

1875-6.

VICTORIA.

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# CLAIMS FOR COMPENSATION.

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REPORT OF THE BOARD APPOINTED IN 1875 TO INVESTIGATE CLAIMS FOR COMPENSATION IN CONNECTION WITH THE PUBLIC SERVICE, AND CLAIMS BY WIDOWS OR FAMILIES OF DECEASED PUBLIC SERVANTS.

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*Ordered by the Legislative Assembly to be printed, 15th March 1876.*

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## REPORT.

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Melbourne, 28th May 1875.

1. We, the undersigned, constituting the Board appointed to investigate and report on the claims preferred by Officers in the Public Service, or by the widows or families of deceased public officers, have the honor to submit the following as our report thereon :—

2. In deciding upon the cases transmitted to us for our consideration, we have applied to them the principles on which the claims of certain widows and families of deceased public servants were dealt with by a Board, of which a majority of the present Board were members, as shown by their report, dated 14th April 1874.

3. Schedules A, B, and C comprise cases which, in our opinion, correspond to those in Schedules A, B, and C of the report above mentioned, and have been dealt with in like manner.

4. Schedule D, comprising cases referred to as under special circumstances, contains those of two police constables, who, but for what we regard an unforeseen omission in the *Police Regulation Statute* 1873, would by the liberality of Parliament have been able to obtain, under its provisions, a larger gratuity from the Police Superannuation Fund than is obtainable by officers in the Civil Service under the 46th section of *The Civil Service Act*.

5. The benefit of that gratuity was lost to these constables and their families, not by any fault on their part, but from inability to comply with technical requirements, under circumstances which enhanced rather than diminished their moral claim to the benefit of the fund created by the statute.

6. To the families of these two constables we recommend, as was done by the Government in the case of the late Detective Daly (see *Appropriation Act* 1874-5), provision be made for such gratuities as the men would have obtained under the Police Act, but for the omission to which allusion has been made.

At the same time, we would earnestly impress upon the Government the propriety of submitting to the Legislature, without delay, a short Bill to amend the Police Act, in order to accomplish what we believe to have been the intention of Parliament—namely, that all claims arising under the Act should be liquidated from the Superannuation Fund, and that the general revenue should not incur any liability in regard to them beyond the annual grant of Two thousand pounds.

7. We find referred to us the claims of Messieurs Ireland, Swan, Moody, and McLean, which were considered by the Board appointed in 1874, and were reported upon as “not being strictly tenable,” but as being claims which, from the peculiar circumstances mentioned in the report, might be regarded as “entitled to some recognition at the hands of the Government.”

The persons above named were in the employ of the Public Works department—Ireland, Swan, and Moody, as inspectors of works; McLean, as a laborer, in the Dredging department, employed on daily wages.

[ *Approximate Cost of Report.*—Preparation, not given; Printing (750 copies), £12. ]

8. The first three received and accepted their employment under certain printed conditions, which stated that they were subject to a week's notice of dismissal at any time, and would have no claim whatever for re-employment by the department. The duties of Ireland, Swan, and Moody were to inspect the progress of works in course of construction by the Public Works department, their employment beginning and ending with each work.

9. In the case of Ireland, his first employment began on the 1st of August, and ended on the 15th December 1866. He was not again employed until the 14th June 1869, and from that time he was employed without intermission until the 25th October 1873, when he resigned his appointment in consequence of illness, from which he never recovered.

Swan was employed from 12th December 1866 to 24th December 1867, and was re-employed on the 1st July 1869, he continuing in the Government service until his decease on the 9th February 1874, which was attributed to bronchial disease, induced by attention to duties.

Moody's employment commenced in 1861, and was intermittent between that period and the 4th of November 1868, the intermissions amounting in the aggregate to a period of one year and fifty-four days. From November 1868 his service was continued until it was terminated by his death, which took place in 1871. In each case, what appears to have become continuous employment, was terminated by illness and death, which took place in 1871.

McLean was employed without intermission as a day laborer in the Dredging department from the 26th March 1860 to the date of his death in 1870. He appears to have been a well-conducted man, and to have borne generally an excellent character.

The foregoing particulars will, we doubt not, be regarded as fully justifying the remark in the Report of 1874, that the claims of the families of these public servants are deserving of some recognition at the hands of the Government; and as we understand it to be the wish of the Executive that we should make some definite recommendation with respect to them, we beg to state our opinion that, if the gratuities mentioned in the Schedule D be awarded, their claims will be fairly met.

10. Schedule E contains those applications as to which we do not feel justified in recommending grants. In the majority of these cases we have given the grounds of our decision; but it will be seen that, as to some, we have stated generally that the facts brought under our notice would not justify us in recommending a grant.

In these cases a reference to the facts, as set forth in the papers submitted to us, will account for our refraining from enlarging upon them in this place.

11. Schedule F comprises the claims laid before us for compensation for personal injuries and loss of office, with our recommendations thereon.

(Signed)

THOS. T. A'BECKETT, Chairman.  
W. H. ODGERS.  
ROBERT MURRAY SMITH.

## SCHEDULE A.—PERMANENT OFFICERS.

Name of Deceased Officer.	Department.	Rank, &c.	Period of Service.		Date of Death.	Remuneration at Death.	Recommendation of Board.	Amount of Recommendation.		Remarks.	
			From	To				£	s. d.		
<b>GROUP I.—PERSONS IN THE CIVIL SERVICE.</b>											
Moore, T. ...	Gaols (Kilmore)	Gaol Governor ...	1 Jan. 1856	Date of death	27 July 1872	£200 per annum	...	Gratuity under section 46, Civil Service Act	150 0 0		
Rowley, J. ...	Gaols (Melbourne)	Chief Warder ...	April 1850	Date of death	17 Jan. 1874	£200 per annum	...	Ditto ...	150 0 0		
Swanston, G. ...	Harbor Department (Belfast)	Boatman and Assistant Lightkeeper (3rd Schedule)	24 Mar. 1856	Date of death	22 Mar. 1867	7s. 6d. per diem	...	Ditto ...	102 13 1		
Stokes, H. ...	Post Office ...	Stamper (3rd Schedule) ...	6 Oct. 1856	Date of death	25 May 1874	9s. 6d. per diem	...	Ditto ...	111 10 1		
Stephen, S. J. ...	Solicitor-General	Clerk of the Peace and Registrar of the County Court, Melbourne (1st Class, Civil Service)	14 Sept. 1846	Date of death	28 Jan. 1875	£610 per annum	...	Ditto ...	457 10 0		
Doran, G. ...	Ports and Harbors	Assistant Harbor Master, Hobson's Bay (4th Class, Civil Service)	27 April 1863	Date of death	18 Mar. 1875	£350 per annum	...	Ditto ...	262 10 0		
Cray, W. ...	Post Office ...	Clerk (5th Class, Civil Service)	1 March 1859	Date of death	10 Jan. 1872	£180 per annum	...	Ditto ...	135 0 0		
<b>GROUP II.—PERMANENT OFFICERS, BUT NOT IN THE CIVIL SERVICE.</b>											
Gilbertson, J. ...	Lunatic Asylum	Storeman	17 Mar. 1858	Date of death	13 Aug. 1874	£120 per annum	...	Gratuity on the principle of sect. 46, Civil Service Act	90 0 0		
Sheppard, E. ...	Public Works (Dredges)	"Deck hand" ...	3 months on permanent list	...	...	7s. 6d. per diem	...	Gratuity on the principle of sect. 47, Civil Service Act	8 11 1		
Dalglish, J. ...	Railways	Engine-driver ...	1 April 1862	22 Jan. 1874	...	...	...	A gratuity of ...	100 0 0		
									Total, Schedule A.	£ 1,567 14 3	

(Signed) THOS. T. A'BECKETT, Chairman,  
W. H. ODGERS,  
ROBT. MURRAY SMITH.

(Signed) E. J. THOMAS,  
Secretary.  
27th May 1875.

**SCHEDULE B.—OFFICERS NOMINALLY TEMPORARY BUT ACTUALLY PERMANENT.**

Name of Deceased.	Department.	Rank, &c.	Period of Service.		Date of Death.	Remuneration at Death.	Recommendation of Board.	Amount of Recommendation.	Remarks.
			From	To					
Yates, C. S. ...	Post Office ...	Supernumerary Letter-carrier	16 Feb. 1864 19 June 1869	Dec. 1868 21 Nov. 1871	14 Dec. 1871	8s. 6d. per diem	Gratuity on the principle of section 46 of the Civil Service Act	£ s. d. 44 6 10	This is additional to the gratuity awarded by the previous Board; a part of Mr. Yates' service having through a misapprehension been ignored in the calculation of that gratuity.
Hoskins, W. F. Foley, P. J. ...	Mines Post Office ...	Clerk ... Supernumerary Letter-carrier	1 Jan. 1865 19 Feb. 1864	12 Jan. 1875 14 Aug. 1870	12 Jan. 1875 28 Oct. 1870	£325 per annum £11 per month	Ditto ... Ditto ... Total Schedule B ...	243 15 0 66 0 0 354 1 10	

(Signed)

THOS. T. A'BECKETT, Chairman,  
W. H. ODGERS,  
ROBT. MURRAY SMITH.

(Signed)

E. J. THOMAS, Secretary.  
27th May 1875.

**SCHEDULE C.—PRINTER.**

Name of Deceased.	Department.	Rank, &c.	Period of Service.		Date of Death.	Remuneration at Death.	Recommendation of Board.	Amount of Recommendation.	Remarks.
			From	To					
Richardson, T. ...	Government Office Printing	Compositor ...	13 June 1854	27 Feb. 1868	27 Feb. 1868	£4 10s. per week	A gratuity on the principle of section 46 Civil Service Act	£ s. d. 175 10 0	
							Total Schedule C ...	175 10 0	

(Signed)

THOS. T. A'BECKETT, Chairman,  
W. H. ODGERS,  
ROBT. MURRAY SMITH.

(Signed)

E. J. THOMAS, Secretary.  
27th May 1875.

SCHEDULE D.—SPECIAL CASES.

Name of Deceased.	Department.	Rank, &c.	Period of Service.		Date of Death.	Remuneration at Death.	Recommendation of Board.	Amount of Recommendation.		Remarks.	
			From	To				£	s. d.		
O'Callaghan, C. J.	Police	Constable	23 Feb. 1866	Date of death	2 May 1874	7s. 6d. per day	A gratuity on the principle of section 23 <i>Police Regulation Statute</i>	117	18	4	} <i>Vide</i> Report, paragraphs 4, 5, and 6.
Armstrong, J.	Ditto	Ditto	18 Oct. 1861	Ditto	16 Aug. 1874	7s. 6d. per day	Ditto (section 21 <i>Police Regulation Statute</i> )	176	17	6	
Ireland, G.	Public Works	Inspector of Works	<i>Vide</i> Report	...	25 Oct. 1873	£5 per week	A gratuity of	50	0	0	} These recommendations are made subject to the remarks in paragraphs 7, 8, and 9 of Report.
Swan, J.	Ditto	Ditto	Ditto	...	...	£5 per week	Ditto	60	0	0	
Moody, R. S. H.	Ditto	Ditto	Ditto	...	3 June 1871	£5 per week	Ditto	95	0	0	
McLean, A.	Ditto	Labourer on Dredge	Ditto	...	12 Jan. 1870	7s. per day	Ditto	70	0	0	
							Total Schedule D	569	15	10	

(Signed) THOS. T. A'BECKETT, Chairman,  
W. H. ODGERS,  
ROBT. MURRAY SMITH.

(Signed) E. J. THOMAS, Secretary.  
27th May 1875.

SCHEDULE E.

Name of Deceased.	Department.	Rank, &c.	Period of Service.		Date of Death.	Remuneration at Death.	Remarks.
			From	To			
Chambers, G. ...	Legislative Council	Messenger	1 Feb. 1861	Date of death	28 Jan. 1873	£3 per week	The widow of a messenger in the Legislative Council is no doubt as much a fitting object for the bounty of Parliament as would be the widow of a messenger in the Legislative Assembly, the position of a messenger in the one House being precisely similar to that of a messenger in the other; but, inasmuch as the employes in the Council made their election in 1862 to remain on the Civil List (Schedule D, Constitution Act) rather than be brought within the Civil Service Act ( <i>see</i> Council Paper D, 2. Session, 1869), they voluntarily excluded themselves from its benefits, and we feel ourselves precluded from recommending any gratuity. The circumstances do not justify a grant. The circumstances do not justify a grant to the applicant. Deceased received on retirement a gratuity on his own application, under section 46 (Civil Service Act), and the present claim is for the difference between that and the larger gratuity that it is contended should have been given under section 45, which provides for officers forced to retire through injuries received in the discharge of duty. We do not, however, consider that Keane's death, which occurred five years after the accident referred to in the claim, was occasioned by the injuries then received. Deceased voluntarily resigned, and thereby relinquished all claim. The circumstances do not justify a grant.
Breen, N.	Gaols	Warder	26 Sept. 1862	Date of death	9 July 1874	7s. 6d. a day	
Colleton, T.	Penal	Warder	10 Mar. 1864	Date of death	15 Feb. 1872	7s. 6d. per diem	
Keane, T.	Penal	Warder	5 May 1856	29 Sept. 1871	Aug. 1872	...	
Nolan, M.	Police	Constable	24 Oct. 1856	4 Oct. 1869	Dec. 1869	7s. 6d. per diem	
Brennan, T.	Police	Constable	10 Aug. 1857	Date of death	9 Mar. 1874	7s. 6d. per diem	

## SCHEDULE E.—continued.

Name of Deceased.	Department.	Rank, &c.	Period of Service.		Date of Death.	Remuneration at Death.	Remarks.
			From	To			
O'Gorman, C. ...	Treasury ...	Despatch Clerk (3rd Schedule)	11 Jan. 1856	2 April 1873	...	£200 per annum, with quarters, fuel, light, and water	Deceased had retired from the service on a pension, but the present claim is based on the fact that he had been injured by a gun-shot fired at him when a digger, at the time of the Ballarat riots. The shot was fired by a policeman, who was tried and imprisoned for it. We find that O'Gorman was allowed £200 for medical expenses incurred in consequence of the wound; that he was given five shillings a day for the time that he was out of employment; that he was subsequently given employment in the Police Department at Castlemaine, for a period of eighteen months; and that he afterwards received the appointment of messenger (subsequently styled "despatch clerk") in the Treasury. This post he held for seventeen years, and on retirement, his pension was specially augmented in consideration of his having been wounded. It appears therefore to us that he was treated very generously, and we do not think that the case justifies a recommendation of a further grant. Moran was not in the Government service, except simply as a volunteer, and the widow seeks a grant on the ground, as alleged, that the rheumatism, of which he died, resulted from exposure at the first Werribee encampment; this, however, having taken place twelve years before his death, is too remote to be recognised as the cause. We moreover consider that members of the volunteer force are not to be regarded as Government employés so as to entitle them to the benefits of a Public Service Act. The nature of the employment does not, in our opinion, justify a grant from the public revenue. Deceased was not a regular salaried officer of the Government, but simply received (in addition to the fees for the several services performed) a small sum as an allowance for performing the duties of bailiff. The service of interpreting is occasional and temporary, and is consistent with the carrying on of other occupations. The families of this class of public servants are not wholly dependent on the income they derive from their appointments, and we cannot recommend a grant in this case. Deceased had been seven years in his situation, but was about sixty-three years of age when first employed; the Board cannot recognise a claim to a gratuity on account of a person entering the service at such an advanced age. Deceased elected to retire on a superannuation allowance, which election cannot now be varied.
Moran, C. ...	Volunteer Force ...	Private ...	Ten years ...	...	1874	...	Ditto. A gratuity of £1,133 6s. 8d. was paid to the widow under section 47 of the Civil Service Act, but she now asks for £500 for loss through the lapsing of a life policy, caused by the stoppage of her husband's pay during the general suspension of Government payments in 1868, popularly known as the "dead-lock." We cannot regard this as justifying a recommendation of a further grant, while admitting fully the hardship of the circumstances under which the civil servants then suffered. The circumstances do not justify a grant.
Heath, J. J. ...	Volunteer Force ...	Drill Instructor	1 Dec. 1872	17 Dec. 1874	...	£25 per annum, and fees of office	The Board cannot entertain a claim, made for the first time, twelve years after the death.
Dixon, J. ...	County Court ...	Bailiff ...	7 Jan. 1858	8 Nov. 1873	8 Nov. 1873	£100 per annum...	Claim dealt with by Parliament in 1863, and cannot now be re-opened.
How Qua, Ah Kin	Courts ...	Chinese Interpreter	1 Jan. 1861	Date of death	15 Nov. 1873	...	
Murdoch, James	Lands and Survey	Bailiff of Crown Lands...	18 Mar. 1867	Date of death	8 Aug. 1874	£150 per annum, with allowance for travelling expenses, &c.	
Phillipin, T. C.	Customs ...	Landing Waiter	10 Feb. 1852	31 Dec. 1864	Oct. 1865	A superannuation allowance of £201 5s. per ann.	
Ewing, S. ...	Customs	Weighter	1 May 1854	31 Dec. 1869	10 April 1870	...	
Ferguson, Chas. ...	Ports and Harbors	Chief Port and Harbor Master	Upwards of 16 years	...	Dec. 1868	...	
Weston, W. ...	Post and Telegraph	Operator Electric Telegraph (unclassified)	15 Mar. 1858	1 Jan. 1874	1 Jan. 1874	£180 per annum...	
Findlay, J. ...	Dredging Department	Laborer, and afterwards Master of a dredge	May 1856 ...	Aug. 1862 ...	Aug. 1862	£5 per week	
Morphy, J. ...	Gold Commissioner	Assistant Gold Commissioner & Police Magistrate	4 Oct. 1852	13 July 1861	13 July 1861	£650 per annum...	

(Signed)

THOS. A'BECKETT, Chairman,  
W. H. ODGERS,  
ROBT. MURRAY SMITH.

(Signed)

E. J. THOMAS, Secretary.

27th May 1875.

**SCHEDULE F.—CLAIMS FOR LOSS OF OFFICE AND INJURY.**

Name of Officer.	Department.	Rank, &c.	Period of Service.		Remuneration.	Recommendation of Board.	Amount of Recommendation.			Remarks.	
			From	To			£	s.	d.		
Straubel, B. ...	National Miscum	Mechanical draftsman and general scientific clerk	1 May 1858 ...	30 June 1870	£250 per annum	A sum of Two hundred pounds as compensa- tion for loss of office	200	0	0	Mr. Straubel stood on precisely the same ground as other officers who were reduced and received compensation at about the same time; but the vote taken for the purpose proved insufficient, and this claim has consequently remained unliquidated until now. This sum is less than the statutory allowance upon reduction, viz., one month's pay for every year of service, but the lesser amount is given by reason of Mr. Straubel's having, during the present year, obtained employment in the Government service.	
Forrest, Charles	Lands and Survey	Temporary clerk	...	...	£180 per annum	Gratuity under section 46 of Civil Service Act	135	0	0	Mr. Forrest, though nominally a temporary clerk, had been in the department for eleven years, and retired on account of ill-health in July 1874; being also over sixty years of age.	
Suelling, John ...	Naval ...	Employed ...	...	...	4s. a day and provisions	A gratuity of	100	0	0	Suelling lost one of his legs by an accident while he was in the execution of his duty at gun practice on board H.M.C.S. <i>Cerberus</i> . He has since been given employment as gatekeeper on the Victorian Railways at 4s. per diem, but formerly he had 4s. per diem and provisions. He has also received a gratuity of £50, in addition to which the present sum is awarded.	
Total							Sche- dule F ...	435	0	0	

(Signed)

**THOS. T. A'BECKETT, Chairman,  
W. A. ODGERS,  
ROBT. MURRAY SMITH.**

**E. J. THOMAS, Secretary.  
27th May 1875.**