

Copy of Governor's warrant granting such pension. (3.) Auditor-General's sanction to the payment.

Sir William Fox was present by appointment, and was examined by the Committee respecting matters relating to pensions during the time he was a Minister of the Crown.

On the motion of Mr. Reader Wood, *Resolved*, To summon the Auditor-General to give evidence to-morrow, and meanwhile to have the papers printed for distribution to members of the Committee.

THURSDAY, 21ST JULY, 1881.

The Chairman read the Governor's warrant granting Sir William Fitzherbert's pension.

Mr. FitzGerald, being in attendance, was examined by the Committee on the subject of the pensions.

It was resolved to summon Dr. Knight for the next meeting.

TUESDAY, 26TH JULY, 1881.

Dr. Knight and the Hon. Mr. Gisborne were in attendance, and gave evidence on the subject of pensions.

The Chairman read a letter and memorandum from Mr. FitzGerald.

On the motion of Mr. Reader Wood, *Resolved*, That all the evidence in the pensions cases, not already printed, be printed.

WEDNESDAY, 27TH JULY, 1881.

Moved by Mr. Reader Wood, That Sir William Fitzherbert claimed his pension under the provisions of "The Civil Service Act, 1866." To entitle him to the pension he draws, he should have been sixty years of age, and have served fifteen years at the time it was given to him. Sir William Fitzherbert was appointed Commissioner of Crown Lands on the 24th June, 1859. He was appointed to the political office of Colonial Treasurer, with a seat in the Executive Council, on the 24th November, 1864. He had consequently served less than five and a half years at the time of that appointment; and, according to the law laid down both by the present and late Attorney-General in Dr. Pollen's case, Sir William Fitzherbert vacated his office of Commissioner of Crown Lands by accepting the political office of Colonial Treasurer. The opinion of Mr. Whitaker is, "An officer accepting another office incompatible with it, *ipso facto* vacates the first; and I am of opinion that the office of Minister was incompatible with the other offices held by Dr. Pollen." And again, the same authority says, "Incompatibility is the test in all cases. In Dr. Pollen's case, the offices of Premier and Colonial Secretary, &c., were, in my opinion, incompatible with the offices of Government Agent, &c." Mr. Attorney-General Stout is of the same opinion; he says, in reference to Dr. Pollen's case, "he could hardly be called a Civil servant, because he was a Minister; and it would have been incompatible with his duties as Minister to have been, at the same time, a servant to his colleagues." Sir William Fitzherbert's claim seems to be thus effectually disposed of, and he cannot, in the opinion of the Committee, be considered entitled to a pension.

On the motion of Mr. Ballance, *Resolved*, That the Committee adjourn until the evidence taken by the Committee be printed.

TUESDAY, 2ND AUGUST, 1881.

The order of reference of 28th July was read.

Mr. Reader Wood obtained leave to amend his motion by the insertion, after the word "years," of the words "his provincial service being barred by section 31 of the Civil Service Act."

The discussion of the motion was postponed until next meeting.

On the motion of Mr. Montgomery, *Resolved*, That any opinions given by the Solicitor-General on any of the pensions under consideration, not already in evidence, be obtained from the Colonial Secretary's Office.

Moved by Mr. McLean, That the Law Officers of the Crown be asked if the pensions to Mr. Domett, Sir William Fitzherbert, Mr. Gisborne, and Dr. Pollen have been granted, and are being paid according to law

And the question being put, the Committee divided:—

*Ayes*, 3.—Major Atkinson, Mr. McLean, Mr. Saunders.

*Noes*, 3.—Mr. Ballance, Mr. Montgomery, Mr. Moss.

The Chairman gave his casting vote with the *Noes*.

So it passed in the negative.

On the motion of Mr. McLean, *Resolved*, That the Attorney-General and Solicitor-General be asked to attend and give evidence on the pension cases.

THURSDAY, 4TH AUGUST, 1881.

The Chairman reported that, owing to the illness of the Solicitor-General, he could not ask him to attend at present.

The Hon. F. Whitaker (Attorney-General) was in attendance, and, in course of examination by members of the Committee, gave his opinions with regard to the question of pensions.