's certificate. There is nothing on the papers to justify any diminution of pension.

Mr. Nowell withdrew.

MR. R. NEWMAN, *called in and examined.*

38. Your name and position? Richard Newman, Record Clerk, Chief Secretary's Office.

39. Can you produce the pension paper of Mr. H. Power, formerly Police Clerk, Campbell Town? I place them before the Committee.

40. What was Mr. Power's period of service as appears from his pension paper? 10 years and 10 months.

41. And the certificate on his pension paper is in accordance with the 6th Section of the Superannuation Act, and the Order of the Executive Council, dated 9th June, 1862, which adds 5 years to his service of 10 years and 10 months? It is.

42. Will you look at Mr. C. Scott's pension paper: what office did he hold as appears from that paper? Chief District Constable.

43. That is, the same office as Fitzsimons had, as shown by his pension paper? It is.

44. And Mr. Scott had 5 years added to the period of his service? He had.

45. Will you read Mr. Forster's certificate on Scott's pension paper? I have done so.

46. And also Mr. Forster's certificate in Fitzsimons' case? I have done so.

47. The certificate given by Mr. Forster to Fitzsimons is equally strong to that given by him to Mr. Scott, as to efficiency? Yes.

48. Do you know any reason why the five years should not have been added to Mr. Fitzsimons' pension as well as to Mr. Scott's and Power's? I do not.

Mr. Newman withdrew.

MR. R. FITZSIMONS, *called in and further examined.*

49. *By the Chairman.*—Can you say how Messrs. Scott, Cahill, Robinson, Haskell, and Power's special annual allowances were computed? I put in the following statement prepared from the Records of Parliament; this is computed under the Superannuation Act, with the years added according to length of service; it was computed on the net salaries alone, not taking allowances into account.

Comparative Statement of Pensions computed to be due to the under-mentioned on the 31st December, 1862,—vide Paper 49, of 1862,—and that awarded them on the abolition of their Offices.

<i>Due 31 December, 1862.</i>		<i>Office abolished.</i>		<i>Annual allowance on abolition of Office.</i>	
<i>Yearly Pension.</i>					
£	s. d.			£	s. d.
58	13 4	Mr. Cahill, New Norfolk	13. 2. 63	2 months afterwards.	77 0 0
77	0 0	Mr. Robinson, Bothwell.	22. 10. 62	2 months before.	109 3 8
112	0 0	Mr. Haskell, Brighton.	5. 10. 63	10 months afterwards.	149 10 0
Not due.		Mr. Power, Campbell Town.	6. 8. 66	Served 10 years and 2 months.	47 10 0

Mr. Fitzsimons withdrew.

APPENDIX A.

PARTICULARS REQUIRED TO BE FURNISHED IN REFERENCE TO PERSONS RECOMMENDED FOR RETIRING ALLOWANCES.

Name of Applicant—Richard Fitzsimons.

Official Station—Chief District Constable.

Recommended for Superannuation.

Age, 39.

Service, in Years and Months—13 years less 2 days.

Actual Salary, if 3 years have elapsed since last promotion; but if not, then average Salary for the last three years—£150.

Amount of Pension—£32 10s. 0d.

Cause of retirement, [with annexed Medical Certificate, if from infirmity of mind or body, and under 60]—Reduced, the District of Sorell becoming a Municipality, 30th June, 1862.

Dates of commencement and termination of the several appointments held by applicant, with their emoluments, distinguishing salary from other allowances, and specifying such allowances—2nd July, 1849, appointed P.C., and District Constable 13th September, 1854, at £120 per annum. Acting Sub-Inspector, Hobart, 23rd September, 1857, to 17th November, 1857; then C. D. Constable, Kingston, at £150 per annum, and £50 forage allowance. Services transferred to Sorell the 1st August, 1859, and reduced the 30th June, 1862. £150 yearly; £15 Stock and Crop, Jury List, and Electoral Roll; Inspector of Stock, Inspector of Weights and Measures, Summoning Officer, £50; Forage to keep a horse, £8 15s.; Half salary, Police Clerk, from 22nd May, 1862, to 30th June, 1862, at £210 per year.

Absences during the last 10 years—None.

Date of cessation of duty—30th June, 1862.

Date of cessation of salary—30th June, 1862.

Statement in terms of Sect. 6 of "The Superannuation Act, 1860," that the applicant "has discharged his duties with diligence and fidelity to the satisfaction of the Head Officer or Officers of his Department," without which a full Pension cannot be granted, to be signed by any two of such Head Officers if there shall be more than one, or by such Head Officer if there should be but one, together with "such a statement as will exhibit the merit, and value, and labour of the services of the person recommended, embracing as long a period of his public services as can be authentically stated," together with observations as to special services, suspension, reprimand, &c., with full particulars of any injuries received on duty, or other claims or matters for consideration.—Applicant soon after my assumption of office as Inspector was promoted by me from Hobart to the C. District Constablenesship of the District of Kingston, and subsequently, on the public grounds of efficiency, transferred to Sorell. He has been a useful and efficient officer, ever ready and zealous, and I can with pleasure testify to his having "discharged his duties with diligence and fidelity." He is now Council Clerk to the Municipal Council of Sorell.

J. FORSTER.
August 21, 1862.

FORWARDED to the Colonial Auditor for computation as to correctness of the calculation, viz., £52 10s.

B. TRAVERS SOLLY.
18th Sept. 1862.

THIS Pension computes to Thirty-two Pounds Ten Shillings.

E. J. MANLEY.
18th Sept. 1862.

APPENDIX B.

EXECUTIVE COUNCIL.

Thursday, 25th September, 1862.

MINUTE No. 359.

His Excellency in Council grants Pensions or Compensation to the following persons at the rates to which they are respectively entitled; viz.—

R. Fitzsimons, Pension, £32 10s.

* * * *

WILLIAM THOMAS STRUTT,
GOVERNMENT PRINTER, TASMANIA.