

REPORT.

THE SELECT COMMITTEE of the House of Representatives, appointed July 15, 1856, to consider and report on the Petition of Mr. Piercy, have considered the matter to them referred, and have agreed to the following report :—

Before reporting upon the merits of the Petition itself, your Committee feel called upon to remark that it is one addressed, not to the House of Representatives, but to His Excellency the Governor, and seems to be still under the consideration of the Executive Government.

It appears to your Committee that with cases so situated it would not, as a general rule, be desirable for your House to interfere; and if, in consideration of the length of time during which the Petition has remained unanswered, and of the peculiar circumstances of the present session, you should deem it expedient to take any steps in the matter, your Committee trust that this proceeding may not on any account be drawn into a precedent.

It appears to your Committee, after taking all necessary evidence, that the general facts of the case referred to them are as follows :—

Previously to the 1st June, 1854, Mr. Piercy held the appointment of Clerk and Interpreter in the Resident Magistrate's Court, at a salary of £200 per annum. On the above date he was appointed Clerk to the Legislative Council, for which office an annual salary of £200 was subsequently voted. He continued to receive both the above salaries until June, 1855, when he was informed that the pay of his appointment in the Resident Magistrate's Court was raised to £250, but that under Section 11 of the Regulations of the Colonial Service he could not receive full salary for the two offices. Thenceforward he was paid for the latter office half salary only, or £125 per annum, and he was also made to refund the sum of £43 15s., which he had since 1st October, 1854, received in excess of such half salary.

After carefully considering the portion of the Colonial Regulations above adverted to, your Committee are unanimously of opinion, that it is intended to apply to cases only in which the duties of a vacant office are performed temporarily by the holder of another appointment, and that it is not applicable to cases like the one under consideration, where it is assumed that two distinct and separate offices may, without detriment to the public service, be permanently held by one and the same person. They therefore recommend that the amount which Mr. Piercy has, under the operation of this rule, been called upon to refund, should be repaid to him, and that he should be paid as Clerk in the Resident Magistrate's Court at the rate of £200 per annum to the 30th June, 1855. For the period subsequent to that date, the salary voted for the office by the General Assembly is £125 per annum; and as this appears, by the printed estimates, to have been done under a full knowledge of the circumstances of the case, your Committee do not feel justified in recommending any alteration in that sum.

Before concluding their report, your Committee desire to make a few remarks upon a principle which it appears, from the evidence of the Auditor-General, has been acted on by the Executive Government in the regulation of the salaries of public servants. From this evidence it appears that the Government has taken upon itself to enforce, or not, at its own discretion, the rule adverted to in the former part of this report, whereby a public officer, discharging the duties of two separate appointments, is not allowed, in certain cases, to receive the full salary attached to both offices. The Government has enforced the rule when it thought the amount of the two salaries more than ought to be paid to one person, and has abstained from applying it when it considered the emoluments of the two offices not more than a proper remuneration to be received by the holder of them; thus virtually varying, at its own discretion, the appropriation of the public money previously decided on by the Legislature.

It appears to your Committee that, even under the system upon which the affairs of the Colony have hitherto been administered, this is not a power which ought to be entrusted to the Executive