

herbert has been engaged, the following arrangement will only be equitable to him, and at the same time satisfy the requirements of the law: Mr. Fitzherbert's resignation as Commissioner of Crown Lands to be accepted from the date of his completion of his sixtieth year, say 15th July next—his letter mentions 15th August, 1810, as date of baptismal register. I think a month previous may be fairly allowed as the probable date of his birth. Up to the first-named date, 15th July, 1870, he is to have leave of absence, of course without any salary; on and after that date his pension, calculated under the 33rd section referred to, to commence. An Order in Council now to be passed fixing such pension accordingly. Mr. Holdsworth to be appointed Deputy-Commissioner up to the 14th July next, and to have a commission as Commissioner, such commission only to come into force on that date—14th July.—W. GISBORNE.—16th December, 1869.

THE circumstances of this case are exceptional, arising out of Mr. Fitzherbert having held responsible offices in the General Government and his special agency in England. The case ought not to be drawn into a precedent. I fully concur in the course suggested.—W. Fox.—20th December, 1869.

MR. MACDONALD.—Prepare necessary documents to carry into effect the arrangements specified in the last two paragraphs of this memorandum. The appointment as Deputy-Commissioner of Crown Lands is under "The Crown Lands Act, 1869."—W. GISBORNE.—21st December, 1869.

### No. 8.

The Hon. W. GISBORNE to Mr. W. FITZHERBERT.

SIR,—

Colonial Secretary's Office, Wellington, 22nd December, 1869.

I have the honor to acknowledge the receipt of your two letters, dated respectively the 17th ultimo and the 2nd instant, the former tendering the resignation of your office as Commissioner of Crown Lands, and the latter containing your application for a retiring allowance under the 33rd section of "The Civil Service Act, 1866."

Having consulted the Attorney-General, I find that the only legal difficulty in the way of granting your claim for a retiring allowance is that you have not, in the view of law, attained the age of sixty years. Your letter mentions 15th August, 1810, as the date of your baptismal register, and counting, as I think you may fairly claim, 15th of the previous month as the date of your birth, you will not be sixty years old until the 15th July, 1870.

The Government, however, willingly admit that your case is special, inasmuch as it involves the case of an officer holding his office (in respect of which he claims pension) while also a Minister of the Crown, and that you have also special claims for consideration. You have served one year longer than required by the 33rd section of "The Civil Service Act, 1866," under which section you propose to retire. Although you held the office and performed the duties of Commissioner of Crown Lands at Wellington until you went to England on the colonial service at the end of 1867, you practically received no pay for that office, while you were also a Minister (altogether between two or three years), and thus saved the public funds to a large amount. The late Government expressly agreed in giving you leave of absence as Commissioner of Crown Lands, during your special mission to England, that such time should be allowed to be reckoned in the computation of your retiring allowance; and when you tendered your resignation as Commissioner of Crown Lands in 1868, because you found that your public duties in England on the part of the colony would compel you to overstay such leave, the late Government refused to accept your resignation, and repeated its assurance to which I have referred.

Taking all these circumstances into consideration, and the important colonial political duties on which you have been engaged, the Government, whilst guarding themselves against admitting your case as a precedent for the future, are of opinion that the following arrangement will not only be equitable to you, but, at the same time, satisfy the requirements of the law.

His Excellency will be at once advised to accept your resignation, such acceptance to take effect on the 15th July next, the date (allowing you a month before the date of your baptism) of your completion of your sixtieth year. Up to the 15th July next you will be allowed leave of absence without salary. The Governor in Council will also, at the next Executive Council, be advised to grant you on and from the 15th July next a pension calculated under the 32nd section, reference to which has already been made.

Mr. Holdsworth, who has been recommended by His Honor the Superintendent of the Province of Wellington as your successor, will be appointed Deputy-Commissioner of Crown Lands until the 15th July next, and he will be given also a commission as Commissioner of Crown Lands, the latter only to take effect on the 15th July next, the date on which the acceptance of your resignation comes into force.

W. Fitzherbert, Esq., M.G.A.

I have, &c.,

W. GISBORNE.

### No. 9.

The Hon. W. GISBORNE to the DEPUTY-SUPERINTENDENT, Wellington.

SIR,—

Colonial Secretary's Office, Wellington, 23rd December, 1869.

I have the honor to transmit for your information the enclosed copy of a letter I have addressed to William Fitzherbert, Esq., in reply to his two letters, tendering his resignation as Commissioner of Crown Lands and applying for a retiring allowance under "The Civil Service Act, 1866."

I have, &c.,

W. GISBORNE.

The Deputy-Superintendent, Wellington.