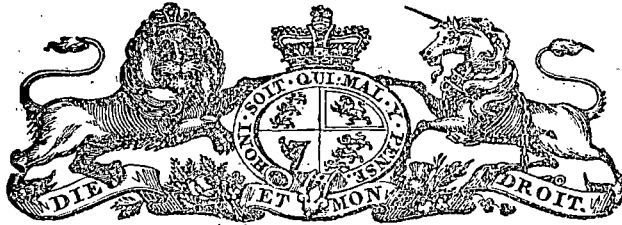


(No. 123)



1870.

T A S M A N I A.

MR. JOHN ABBOTT'S CLAIM.

**REPORT FROM SELECT COMMITTEE; WITH MINUTES, AND
EVIDENCE.**

Brought up by Mr. Adye Douglas, and ordered by the House of Assembly to be
printed, October 11, 1870.

SELECT COMMITTEE appointed on the 29th September, 1870, to consider and report upon the Papers, Documents, and Correspondence connected with the Retiring Allowance of Mr. JOHN ABBOTT.

MEMBERS OF COMMITTEE.

MR. BALFE.		MR. J. R. SCOTT.
MR. COOK.		MR. ADYE DOUGLAS.
MR. JOHN LORD.		

DAYS OF MEETING.

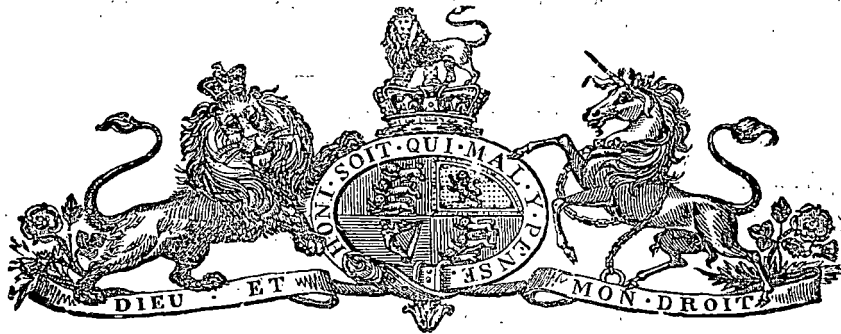
October 6th, 7th, and 11th.

WITNESS EXAMINED.

Mr. John Abbott.

EXPENSE OF WITNESS.

Nil.



REPORT.

YOUR Committee have the honor to report to your honorable House that they have examined the Papers, Documents, and Correspondence in the case submitted for their consideration, and have also examined Mr. Abbott; and they are of opinion that the amount of Pension as claimed by Mr. Abbott would have been granted by Mr. Champ had that gentleman continued in office, but there is no evidence to show that the Pension so calculated was ever submitted to the Governor in Council for approval. A careful and exhaustive review of the case made by Mr. Henty shows that the Pension now paid has been calculated on services from 1840 to 1856; and a gratuity for three years service, from 1822 to 1825, was added thereto; but to which Mr. Henty considered he had no legal claim. The evidence of Mr. Abbott himself as given before the Committee, the précis of this case as drawn up by Mr. Henty, and the Colonial Auditor's Reports thereon, are attached hereto.

ADYE DOUGLAS, *Chairman.*

Committee Room, 11th October, 1870.

MINUTES OF THE MEETINGS.

THURSDAY, 6 OCTOBER, 1870.

Present—Messrs. Douglas, Balfe, Cook, J. R. Scott.

Mr. Balfe moved, that Mr. A. Douglas do take the chair.

Letter from Mr. Abbott to Mr. Champ, with memoranda thereon, dated in 1857, was read.

Memo. on Letter of November 25, 1866, read.

FRIDAY, 7 OCTOBER, 1870.

Present—Messrs. Douglas, Cook, J. R. Scott, and Balfe.

Letter from Mr. Manley, dated December, 1869, read.

Mr. Abbott examined.

TUESDAY, 11 OCTOBER, 1870.

Present—Messrs. A. Douglas, Cook, and J. R. Scott.

Draft Report considered and adopted.

EVIDENCE.

MR. JOHN ABBOTT *called in and examined.*

Mr. Douglas.—You were formerly Registrar-General of Births, Deaths, and Marriages for the Colony, and Deputy-Registrar for the District of Hobart? Yes.

When did you enter on your duties? In June, 1840.

You retired at the end of 1856? Yes.

At what amount was your pension settled? The amount was fixed at £179 19s. 2d. per annum by Mr. Henty, on 12th October, 1857.

You have received that amount up to the present time? Yes.

What amount do you claim? £283 6s. 8d., as calculated by Mr. Champ. That is reckoning my services from 1829.

Do you claim £103 7s. 6d. now for fourteen years? Yes, that is my claim.

By whom was your pension promised? By Mr. Champ. He wrote me a letter which I produce.

You claim for services in New South Wales? No. No portion of my services there is included in that.

Under the regulations of the Colony would you be entitled to the amount as calculated on an income of £680? I believe so.

Did your services in this Colony commence prior to 1829? Yes.

Do you claim to have your pension calculated on the English Regulation? Yes.

Has this case ever been considered before by a Committee? No.

MR. JOHN ABBOTT'S PENSION.

(PRECIS.)

Colonial Secretary's Office, 7th September, 1857.

MR. JOHN ABBOTT claims to have first entered the Public Service of this Colony in the middle of the year 1822; but the only record which can be found of his employment is in the Blue Book, which dates his service only from January, 1824, to the 6th May, 1825, (about a year and a half) when his appointment as Clerk to the Bench of Magistrates was abolished.

On the 10th March, 1827, he was appointed, whilst in England, Assistant Surveyor at Sydney, to which he proceeded, served seven years under hardships, got two years leave of absence and went to England, there got a recommendatory letter to Sir John Franklin from Lord Glenelg. Relying upon the strength of this letter he allowed the leave to run out, upon which account (being treated as a resignation) Sir William Denison and the Sydney Government have refused him compensation for his services there.

He waited upon the Government's pleasure here for preferment; and at length, in June, 1840, got the appointment of Registrar, &c., from which he was reduced last year, with an agreement to have a Pension.

First Question.—Shall his first service, 1822 to 1825, be reckoned for compensation ?

Second Question.—Shall that service, being before 1829, entitle him to claim upon the old scale for all his services ?

Third Question.—Or shall the service of nine years at Sydney, and his resignation of that appointment, and his remaining totally unemployed from July, 1836, to June, 1840, confirm his right to rank only on the new scale ?

Fourth Question.—And shall his early services be reckoned at all ?

The following is a copy of a Memorandum (in pencil) by Mr. Champ on this claim :—

“ I think he should come on the old scale, and that he should also be allowed his service as Clerk and Registrar of Deeds, as I presume there is no doubt that he held the appointment. Get a printed form made out and send it to him to sign, with a letter referring to his application (returned to him) for a retiring allowance.”

As to amount of his emoluments which will control his rate of Pension, Mr. Abbott makes them as follows :—

Salary.....	£	200
Allowances		260
Fees		220
TOTAL	£680	

The third item of Fees requires much correction :—

First,—Instead of being a transcript of any methodical book of Fees, it was made up from an account extending over only four months of 1854, five months of 1855, and two quarters of 1856,—the latter year not averaged at all, but decidedly in excess of an average by £42 5s., for which statement there was no excuse, as there was a Government order to keep a strict account of Fees.

Allowing that the average may be struck from the above brief periods, inasmuch as no other data can be found, there yet must be a considerable correction made; viz.,—

	£	s.	d.
For the year 1854 Mr. Abbott has set down as Fees on Marriage Licences.....	230	4	0
But the Fees payable by Law on this number of Licences was only	147	6	0
Leaving an overcharge of	£82	18	0
Grounded, in fact, on the presents or private fees he received from Applicants for Licences.			
The like overcharge for 1855 was.....	£68	12	0
And for 1856	£33	3	0

This makes his fixed rate of salary and emoluments for the last three years range at £617.

Calculating his Pension on the old scale, and including the whole of his alleged period of service from 1822 to May, 1825, it would amount to £262 4s. 6d. If shorn of the early period, and then calculated (of course) on the new scale, it would come to £157 18s. 5d. If the early service be calculated on the old scale, it comes to £32 6s. 7d. And the service after 1840 on the new scale being £157 18s. 5d., they amount together to £190 5s.

Mr. Champ gave his approval subsequently to Mr. Abbott's own estimate of his Pension, viz.—£288 10s.; but there was at least one clerical error in the calculation.

The following are copies of the official Minutes which appear upon the Papers in addition to the one already given :—

“ Mr. Abbott is entitled to a Retiring Allowance on the scale allowed by the Superannuation Act.

(Signed) W. CHAMP.
26 Feb.”

“ I concur in the expressed opinion of Mr. Champ.

(Signed) T. G. GREGSON.
6 March, 1857.”

“ At Mr. Abbott's request, I hereby certify that I fully enquired into his claim for a Retiring Allowance when I was Colonial Secretary, and that I was of opinion that he was entitled to a Pension calculated on an average salary, &c. of £680; and that it should be calculated on the old scale, inasmuch as he entered the service in the year 1823. The amount, if I recollect right, which I considered him entitled to receive is £288 per annum.

(Signed) W. CHAMP.
30 May, 1857.”

MEMORANDUM.

REFERRING to the accompanying letter and minutes in the matter of Mr. John Abbott's Pension, I would beg leave to premise that the Deputy-Registrars of Births, Deaths, &c., were remunerated by two classes of Fees, which may be distinguished as "Allowances and Office Fees,"—the former being Fees on Births and Deaths paid from the Colonial Treasury, the latter those received by Deputy-Registrars from private individuals for Marriage Licences, Marriages, Certificates, Declarations, &c.

Mr. Abbott's emoluments were computed in the Colonial Secretary's Office for his Pension as follows:—

Salary	£ 200
Allowances	266
Office Fees	151
TOTAL	<u>£617</u>

But by Mr. Abbott thus:—

Salary	£ 200
Allowances	260
Office Fees	220
	<u>£680</u>

In consequence of the absence of Mr. Abbott's book of Office Fees, which unfortunately cannot now be found, and from the circumstance that no properly detailed account of such fees is recorded amongst the papers connected with his Pension beyond monthly totals for four months of 1854 and five of 1855, with two quarterly totals of 1856, I am unable to ascertain definitely upon what particular Fees the Colonial Secretary reduced the amount from £220, as stated by Mr. Abbott, to £151—the sum allowed in computing his emoluments of office.

Mr. Abbott believed that Mr. Henty had struck off 10s. from every Marriage Licence, as he told him personally that he was only entitled by law to charge 20s. each instead of 30s. which he had been in the habit of receiving on the issue of a licence; but seeing that he only issued on an average 79 licences a year, as appears by a Return hereto annexed, this deduction would amount but to £39 10s., whereas the actual difference is £69, so that supposing Mr. Abbott to be correct in his surmise, still other fees must have been reduced as well. Mr. Henty, however, some years afterwards informed him, in a letter dated 27th May, 1862, that it was *not* on this point that the reduction was made, but "on account of having included as part of his official receipts fees of larger amount individually than could be claimed under the law."

But it would appear from Mr. Henty's *précis* of July, 1857, that the Fees on Marriage Licences were particularly dealt with, though it is not shown in what precise manner: to quote the words:—

	£	s.	d.
"For the year 1854 Mr. Abbott has set down as Fees on Marriage Licences	230	4	0
But the Fees payable by law on the number of Licences was only	147	6	0
Leaving an overcharge of	82	18	0
Grounded in fact on the presents or private Fees he received from applicants for Licences.			
The like overcharge for 1855 was	68	12	0
And for 1856	33	3	0

I am quite unable to reconcile the foregoing extract with the Return of Marriage Licences issued during the period in question; and indeed it is obvious that there is some mistake in the statement, as the sum of £230 4s. included all other Office Fees as well as the Licences. I may add, too, that Mr. Abbott denies having introduced any presents or gratuities into his stated average amount of Office Fees.

In the case of Mr. Cathcart, Deputy-Registrar at Launceston, who retired in November, 1860, and whose emoluments are clearly detailed in a document amongst his pension papers, the Fee of 30s. was allowed as part of his emoluments; and it also appears that when he was succeeded by Mr. G. P. Adams at Launceston, the sum of 30s. was still received for Marriage Licences and paid into the Treasury, Mr. Adams being otherwise remunerated.

In 1860 Mr. Cathcart's total emoluments were commuted for a fixed salary, on account of the falling off in the fees; but in 1858 and 1859 he stood on the former footing, and his "Office Fees" for those two years averaged £160 per annum, as allowed in computing his pension. In order, then, to contrast this sum with the £151 allowed to Mr. Abbott, I notice that Mr. Cathcart's average annual issue of Marriage Licences for 1858-9 was only 65, being at 30s. each £97 10s., whilst Mr. Abbott's average was 79, equal at 30s. to £118 10s., thus showing a difference of £21 in favour of the latter gentleman on

Licences alone. It may then reasonably be assumed that if on this *one* item such an excess existed at Hobart Town, there would surely be a somewhat corresponding difference on the Fees arising from other sources, which in Mr. Cathcart's papers exhibit an average of £62 10s. upon those two years; but deducting the amount of Mr. Abbott's Licences as stated above at £118 10s. from the total sum allowed to him for "Office Fees," £151, leaves only £32 10s. for all his other Office Fees as against £62 10s. of Mr. Cathcart's, which is not at all reconcileable with the fact that the allowances upon births and deaths paid from the Treasury to Mr. Cathcart for 1858-9 averaged only £94 per annum, against £266 received by Mr. Abbott on an average of the three years ended 30 June, 1856. I find also that Mr. Abbott issued 36 certificates to clergymen in the same *three* years, whilst Mr. Cathcart only issued 5 in *two* years. Upon these a fee of 7s. 6d. was payable. Mr. Crisp, the predecessor of Mr. Cathcart, at Launceston, retired in 1856, whilst Mr. Champ was Colonial Secretary, but no detailed account of Fees appeared amongst his papers. The amount allowed in his pension for Office Fees was £171 per annum; and it is deserving of notice that whilst his allowances paid from the Treasury on births and deaths amounted to only £108 a year and Mr. Abbott's to £266, yet that Mr. Crisp's Office Fees were admitted to average £171, and Mr. Abbott's only £151, for almost the same period.

In conclusion, I regret that I am not in a position, as already shown, to deal with actual figures and details in this business, and am therefore only able to submit for the information of the Honorable the Colonial Secretary the deduction which may be drawn from the comparisons I have made between the cases of Messrs. Abbott, Cathcart, and Crisp: but I may perhaps be allowed to observe that, on due consideration of the question, I incline to the opinion that when the Government fixed the average amount of "Office Fees" at £151 for the calculation of Mr. Abbott's Pension, that gentleman could not have received the same advantages that were enjoyed by Messrs. Cathcart and Crisp, but on what grounds Mr. Abbott was placed on a less advantageous footing there are no means at present available of discovering,—in fact the whole matter may be said to be simply comparative and conjectural.

E. J. MANLEY.

Audit Office, 24th December, 1869.

The Hon. the Colonial Secretary.

RETURN of the Number of Marriage Notices entered in the Marriage Notice Book in each Year from 1st July, 1853, to 30th June, 1856, distinguishing those Cases in which no Licence was issued.

<i>Date.</i>	<i>Licence issued to Clergymen.</i>	<i>Licence issued to Deputy Registrar.</i>	<i>Certificate issued to Clergymen.</i>	<i>Certificate issued to Deputy Registrar.</i>	<i>Certificate not issued.</i>	<i>Caveat entered.</i>	<i>Notice entered, but not shown that Licence or Certificate was issued.</i>	<i>Total Notices entered.</i>
1 July, 1853, to 30 June, 1854	76	1	4	0	0	0	5	86
1 July, 1854, to 30 June, 1855	81	0	11	0	0	1	0	93
1 July, 1855, to 30 June, 1856	80	0	21	1	2	0	1	105
	237	1	36	1	2	1	6	284

H. J. BUCKLAND, Registrar.

Mr. CATHCART'S Statement for the Years 1858 and 1859.

"Allowances" paid from Treasury.

		1858.	1859.
		£ s. d.	£ s. d.
Births	449—476	94 2 6	93 15 0
Deaths	304—274		

"Office Fees" from private persons.

Licences	66—64	99 0 0	96 0 0
Certificates	2—3	0 15 0	1 2 6
Declarations	23—21	5 15 0	5 5 0
Certificates of Birth	48—70	11 10 0	17 10 0
Ditto of Death	42—53	12 0 0	13 5 0
Ditto—Ministers	355—370	17 15 0	18 10 0
Searches	61—26	15 5 0	6 10 0
		£162 0 0	158 2 6

Average of Office Fees £160

	£ s. d.
Divided into—Licences	97 10 0
All other Fees	62 10 0
	£160 0 0