

99. *Mr. Moss.*] I understand your pension has never been the subject of dispute?—Never.

100. Never, previous to this occasion?—Never.

101. And, I understand, also, that the maxims of government were different then to what prevail now?—Very different. As far as abstract principles are concerned, I think there is a manifest incompatibility in holding the two offices. I do not mean this to apply to any particular case; I am speaking generally. Rather than lie under the imputation of taking money wrongfully, and contrary to acknowledged principles, I would starve. I think, as a principle, it is not a good one that you should hold a Civil office and a position in a responsible Government; but, if the few men then to be found had not sacrificed their time, things in this country would have been very different.

102. In explanation of that, can you remember any instance in which paid officers of the Government were called to the Upper House. This occurs to me as one of the differences between the maxims that prevailed at that time, and what would be considered right now?—I think there was.

103. I merely call attention to that, as an important thing, illustrating one of the circumstances connected with Sir William Fitzherbert's pension.

104. *Mr. Saunders.*] You reckon, I suppose, for the purposes of your pension, that you resigned on the 15th July, 1870?—Well, I sent in my resignation in November, 1869, and then the question was considered by the Government, and referred to the Attorney-General; and the way they did it was this: they accepted my resignation as from the 15th July, 1870, eight months subsequently. That was the doing of the Government.

105. I want to know what salary you had received on account of your Civil office for the previous two years. I understand you did not draw salary while Commissioner of Crown Lands and Minister, nor during the latter portion of your leave of absence?—No.

106. Upon what, in the terms of the Act, was your pension calculated?—You cannot ask me to interpret the law upon my own case. If I had to make out a case, well and good. I simply sent in the data. The Government have their own officers to compute on those data.

107. Still, I understand, personally you are not aware of any law under which you could draw your pension?—I do not say that. On the contrary, the very fact that I applied for a pension shows that I thought I was entitled. I certainly should not have been guilty of applying to the Government for a pension if I did not think I was entitled to it.

108. So far as I understand, you applied for a pension under an Act upon which the pension should be calculated upon the salary you received during the last two years?—I do not know. All these are subtleties which may or may not hold good in a Court of law. I decline in the most distinct manner to give any legal opinion as to whether I was entitled or not. The duty of interpretation rested with the Government of the day, and that Government were my political opponents.

109. I see that you resigned in 1869, and that the Provincial Council then reduced the salary to £350?—That is very possible; I do not recollect it.

110. You can give us no explanation of that?—No, I cannot, if it is a question of amount. The Superintendent of the Province sent in that to the Government, and, if at the day you speak of there was any reduction, I have no recollection of it. Still, that, I think, would not affect the case. The amount is not of my stating, but that of the Superintendent of the Province. He is responsible officially. Being informed that I must get a certificate of the amount that I had received, I wrote to the Superintendent, and he forwarded to the Government the amount. I wish to state distinctly that I made no specification upon my own authority.

111. So far as I understand it, you received no salary for two years previous to the 15th July, 1870, on account of the office in the Government?—I know I did not. I cannot absolutely say I did not receive something, after I ceased to hold office as Minister—after I sent in my resignation.

112. *Mr. McLean.*] Mr. Moss spoke of an appointment in the Legislative Council. Do you recollect a question coming up during your Government's time in which your Government insisted that Mr. Strode should vote with the Government, he being a Resident Magistrate, or resign the seat in the Council?—I have not a very distinct recollection, but something of that kind occurred, and I believe it is substantially correct.

113. Did not that show the incompatibility of holding a seat in the Legislative Council as well as in the Government? Now, I want to make another thing clear. In addition to your allowance, when you went to England, they voted you the sum of £3,000 when you came back?—Yes.

114. There was no understanding that that was to compensate you for loss of pension, was there?—No; on the contrary. When I got Home I found the expenses infinitely greater than I expected, and I at once wrote to that effect to Mr. Stafford. He said, 'I cannot alter that now but when you come back a sum will be placed for you.' Well, a new Government came in, and they did not at all see my service in the same light as my colleagues. Prior to their going in I brought this up before my colleagues, and said, 'I leave it to you, but, as to the expenses to which I have been put, less than £3,000 won't reimburse me.' When afterwards a hostile Government came in, they acknowledged the claim, and put £3,000 down for the reimbursement of expenses. In this vote, remuneration for services was distinctly repudiated.

115. What was the allowance made you to England?—£5 per day. The vote of £3,000 was to cover expenses incurred, and was in no sense either compensation for pension or remuneration for services. I consider that I was never remunerated for the services so successfully rendered by me to the colony.

WEDNESDAY, 20TH JULY, 1881.

Sir WILLIAM FOX, K.C.M.G., examined.

116. *The Chairman.*] The Committee desire you, Sir William, to give evidence in regard to the retirement of Sir William Fitzherbert, and the circumstances that surrounded his case, so far as you were connected with it. Will you do so?—I am sorry to say that I have very little, if any, recollection of it.

117. You state in your minute, that the case of Mr. Fitzherbert ought not to be drawn into a precedent whilst at the same time you fully concurred in the course suggested, namely, that he should retire on the terms mentioned?—Yes.