

SESS. II.—1887.  
NEW ZEALAND.

# RETIRING-ALLOWANCE TO MR. A. D. AUSTIN

(PAPERS RELATING TO).

*Presented to both Houses of the General Assembly pursuant to "The Pensions Act, 1884."*

PROPOSAL *re* THE GRANTING OF A PENSION, LAID BEFORE PARLIAMENT IN PURSUANCE OF SECTION 4 OF "THE PENSIONS ACT, 1884."

HIS Excellency the Governor in Council having approved of the retirement from the public service of Mr. A. D. Austin, lately the District Engineer of the Public Works Department for the Canterbury District, on the ground that he is incapable, from bodily infirmity, to longer discharge the duties of his office, it is hereby notified to the General Assembly that it is proposed to grant to the said A. D. Austin an annual retiring-allowance, as from the 1st October last, of £247 10s., in terms of "The Civil Service Act, 1866," and the Acts amending the same.

The official report of the Controller and Auditor-General on the case, required to be laid before Parliament in pursuance of section 5 of "The Pensions Act, 1884," is hereto appended; also copies of opinions given by the Solicitor-General and the Hon. the Attorney-General in reference to the matter.

The amount of the proposed allowance is based on the total length of Mr. Austin's service, in accordance with the opinions expressed by the Hon. the Attorney-General and the Controller and Auditor-General; and the first year's allowance is to be charged with the repayment of the sum of £200, which amount was presented to Mr. Austin by the Provincial Government of Nelson on his retiring from the service of that Government in 1866.

Public Works Office, Wellington, 7th December, 1887.

EDWIN MITCHELSON,  
Minister for Public Works.

SIR,—

Audit Office, 26th October, 1887.

I have the honour to enclose herewith the papers relating to Mr. Austin's claim for pension, together with my report thereon, required by the 5th section of "The Pensions Act, 1884," to be laid before Parliament.

I have, &c.,

JAMES EDWARD FITZGERALD,  
Controller and Auditor-General.

The Hon. the Minister for Public Works.

BEING required by the 5th section of "The Pensions Act, 1884," to make an official report on the case of any pension proposed to be granted, I report as follows:—

The facts of the case are correctly stated by Mr. O'Connor in his memorandum attached. The opinion of the Solicitor-General is also attached. It is admitted that Mr. Austin is entitled to pension under the Act of 1866. The only question is as to the length of service which he is entitled to have taken into account in computing the amount of the pension. The Solicitor-General considers that his services, for the purpose of this computation, commenced in March, 1871.

By the 6th section of the Civil Service Act of 1878 the sections 30 and 31 of the Act of 1866, which entitle an officer retiring to count the time of his provincial service, are kept in force as applying to officers who—(a) were on the 23rd September, 1878 (the time of the passing of the Act), in the Civil Service; (b) who entered the service prior to the above date (14th November, 1871); (c) who would be entitled to claim under "The Civil Service Act, 1866."

I do not see that it is anywhere alleged that Mr. Austin does not satisfy these three conditions. The only fact which throws any doubt that I can see on his claim is that he was paid and accepted the sum of £200 on leaving the service of the Nelson Government. If this were compensation for loss of office, it would so far invalidate his claim. Mr. Austin denies that it was more than a gratuity, and no facts are in evidence which enable me to offer any opinion on the point. The objection that he forfeited his claim by having ceased for some years to be in the general or provincial service is, it seems to me, answered by the 18th section of "The Civil Service Act, 1866," which specially provides for such a case, and declares that on reappointment the service shall be taken to be continuous.

26th October, 1887.

JAMES EDWARD FITZGERALD,  
Controller and Auditor-General.

*Statement of Case for Opinion of Solicitor-General re Mr. Austin's Application for a Retiring-Allowance.*

1. MR. AUSTIN was appointed an Assistant-Surveyor in the General Government service on the 1st September, 1855, and was transferred, with other officers of the Survey Department in the province, to the service of the Provincial Government of Nelson on the 1st July, 1856 (*vide* A).

2. He remained in the service of the Provincial Government of Nelson until the 19th April, 1866, when, owing to ill-health, and the refusal of the provincial authorities to grant him sufficient