

(No. 89)



1878.

T A S M A N I A.

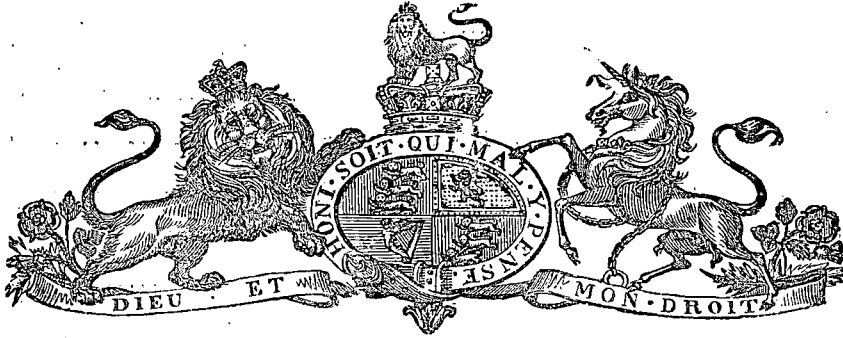
H O U S E O F A S S E M B L Y.

VERY REVEREND W. J. DUNNE:

CORRESPONDENCE IN REFERENCE TO HIS PENSION.

(Mr. Belbin.)

Laid upon the Table by the Colonial Treasurer, August 27, 1878; and ordered
by the House to be printed.



Barrack Square, 16th March, 1875.

Sir,

HAVING attained the age of Sixty years on the 3rd February past,—my birthday being the 3rd February, 1815,—I desire, from *declining age*, to retire on pension, and beg respectfully to request that the Government will be pleased to favour my application to do so.

I commenced my duties as Clergyman, at Richmond, on the 1st February, 1845, my salary from the Government being £250 per annum, together with house rent.

The house rent was paid up to the period when the Government gave me £300—an equal sum having been collected by me—for the purchase of the Presbytery at Richmond.

From this time until October, 1866,—when I was appointed Vicar-General and changed to Hobart Town,—I had the advantage of a house rent free; and since my arrival in Hobart Town I have received from Church Funds £60 per annum as an equivalent for house rent.

I should wish my retirement to date from the 1st of April next.

I have the honor to be,

Sir,

Your obedient Servant,

WILLIAM J. DUNNE.

The Hon. the Colonial Secretary.

Barrack Square, 18th March, 1875.

Sir,

I BEG to apprise you, for the information of the Government, that I have resigned my office of Vicar-General into the hands of the Most Rev. Dr. Murphy, Bishop of Hobart Town.

At the same time, I deem it due to the Government to express my best acknowledgments for the uniform courtesy, fairness, and attention which my official communications and correspondence received at their hands during my tenure of office, which extended over eight years.

I have the honor to be,

Sir,

Your obedient Servant,

WILLIAM J. DUNNE.

The Hon. the Colonial Secretary.

PARTICULARS required to be furnished in reference to Persons recommended for Retiring Allowances.

Name of Applicant—Very Reverend William James Dunne.

Official Station—Vicar-General Roman Catholic Church.

Recommended for—Superannuation.

Age—60 years.

Service, in years and months—30 years, 2 months.

		£	s.	d.
	Actual Salary, if 3 years have elapsed since last promotion; but if not, then average Salary for the last three years ...	200	0	0
<i>Correct.</i>	Allowances—			
H. E. SMITH, C.C.	Quarters ...	60	0	0
	Total Amount on which Pension is calculated	£260	0	0
	Under 9th Section of "The State Aid Commutation Act," 32 ^o Vict. No. 30	£175	0	0
	Service in years	30		
	Total Years	30	60ths of £260	£130 0 0

Certified that the above calculation is correct.

W. LOVETT, *Colonial Auditor.*

Cause of Retirement—Increasing age.

Dates of commencement and termination of the several Appointments held by Applicant, with their Emoluments, distinguishing Salary from other Allowances, and specifying such Allowances—1st February, 1845, to Richmond. Appointed by Lieutenant-Governor in charge of the Roman Catholic Church at Richmond, in succession to Mr. Butler, receiving the same Salary and Allowances as his predecessor.—C. 2911; C. B. 175. (Salary £200 per annum.)

Whether holding any other Public Appointment, or receiving any Public Money by Compensation, Half-pay, or otherwise—Nil.

Date of Cessation of Duty—31st March, 1875.

Date of Cessation of Salary—31st March, 1875.

FORWARDED to the Colonial Auditor for examination.

B. TRAVERS SOLLY.
18th March, 1875.

EXAMINED and returned.

W. LOVETT.
19th March, 1875.

MINUTE PAPER FOR THE EXECUTIVE COUNCIL.

Colonial Secretary's Office, Hobart Town, 20th March, 1875.

SUBMITTED :—

THAT under the provisions of the 9th Section of "The State Aid Commutation Act," the Very Reverend William James Dunne, Vicar-General, be allowed to retire from the Public Service, and that he be granted a Pension at the rate of One hundred and seventy-five Pounds (£175) per annum: to take effect on and from the 1st proximo, and to be provided for upon a Supplementary Estimate.

THOS. D. CHAPMAN.

THE Governor in Council approves.

E. C. NOWELL.
22. 3. '75.*The Hon. the Colonial Secretary.**Colonial Secretary's Office, 23rd March, 1875.*

SIR,

I HAVE the honor to inform you that the Governor in Council has been pleased, under the provisions of the 9th Section of "The State Aid Commutation Act," to allow you to retire from the Public Service, and to grant you a Pension at the rate of One hundred and seventy-five Pounds (£175) per annum: to take effect on and from the 1st proximo.

I have, &c.

THOS. D. CHAPMAN.

The Very Rev. WILLIAM JAMES DUNNE, Vicar-General.

THE COLONIAL TREASURER.

MEMO.

THE Governor in Council has been pleased, under the provisions of the 9th Section of "State Aid Commutation Act," to grant the Very Reverend William James Dunne, Vicar-General, a Pension at the rate of One hundred and seventy-five (£175) per annum, on his retirement from the Public Service. To take effect on and from the 1st proximo, and to be provided for upon a Supplementary Estimate.

By Command,

THOS. D. CHAPMAN.

Colonial Secretary's Office, 23rd March, 1875.

Barrack Square, 5th April, 1877.

SIR,

I HAVE the honor to acquaint you that in the early part of 1875 I applied to the then Colonial Secretary for a retiring Pension, and that my application was acceded to, a Pension of £175 per annum having been awarded to me.

With this amount of Pension I am not satisfied, and I feel I have been exceptionally and unfairly treated, on the following grounds:—

1. As Colonial Chaplain my services, which extended over a period of thirty years—to which ten years are usually added—and the emoluments and allowances I received, entitled me to the fullest Pension.

2. I believe it was the intention, certainly it was in accordance with the spirit of "The State Aid Commutation Act," that clergymen retiring as I have done should be granted pensions of £200 per annum each.

3. Other clergymen, viz., the Rev. Mr. Burrowes, of Brighton, and the Rev. Mr. Ball, of Broad Marsh, have received full Pensions of £200 per annum each, though the latter is by many years my junior in the Colony.

4. Had I not retired, as I voluntarily did, my salary of £250 would continue for life, provided I continued to do duty in the Colony; and, though I am in receipt of a Pension of only £175 per annum, I have been as actively engaged in the duties of the mission as I was before I received it, and I have no other intention than so to continue.

On these grounds I beg to appeal to your sense of fairness in the exercise of distributive justice, and to ask the Executive to raise my Pension to the amount which I believe I am entitled to, viz., £200 per annum, dating from 1st April, 1875, and which other clergymen are in the actual receipt of.

Permit me to add, that I mentioned my dissatisfaction both to the Hon. T. D. Chapman and the Hon. F. M. Innes previously to their resignation of office, and that both gentlemen said they would have no objection to reconsider my case, and asked me to write to them on the subject; their resignation of office soon after prevented me from complying with their suggestion.

I have, &c.

WILLIAM J. DUNNE.

The Hon. the Colonial Secretary.

Barrack Square, 29th June, 1877.

SIR,

It is now some months ago since I had the honor of addressing a letter to you stating grounds for increasing my Pension to £200 per annum, from 1st April, 1875.

Although I was informed, verbally, by yourself that my application would be acceded to, I have not yet been favoured with a written reply to that letter.

It cannot be doubted that I am entitled to a full Pension, and that the Executive Government has power to grant it if it pleases. And it is a fact, in point, that two clergymen of the Church of England, one of whom, Rev. Mr. Ball, is many years my junior in the Colony, have been granted full Pensions of £200 per annum each.

Surely my claim cannot be less valid than theirs.

Indeed, *my voluntary* retirement on 1st April, 1875, from which period to the present I might have continued in the receipt of £250 per annum, and notwithstanding such retirement, *my remaining in active service* in the Colony ever since, are circumstances which render my claim even stronger than that of the clergymen I have named.

I beg, therefore, most respectfully to renew my application, and to express my confidence that it will be formally granted without further delay.

I have, &c.

WILLIAM J. DUNNE.

The Hon. the Colonial Secretary.

REFERRED to the Law Officers of the Crown with the request that they will favour the Colonial Secretary with their opinion whether, under the terms of the 9th Section of "The State Aid Commutation Act," the Governor in Council is empowered to grant the maximum amount of Pension therein mentioned in the case of the Rev. W. J. Dunne.

THOS. REIBEY.
2nd July, '77.

IN my opinion the Governor in Council is not empowered to grant the maximum amount of Pension in the case of the Rev. W. J. Dunne, the facts stated by the reverend gentleman showing very conclusively that the amount of Pension he now claims could not have been legally granted on his retirement in 1875. This case seems very much like that of the Rev. E. Freeman, whose application for a Pension of £200 was declined.

ROBT. P. ADAMS:
9. 7. 77.

The Hon. the Colonial Secretary.

Colonial Secretary's Office, 2nd July, 1877.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 29th ultimo, referring to your application for an increase to your Pension to the maximum amount allowed under the 9th Section of "The State Aid Commutation Act."

In reply I have to inform you, that your letter and the previous correspondence have been referred to the Law Officers of the Crown for their opinion as to the power of the Governor in Council to comply with your wishes under the Section above quoted.

I have, &c.

The Very Rev. W. J. DUNNE, Barrack Square.

THOS. REIBEY.

Attorney-General's Office, Hobart Town, 11th July, 1877.

I AM of opinion that if the Governor in Council has or had power to grant the Rev. J. W. Dunne any Pension, he had and has power to grant the maximum amount. The difficulty I have in advising that the Governor has power to grant the maximum amount lies in my doubt whether, in the face of Mr. Dunne's letter of April 5th, any Pension ought to have been granted. The 9th Section of the Commutation Act enacts that the Governor in Council may grant a Pension upon being satisfied that any person is, from age or infirmity, incapable of performing his duty. Now, Mr. Dunne distinctly states that he is not incapable of performing his duties, and therefore, I think, cannot claim a Pension.

As, however, the late Government felt justified in doing so I do not think the present Government need interfere with the act of their predecessors. But if the present Government was to increase the Pension they would be concurring in an act of their predecessors which I do not think they ought to concur in.

No doubt much may be said in favour of a similar sum being granted to Mr. Dunne as was granted to the other gentlemen referred to; and if the case was brought before Parliament I should think the addition would be made.

C. HAMILTON BROMBY.

Colonial Secretary's Office, 13th July, 1877.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 29th ultimo, calling my attention to your communication of the 5th April, in which you request that your Pension may be increased to Two hundred Pounds per annum.

I have to apologise for the delay that has occurred in replying to your letter, but a variety of circumstances beyond my control has hitherto prevented me.

Your application has been submitted to the Law Officers of the Crown, and they have advised that in their opinion the Governor in Council would not be justified in granting your request.

The 9th Section of "The State Aid Commutation Act" enacts that the Governor in Council may grant a Pension upon being satisfied that any person whose name appears in the Schedule (1) to "The State Aid Distribution Act" is, from age or infirmity, incapable of performing his duties.

Without desiring to call in question the grounds upon which a former Administration may have felt that they were at the time justified in sanctioning your retirement upon Pension, under the 9th Section of the Act above quoted, the Law Officers of the Crown point out that as it appears from your letter that you have remained in active service ever since your retirement, the present Government by increasing the amount of your Pension would be concurring in an act which, from the evidence afforded by your own letter, would appear not to have been justified under the terms of the 9th Section.

I regret, therefore, that the Government do not feel authorised to recommend to the Governor in Council that your application should be acceded to.

I have, &c.

The Rev. W. J. DUNNE, Barrack Square.

THOS. REIBEY.

Barrack Square, 18th July, 1877.

SIR,

I BEG to acknowledge the receipt of your letter of the 13th instant, stating that my application for increase of pension having been submitted to the Law Officers of the Crown, they have advised that, in their opinion, the Governor in Council would not be justified in granting my request; and, further, that without desiring to call in question the grounds upon which a former Administration have felt that they were justified in sanctioning my retirement upon pension, the Law Officers of the Crown point out that, as it appears from my own letter that I have remained in active service ever since my retirement, the present Government by increasing my pension would be concurring in an act which from the evidence afforded by my own letter would appear not to have been justified under the terms of the 9th Section of "The State Aid Commutation Act."

In reply I feel bound in the first place to say that, to the disappointment I feel at the refusal of my application, after a verbal assurance that it would be acceded to, you have superadded a sense of surprise and pain by imputing as a reason for refusing it to a former Administration an act of injustice with which the present Government would be concurring by granting my request; and, in the second place, that I believe the Law Officers of the Crown have misconceived my case from, I may presume, a want of knowledge of all its circumstances.

The grounds upon which I sought for retirement upon pension were, besides others, *declining health* and advancing years,—having then passed my *sixtieth year*, of which *thirty* were spent in the exercise of Missionary duty in Tasmania. The enclosed medical certificate will prove that I have cause for retiring on the score of declining health. It was upon these grounds that a former Administration granted me a pension of £175 per annum, which was the maximum granted to any retiring Clergyman up to that time. How, then, can it be said that a former Administration acted unjustly? The supposed injustice consisting of consenting at my request to grant me a pension instead of a salary of £250 per annum, which I might have continued to receive!

Nor can it, I conceive, be said that the 9th Clause of "The State Aid Commutation Act" does not apply to my case; for though, as I stated in my letter, I have now been actively engaged in doing such duties as my shattered state of health permitted me, I have nevertheless been incapable of discharging duties which I theretofore exercised; and, now, my declining health has culminated in a distemper to get cured of which and prevent a relapse I am advised by both Dr. Agnew and Dr. Hall to cease from all duties and take a sea voyage.

My state of health, then, and that of the Rev. Mr. Ball differ only in degree, which difference I do not think it either generous or dignified in any Government to measure minutely; and, surely, my making use of whatever activity Divine Providence vouchsafes me ought not to prove an obstacle to my receiving that increase of pension which I presume I would receive if I did nothing.

The increase of pension sought for is considered by me of very little importance compared with the principle involved in my case; and I would not move in the matter at all if a larger pension had not been granted to others; and whilst the Rev. Mr. Ball, my junior in service by some dozen years, receives a pension of £200 per annum and I only £175, I shall feel that in the exercise of distributive justice the Administration has treated me with severity and injustice.

I have, &c.

The Hon. the Colonial Secretary.

WILLIAM J. DUNNE.

REFERRED to the Law Officers of the Crown with the request that they will advise whether under the circumstances of his case, as now set forth by the Rev. Mr. Dunne, and under the Medical Certificate of Dr. Hall (attached), the Governor in Council would be legally justified in acceding to Mr. Dunne's application. Former papers herewith.

THOS. REIBEY.
19th July, 1877.

HAVING carefully perused the whole of the correspondence forwarded to me, I have reluctantly come to the conclusion that the Governor in Council would not be legally justified in acceding to the Rev. Mr. Dunne's application for an increase in the amount of the pension heretofore granted to him. I venture to think it will be found on enquiry that the case of the Rev. Mr. Ball, to which Mr. Dunne refers, is not analogous to that of Mr. Dunne; and that the cases of the latter and of the Rev. Mr. Freeman are as nearly alike as two cases well can be.

ROBT. P. ADAMS.
1st August, 1877.

The Hon. the Colonial Secretary.

Hobart Town, 16th July, 1877.

I CERTIFY that I have for many years been the medical attendant of the Very Rev. Dr. Dunne, during which time he has had many severe attacks of disease, and at the present time is advised by myself and the consulting physician to take a sea voyage, and abstain from his usual duties for some time.

E. SWARBRECK HALL, *Medical Practitioner.*

Colonial Secretary's Office, Hobart Town, 3rd August, 1877.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 18th ultimo, in which you remonstrate against the decision of the Government conveyed in my communication of the 13th ultimo, and adducing further reasons in favour of a compliance with your request that your Pension should be increased to Two hundred Pounds per annum from the 1st April, 1875.

The question is one in which the power of the Governor in Council to grant your request is primarily involved, and your letter, with the former papers, was referred to the Law Officers of the Crown.

I now enclose for your information copy of the opinion (1st August, 1877) of the Solicitor-General, and I again express my regret that being so advised it is impossible for the Government to recommend to the Governor in Council that your application should be acceded to.

I have, &c.

The Very Rev. W. J. DUNNE, Barrack Square.

THOS. REIBEY.