

1880.

## NEW ZEALAND.

PENSIONS TO MESSRS. FITZHERBERT, DOMETT,  
GISBORNE, AND DR. POLLEN

(CORRESPONDENCE RELATIVE TO THE GRANTING OF).

*Laid upon the Table, with leave, by the Hon. Major Atkinson.*I.—*RE* MR. FITZHERBERT'S PENSION.

## No. 1.

The Hon. W. FITZHERBERT to the Hon. the COLONIAL SECRETARY.

SIR,—

Cockspur Street, S.W., London, 2nd September, 1868.

In consequence of my unexpected detention in England, I find that I shall be unable to return to the colony till some time after the expiration of the leave of absence accorded to me, as a Commissioner of Crown Lands, by the Government. I therefore beg to place my resignation of that office in your hands.

I venture to remark that it is not without reluctance that I withdraw from an office which I have held many years, and which carries with it a pension after a certain period of service. I have acted under a sense of public duty on this point; and I cannot refrain from expressing a hope that, under the special circumstances of the case, my equitable claim to a retiring allowance will not be overlooked.

I have, &amp;c.,

The Hon. the Colonial Secretary, Wellington, N.Z.

WILLIAM FITZHERBERT.

LEAVE of absence was granted to the Commissioner of Crown Lands, Wellington, for twelve months from 8th December, 1867.—E. WAKEFIELD.

MR. FITZHERBERT to be informed that, in view of his early return, no present action will be taken on the subject of this letter.—E. W. S.—29th October, 1868.

## No. 2.

The Hon. E. W. STAFFORD to the Hon. W. FITZHERBERT.

SIR,—

Colonial Secretary's Office, Wellington, 2nd November, 1868.

I have the honor to acknowledge the receipt of your letter of the 2nd September last, tendering, in consequence of your detention in England, the resignation of your office of Commissioner of Crown Lands.

In reply, I have to state that, in consideration of your having been detained in England to perform very important public duties, and in view of your early return to New Zealand, the Government does not think it necessary to take any action at present in reference to the subject of your letter.

I have, &amp;c.,

The Hon. W. Fitzherbert, 21, Cockspur Street, S.W., London.

E. W. STAFFORD.

P.S.—The period of your absence will, as stated in my letter of the 7th December, 1867, in which leave was given to you, of course be reckoned in the computation of your term of service in respect of a retiring allowance whenever you may retire from the service.—E. W. S.

## No. 3.

The Hon. E. W. STAFFORD to the Hon. W. FITZHERBERT.

SIR,—

Colonial Secretary's Office, Wellington, 18th May, 1869.

In my letter of the 2nd November last, in reply to yours of the 2nd September, in which you tendered your resignation of your office as Commissioner of Crown Lands, in consequence of your being unable to return when your leave of absence expired, I stated, for the reasons therein mentioned, the Government did not think it necessary to take any action at that time in reference to the tender of

your resignation. I have now the honor further to inform you, that the Government has not thought it proper to advise His Excellency the Governor to accept that resignation.

The Government has come to this conclusion from the considerations stated in my former letter, that you were compelled to remain in England, not for private reasons, but in the performance of most important public services, with respect to which you have achieved a great success, to insure which necessitated your remaining beyond the time originally contemplated.

The Government also recognizes that the length and character of your public service as Commissioner of Crown Lands, as well as in other important capacities, amply entitled you, even on private grounds, to an extension of leave. It is also aware that your ultimate return was unavoidably delayed for one month after you had taken your passage, by the unforeseen cessation of the Panama Steam Service.

The Hon. W. Fitzherbert, Commissioner of Crown Lands,  
Wellington.

I have, &c.,  
E. W. STAFFORD.

#### No. 4.

The Hon. W. FITZHERBERT to the Hon. the COLONIAL SECRETARY.

SIR,—

The Hutt, 17th November, 1869.

I beg to tender my resignation of the office of Commissioner of Crown Lands.

I have, &c.,

The Hon. the Colonial Secretary, Wellington.

WILLIAM FITZHERBERT.

FOR Hon. Mr. Fox.—His Excellency should be advised to accept this resignation, and the Superintendent of Wellington informed accordingly. I suppose the late Acting-Commissioner (Mr. Holdsworth) should be appointed Mr. Fitzherbert's successor.—W. GISBORNE.—20th November, 1869.

WRITE accordingly, from His Excellency to Superintendent.—Wm. Fox.—22nd November, 1869.

I CONCUR in Mr. Holdsworth being appointed his successor, if the Superintendent concurs. For opinion of His Honor Dr. Featherston.—W. GISBORNE.—23rd November, 1869.

I RECOMMEND the appointment of Mr. Holdsworth.—I. E. F.—24th November, 1869.

WILL the Hon. the Colonial Secretary arrange accordingly, settle salary, &c. It is understood that Mr. Holdsworth would continue to fulfil the duties of the provincial offices at present held by him.—W. FOX.—25th November, 1869.

FOR His Honor Dr. Featherston.—What salary does Mr. Holdsworth now draw for acting as Commissioner of Crown Lands? Do you agree that that rate should continue to be drawn by him as Commissioner of Crown Lands, and will you adjust his provincial salaries accordingly? His salary as Commissioner of Crown Lands is now chargeable to Land Fund.—W. GISBORNE.—26th November, 1869.

MR. HOLDSWORTH'S salary is now £400, and allowances £74 15s. I recommend that his salary as Commissioner be £500; all his other payments will then cease, although he will continue to perform the duties in connection with them.—I. E. FEATHERSTON.—29th November, 1869.

HIS Excellency the Governor is recommended to accept this resignation, and to sign the Commission appointing Mr. Holdsworth.—W. GISBORNE.—1st December, 1869.

#### No. 5.

His Honor the SUPERINTENDENT, Wellington, to the Hon. W. GISBORNE.

SIR,—

Superintendent's Office, Wellington, 26th November, 1869.

Mr. Fitzherbert has informed me of his intention to apply for a retiring allowance, and, to enable him to make his application, has requested me before I leave the colony to state the circumstances under which he has not been paid salary during the last two years.

For some years Mr. Fitzherbert received £650 per annum in virtue of his office of Commissioner of Crown Lands, and this amount would have been paid to him during the last two years had he not been in the receipt of other salary.

I have, &c.,

The Hon. W. Gisborne, Colonial Secretary.

I. E. FEATHERSTON,  
Superintendent.

#### No. 6.

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

SIR,—

Colonial Secretary's Office, Wellington, 2nd December, 1869.

I have the honor to acknowledge the receipt of your Honor's letter of the 26th ultimo, furnishing certain information with reference to the intended application of Mr. Fitzherbert to apply for a retiring allowance.

I have, &c.,

His Honor the Superintendent, Wellington.

W. GISBORNE.

## No. 7.

Mr. W. FITZHERBERT to the Hon. the COLONIAL SECRETARY.

SIR,—

The Hutt, 2nd December, 1869.

When I tendered my resignation of the office of Commissioner of Crown Lands it was my intention to apply for a retiring allowance, and I now beg very respectfully to make application for a superannuation allowance under "The Civil Service Act, 1866."

I base my claim on sections 31, 32, and 33 (Part V.) of the Act; and on the proviso in section 2, which expressly admits Commissioners of Crown Lands to the benefit of Part V. Section 31 enables provincial service to be counted. Section 32 contains an exception which relaxes the strictness of the rule as to age in certain cases. Section 33 defines these cases. The words, "full age of sixty," which are employed in the preceding section, and in the succeeding one (35), are replaced in this section by the less stringent terms, "the age of sixty years." This relaxation is exceptional and limited in its operation to a privileged class of persons. Those only who are sixty at the time of the passing of the Act, or shall have attained that age within ten years of the passing of the Act, are permitted to retire on a certain allowance, provided, &c., as soon as they have been fifteen years in the service.

It is evident that the case of officers who were already in the service was taken into special consideration; which is not altogether unreasonable, considering that the preceding Act of Parliament allowed officers of fifteen years' standing to retire at fifty years of age. The speciality of the provisions in section 33 of the Act of 1866 becomes more apparent and intelligible, when compared with those of section 2 of the Act of 1861.

I have already more than fulfilled some of the conditions of the Act under which I apply. I reckon sixteen years' service instead of only fifteen as required, and shall, within four years at most of the passing of the Act, have attained the age of sixty years, so that I am considerably within the term of ten years prescribed as the limit for the exercise of the special privilege. The date of my baptismal register is 15th August, 1810. I am at least therefore well advanced in my sixtieth year, which I submit meets the requirement of the Act.

I made a request to the Superintendent of Wellington to address you officially before he left the colony, on the subject and amount of my salary, with which request I have reason to believe that His Honor complied, and I may therefore refer to his statement on that point, and claim that the half of the annual allowance for which I am applying may be computed thereon.

I shall be very much obliged if your decision may be made known to me at an early date, as the completion of arrangements of considerable personal importance to me depend on it.

I have, &amp;c.,

The Hon. the Colonial Secretary.

WILLIAM FITZHERBERT.

REFERRED to Auditor, to state what pension would amount to under 33rd section of Civil Service Act of 1866.—W. GIBBORNE.—2nd December, 1869.

AMOUNT of pension is half annual salary, £325 per annum.—E. HILL (for Auditor).—3rd December, 1869.

REFERRED to Attorney-General for his remarks, as this is an exceptional case, and the letter raises legal questions.—W. GIBBORNE.—3rd December, 1869.

THE HON. the Colonial Secretary.—I am of opinion that the holder of the office of Secretary for the Province of Wellington under the law of that province is in the Civil Service of the province, and, that being so, I am of opinion that any person in the colonial Civil Service who has been the holder of such office is entitled to reckon the period during which he may have held that office in the computation of his retiring allowance. I am of opinion that, in order to attain the age of sixty years within the meaning of the 33rd section of "The Civil Service Act, 1866," a person must live sixty years—he attains that age on the day preceeding the sixty-first anniversary of his birth. It cannot be said that an infant at the instant of its birth has attained the age of one year, and similarly it cannot be said that the instant a person has lived fifty-nine years he has attained the age of sixty years. I do not think that the addition of the word "full" in section 32, and the absence of the word in section 33, affects the construction of the 33rd section—the meaning of the expressions is the same, and is so treated in section 35, for, though section 35 applies, as well to those officers to whom section 33 applies as to officers generally, yet there the expression is "full age." I am unable to suggest any difference on the construction to be put upon the two expressions, and am of opinion that both expressions are intended to require the completion of sixty years.—J. PRENDERGAST.—6th December, 1869.

FOR HON. Mr. Fox.—I would wish to draw your special attention to this case, which is special inasmuch as it involves the case of an officer counting provincial service, and also holding his office, while also a Minister of the Crown. You will see from the opinion of the Attorney-General that the only legal difficulty is that the age of 60 years is not yet completed. Mr. Fitzherbert has special claims for consideration. He has served one year longer than required by the 33rd section of "The Civil Service Act, 1866," under which section he proposes to retire. Although holding and performing the duties of Commissioner of Crown Lands until he went to England on the colonial service at the end of 1867, he practically received no pay for such office while he was also a Minister, and thus saved the public funds to that amount. The late Government expressly agreed, in giving him leave of absence as Commissioner for his mission Home, that such time should be allowed to reckon in computation of his retiring allowance; and, when Mr. Fitzherbert resigned his Commissionership in 1868, because he found his other public duties in England would compel him to overstay such leave, that Government refused to accept his resignation, and repeated the assurance about the leave being allowed to count. Taking all these circumstances into consideration, and the important public duties on which Mr. Fitz-

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.

## No. 10.

The Hon. W. GISBORNE to the DEPUTY-COMMISSIONER of CROWN LANDS, 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.,

The Deputy-Commissioner of Crown Lands, Wellington.

W. GISBORNE.

## No. 11.

The DEPUTY-COMMISSIONER of CROWN LANDS, Wellington, to the Hon. the COLONIAL SECRETARY.

SIR,—

Crown Lands Office, Wellington, 28th December, 1869.

I have the honor to acknowledge the receipt of your letter of the 23rd instant, enclosing for my information copy of a letter 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.

I have, &c.,

The Hon. the Colonial Secretary,  
Wellington.

Jos. G. HOLDSWORTH,  
Deputy-Commissioner of Crown Lands.

## No. 12.

Mr. W. FITZHERBERT to the Hon. the COLONIAL SECRETARY.

SIR,—

The Club, Wellington, 31st December, 1869.

I beg to acknowledge the receipt of your letter of the 22nd instant, and to thank you for its contents.

Since its receipt I have searched further for the certificate of my baptismal register, which I had expected to find with the documents of my life insurance, but have been unable to find it. As I quoted its date from memory in my former letter, whilst I am much obliged to you for proposing to give me a month's grace, yet I am quite contented to accept the date of the 15th August if you should think proper. I asked Mr. Woodward, with whom I had business to-day respecting my life insurance, to say so much to you, who would explain the reason why I could not conveniently wait upon you to-day.

I have, &c.,

The Hon. W. Gisborne, Colonial Secretary.

WILLIAM FITZHERBERT.

## No. 13.

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

SIR,—

Colonial Secretary's Office, Wellington, 8th January, 1870.

I have the honor to acknowledge the receipt of your letter of the 31st ultimo, on the subject of your retirement from the Civil Service of New Zealand.

In reply, I have to state that, although the baptismal register is mislaid, I have no doubt that your memory is correct as to the date of that register; and therefore I think it is only equitable to allow a month previous to that date as the probable date of birth.

I have, &c.,

W. Fitzherbert, Esq., the Hutt, Wellington.

W. GISBORNE.

MR. MACDONALD.—I think a warrant for retiring allowance under section 33 of "The Civil Service Act, 1866," may be made by the Governor (not in Council). The Act is silent as to the mode of issuing the warrant in this case, and the only enactment that renders it necessary at all is "The Public Revenues Act, 1867," section 34. In the case of retirement under section 35 the case is different, and an Order in Council is necessary to permit the officer to retire; but even then the warrant to the Treasurer is sufficient if issued under the hand of the Governor alone, so that there is no necessity for altering the printed forms.—W. PHARAZYN.—7th January, 1870.

## II.—RE MR. DOMETT'S PENSION.

## No. 14.

The Hon. T. B. GILLIES to His Excellency Sir G. GREY.

SIR,—

Auckland, 24th December, 1863.

I have the honor to tender to your Excellency my resignation of the office of Secretary for Crown Lands, hitherto held by me.

I have, &c.,

To His Excellency Sir G. Grey, &c.

THOMAS B. GILLIES.

## No. 15.

The Hon. F. WHITAKER to His Excellency the GOVERNOR.

Auckland, 29th December, 1863.

THE Hon. Mr. Gillies having resigned the office of Secretary for Crown Lands, Ministers respectfully recommend His Excellency to appoint Alfred Domett, Esq., to that office, on the understanding that the appointment is to be in future one of a non-political character. This appointment to take date from the 24th instant.

To His Excellency the Governor, &amp;c.

FRED. WHITAKER.

## No. 16.

The Hon. A. DOMETT to the Hon. W. GISBORNE.

SIR,—

General Crown Lands Office, Wellington, 11th July, 1871.

Having for some time past intended to retire from the Civil Service of the colony, I have now the honor, in accordance with the terms of "The Civil Service Superannuation Act, 1858," and "The Civil Service Amendment Act, 1861," to notify to you my desire to avail myself of the retiring allowance provided by the Acts alluded to. I should state that I entered the public service as Colonial Secretary of New Munster in the early part of February, 1848, and that I am upwards of fifty years of age.

Trusting that this application will be favourably received by Government.

I have, &amp;c.,

ALFRED DOMETT,

The Hon. the Colonial Secretary, Wellington.

Secretary for Crown Lands, &amp;c.

P.S.—I should have mentioned that, if it will not interfere with Government arrangements, I propose to hold my present offices till the end of next month.—A. D.

MR. COOPER.—Calculation of pension to be made as usual.—W. GISBORNE.—12th July, 1871.

HON. MR. DOMETT.—Will you be good enough to fill up the enclosed form and return it to this office?—G. S. COOPER.—14th July, 1871.

STATEMENT to accompany Application for a Superannuation or Retiring Allowance under "Civil Service Superannuation Act, 1858."

*Name in full, and Offices held by Applicant during three years previous to date of application.*—Alfred Domett: Secretary for Crown Lands; Commissioner of Land Claims under Land Claims Settlement Acts, 1856 and 1858; Registrar-General of Land and Deeds till eight months since; then Officer intrusted with administration of Confiscated Lands.

*Length of Service on Establishment of General Government, giving date of first Appointment.*—Twenty-two years and two months: first appointment as Colonial Secretary of New Munster, 14th February, 1848; appointed Colonial Secretary of New Zealand from the 6th August, 1862, to the 30th October, 1863.

*Total Amount of Salary and Fees drawn by Applicant during last three years of service.*—Three thousand pounds; no fees.

*Whether Absent (on leave or otherwise) for any or what period exceeding six weeks in every year of service.*—Never absent for a period exceeding six weeks. From 1856 to 1862, I attended the General Assembly during its session at Auckland and Wellington.

*Has the Department ever been transferred to or from the Provincial Government.*—Never.

*Remarks.*—The salary of the Colonial Secretary for New Munster (though then the most populous and important province) was £400 per annum (while that of the Colonial Secretary for New Ulster was £700 or £750) from 1848 to 1853. On the establishment of the New Zealand Constitution, when the executive officers of New Ulster received pensions of £400 per annum, I took a lower office than I had held at a salary only equal to the pensions given to them—namely, £400 per annum. This was in 1853 (October). My equal right to the pension was, I believe, fully acknowledged then by Sir George Grey and the succeeding Governors. My salary for the last three years was made up of salary for Secretary for Crown Lands, £600 (amount paid to my predecessors); Commissioner of Land Claims, £100 (amount previously paid to Mr Bell, £800, he having completed a great part of the work, though much more was left than would be represented by that proportion of salary); Registrar-General of Land, £300, previously receiving £800 per annum.—ALFRED DOMETT, Secretary for Crown Lands, &c.

MEMORANDUM.—Hon. Mr. Domett is entitled under Act of 1861, No. 36, section 3, to a pension of £571 8s. 7d. a year, it being understood that he held and performed the duties of the office of Secretary for Crown Lands during the time he held office as a responsible Minister.—G. S. COOPER.—14th July, 1871.

REFERRED to Auditor.—W. GISBORNE.—15th July, 1871.

THE Act under which superannuation allowance is claimed does not apply to offices whose holders have seats in the Executive Council. Mr. Domett should be requested to state the periods "from" and "to" during which he had a seat in the Executive Council, and the offices under which he claims the allowance for such periods.—CHARLES KNIGHT, Auditor-General.—17th July, 1871.

FOR Hon. Mr. Domett.—G. S. COOPER.—18th July, 1871.

MEMORANDUM from Hon. Mr. Domett.—I held a seat in the Executive Council from the 6th of August, 1862, to the 30th of October, 1863. Was appointed Secretary for Crown Lands separately, 22nd August, 1862. Re-appointed Secretary for Crown Lands, 24th December, 1863; gazetted, January, 1864.

MEMORANDUM (No. 2) from Mr. Domett.—The allowance for the period between 22nd August, 1862, and 30th of October, 1863, if due, would be so in virtue of the office of Secretary for Crown Lands held by me during almost all that period. I am not aware that the holder of the office of Secretary for Crown Lands had a seat in the Executive Council in virtue of that office. I take it the meaning of the words of "The Civil Service Superannuation Act, 1858" (correctly quoted by Dr. Knight) can only be "the allowance shall not apply to offices where holders have seats, &c., in right of such offices," and that the words were not intended to exclude officers merely because they held Executive Council seats in respect of other offices than those through which they claim. On referring to my appointment as Secretary for Crown Lands, I find it is given "on the understanding that it is to be in future of a non-political character." I do not think this decides the question, because it is not the "political character" of the office which is the point of inquiry, but its conferring a right to a seat in the Executive Council. The first Secretary for Crown Lands was Mr. Tancred. He had been a member of the Executive Council before he was made Secretary. Evidently he did not hold the seat in respect of that office. So with myself in 1862: the Executive Council appointment preceded the other. So, I think, with the other Secretaries for Crown Lands. The intimation in my appointment, therefore, I look upon as to the effect that the appointment could but be in future exclusively conferred upon a Minister of the Crown.—A. DOMETT.—20th July, 1871.

FOR opinion of Attorney-General.—W. GISBORNE.—22nd July, 1871.

To the Hon. the Colonial Secretary.—I think that the evidence shows that the office of Secretary for Crown Lands was, up to the time of Mr. Domett's re-appointment in 1863, treated as a political office. Consequently, I think that the period during which Mr. Domett held the office of Secretary for Crown Lands with the office of Colonial Secretary must not be taken into account in computing his pension.—J. PRENDERGAST.—31st July, 1871.

ATTORNEY-GENERAL'S opinion to be acted on.—W. GISBORNE.—2nd August, 1871.

REFERRED to the Auditor-General.—G. S. COOPER.—2nd August, 1871.

SEEN. It is requested the claim may be adjusted in accordance with the opinion of the Attorney-General.—CHARLES KNIGHT, Auditor-General.—7th August, 1871.

REFERRED to Hon. Mr. Domett for adjustment.—G. S. COOPER.—7th August, 1871.

I HAVE altered the claim to twenty-two years and two months, which leaves out the time during which I held the seat in the Executive Council. I suppose this is what is meant by adjusting the claim in accordance with the Attorney-General's opinion.—A. DOMETT.—9th August, 1871.

FOR the Auditor-General.—G. S. COOPER.—11th August, 1871.

MR. DOMETT having served for a period exceeding seventeen and under thirty-one years, is entitled, under the Act in question, to half salary, £500; and five eighty-fourths of £1,000, for five years' service over seventeen, £59 10s. 6d.: total, £559 10s. 6d.—CHARLES KNIGHT, Auditor-General, 12th August, 1871.—To the Hon. the Colonial Secretary.

WARRANT signed by His Excellency the Governor, 14th August, 1871.

## No. 17.

The Hon. the COLONIAL SECRETARY to the Hon. A. DOMETT.

SIR,—

Colonial Secretary's Office, Wellington, 18th August, 1871.

On the eve of your retirement from the Civil Service of New Zealand, allow me to express the deep sense which the Government entertain of the value of the public services which you have rendered to this colony, and of the public loss which your retirement will cause.

During a period of twenty-five years you have held, at one time or other, the highest offices in the Executive Council, and in the Civil Service, and have been a prominent member of the Legislature. The value which the Legislature attached to your presence in the Legislative Council is best shown by the terms of the Disqualification Act of last session, which expressly exempted yourself during your tenure of the office of Secretary for Crown Lands from the disqualification attached to all other officers. It is also to your love of literature and your devotion to its cause that the collection of so many valuable books in the library of our Parliament is in a great measure attributable.

The best wishes of my colleagues and myself, and of all who know you, will ever attend you in your future course of life. I cannot omit to add the expression of my own personal regret at the departure of one with whom I have been so long on terms of intimacy and friendship, and of my wishes for the welfare and happiness of yourself and of your family.

The Hon. A. Domett.

I have, &c.,  
W. GISBORNE.

## No. 18.

The Hon. A. DOMETT to the Hon. the COLONIAL SECRETARY.

SIR,—

Wellington, 19th August, 1871.

I have the honor to acknowledge the receipt of your letter of yesterday's date, expressing the sentiments of the members of the Government on my retirement from office.

The good opinion and kindly feelings you are pleased to express on their part and your own—although I am quite aware that to your friendly partiality much of the strength of the terms you employ must be owing—will always be highly valued by me and a source of great gratification.

I count it a piece of great good fortune that I have been able, through a political life of nearly thirty years, to retain and fully return the personal goodwill and esteem of so many public men, including all the members of your Government, in spite of occasional differences of opinion and action, necessarily incidental to such a career. With yourself individually—one of the oldest of my friends—I am happy to say that a coincidence of tastes on many subjects—and especially the *Idem sentire de re publica*, on all occasions, I think, and invariably—have formed a closer bond of union; while our long and intimate connection in official life has always been to me a pleasure, as well as no little advantage.

My share in the formation of the library, to which you allude, was an amusement and occupation which I relinquish with great regret. I trust, however, I may still be of use in England, in selecting and procuring books on behalf of any future Committee to whom its management may be confided.

Will you accept for yourself and family, and convey to the members of Government and theirs, the assurance that I heartily return the good wishes for your and their happiness and prosperity which you so kindly express for me and mine.

I have, &amp;c.,

The Hon. The Colonial Secretary.

ALFRED DOMETT.

## No. 19.

The Hon. the COLONIAL SECRETARY to the Hon. A. DOMETT.

SIR,—

Colonial Secretary's Office, Wellington, 16th August, 1871.

I have the honor to acknowledge receipt of your letter of the 11th ultimo, expressing your desire to retire from the Civil Service under the Civil Service Acts of 1858 and 1861.

In reply, I have to inform you that a warrant has been signed by His Excellency the Governor, granting to you a retiring allowance, under the Civil Service Acts, at the rate of £559 10s. 6d. per annum, from the 1st September proximo.

I have, &amp;c.,

The Hon. Alfred Domett, M.L.C.,  
Secretary for Crown Lands.G. S. COOPER,  
(for the Colonial Secretary).

## No. 20.

The Hon. Mr. DOMETT to the Hon. the COLONIAL SECRETARY.

SIR,—

Wellington, 19th August, 1871.

I have the honor to acknowledge receipt of your letter of the 16th instant, informing me that the Governor's warrant had been issued, authorizing the payment to me of the retiring allowance fixed by the Civil Service Superannuation Act, and to request you to convey to His Excellency and the Government my thanks for the same.

I have, &amp;c.,

ALFRED DOMETT,

Secretary for Crown Lands.

III.—*RE* MR. GISBORNE'S PENSION.

## No. 21.

The Hon. Mr. GISBORNE to the Hon. the COLONIAL TREASURER.

SIR,—

Government Annuities Office, Wellington, 30th March, 1875.

Wishing to claim in August next my retiring allowance under the provisions of "The Civil Service Amendment Act, 1861," and to receive before that time three months' leave of absence on full pay, with a view to that retirement, I shall be glad if the Government would consent to make arrangements for that purpose.

I expect the return shortly of Mr. C. Knight, Accountant and Acting-Actuary in this office; and, in order to prevent embarrassment, I will not relinquish the duties of my office until after his return.

I have, &amp;c.,

W. GISBORNE,

Commissioner.

The Hon. the Colonial Treasurer.

STATEMENT to accompany Application for a Superannuation or Retiring Allowance.

Name in full, and Offices held by Applicant during three years previous to date of Application, or (under sections 33, 35, of "The Civil Service Act, 1866") during two years previous to said date.—William Gisborne, Government Insurance Commissioner (Commissioner of Annuities).



*Length of Service on Establishment of General Government, or under any Provincial Government, giving date of first Appointment.*—12th July, 1847. Twenty-eight years and five months.

*Total Amount of Salary drawn by Applicant during last three years of service; or two years, if retiring under section 33 or 35 of "The Civil Service Act, 1866."*—£2,250.

*Total Amount of Fees drawn as Salary by Applicant during last three years of Service; or two years, if retiring under section 33 or 35 of "The Civil Service Act, 1866."*—None.

*Whether Absent (on leave or otherwise) for any and what Period exceeding six weeks in every year of service.*—Had eighteen months' leave of absence in 1852–53, inclusive of six weeks in each year. Never had any part of six weeks for several, say, at least fifteen, years.

*Has the Department ever been transferred to or from the Provincial Government.*—No.

*Age at Date of Application.*—Fifty.

*Remarks.*—Was a Minister from end of June, 1869, to 22nd November of the same year without other office.

### No. 22.

The Hon. the COLONIAL TREASURER to the Hon. Mr. GISBORNE.

SIR,—

The Treasury, Wellington, 30th April, 1875.

I have the honor to acknowledge the receipt of your letter of the 30th March ultimo, in which, expressing your desire to claim in August next your retiring allowance under the provisions of "The Civil Service Amendment Act, 1861," you ask to have three months' absence on full pay, with a view to your retirement. I learn with great regret that the Government must lose your valuable services as Insurance Commissioner. The leave which you ask will be granted from any day which you may name as convenient.

I have, &c.,

W. Gisborne, Esq., Government Insurance Commissioner.

H. A. ATKINSON.

### No. 23.

The Hon. W. GISBORNE to the Hon. the COLONIAL TREASURER.

SIR,—

Government Insurance Office, Wellington, 29th November, 1875.

Adverting to my letter of the 30th of March last, and your reply of the 30th of the following month, I have the honor to place my resignation of my office of Commissioner of Government Insurance in your hands, for acceptance by His Excellency the Governor on such day as may be convenient to the Government, such day, however, to precede the date which may be fixed by the Returning Officer for the nomination of a candidate for the City of Wellington, under the writ issued after the dissolution of the present General Assembly. At the same time I have the honor to apply for a retiring pension under the provisions of "The Civil Service Amendment Act, 1861." As the words used in the third section of that Act, prescribing as a basis of calculation "the average salary of the office or offices held by him during the last three years of his service," are very different from the words used in "The Civil Service Superannuation Act, 1858," in prescribing a basis, I should feel much obliged if the Government would take the opinion of their law officers on the interpretation of the above quoted words (Act of 1861), which appears to me that the rate of salary appropriated for the last financial year of the period of service should be included in such basis of calculation.

I have, &c.,

The Hon. the Colonial Treasurer.

W. GISBORNE.

REFERRED for the opinion of the Solicitor-General on the point raised in the last paragraph of Mr. Gisborne's letter 29th November.—C. T. BATKIN.—8th January, 1876.

I THINK that the interpretation for which Mr. Gisborne contends is borne out by the words of the Statute. It seems to be only equitable that the salary appropriated for the last financial year of the period of service should be taken into account in calculating the retiring allowance; I presume no similar question has hitherto been raised on this point.—W. S. REID.—14th January, 1876.

REFERRED to the Commissioners of Audit.—C. T. BATKIN.—17th January, 1876.

WILL the Commissioners of Audit please state what is the practice in respect of the point raised in this letter, so that I may answer Mr. Gisborne.—C. T. BATKIN.—1st March, 1876.

MR. ANDERSON.—Estimate the retiring pension as usual.—J. E. F'G.

### No. 24.

Mr. C. T. BATKIN to the Hon. W. GISBORNE.

SIR,—

The Treasury, Wellington, 31st December, 1875.

I have the honor, by direction of the Colonial Treasurer, to acknowledge the receipt of your letter of 29th November, adverting to former correspondence, and tendering your resignation of the office of Government Insurance Commissioner, for acceptance at such date as may be convenient to the Government. As it is understood that you are since desirous to receive the three months' leave of absence which, in reply to your letter of the 30th March, 1875, you were informed would be granted to you from such date as might be named by yourself, I am to request that you will be good enough to specify the date from which you propose to take up the desired furlough, in order that steps may be taken to appoint a deputy, as required by the Act.

I am again to express the Colonial Treasurer's regret that the department is to be deprived of your services, and to state the Government will be prepared to recommend the acceptance of your resignation so soon as your leave of absence shall have expired.

The Hon. W. Gisborne,  
Government Insurance Commissioner.

I have, &c.,  
C. T. BATKIN.

## No. 25.

The Hon. W. GISBORNE to the Hon. the COLONIAL TREASURER.

SIR,—

Government Insurance Office, Wellington, 18th January, 1876.

I have the honor to acknowledge the receipt of your letter of the 31st ult., in reply to mine of the 29th November, 1875, tendering the resignation of my office, and to thank you for the offer of three months' leave of absence on full salary previous to the final acceptance of such resignation.

In reply to your request, I would specify the 1st March next as the date on which my leave of absence, with a view to retirement, may commence; but as another complete year of my service will end on the 12th July next, I have the honor to request that, in consideration of all the circumstances of my official services, my leave of absence may be so far extended as to meet that date, and thus allow me to count another year's service in the calculation of my retiring pension.

I have, &c.,  
W. GISBORNE.

The Hon. the Colonial Treasurer.

THE Hon. Mr. Gisborne appears to be in error in supposing that the extension of his leave will enable him to count further period of service. Section 6 of "The Civil Service Superannuation Act, 1858," provides that, in making the computation, any leave of absence in excess of six weeks in each year shall be deducted from the term of service for which allowance is claimed. Will the Law Officers be good enough to advise on the point?—C. T. BATKIN.—19th January, 1876.

I THINK that the meaning of the section alluded to is that the total number of days in excess of six weeks in each year shall be deducted from the total period of service, not that such number of days shall be deducted from the last or any particular year of service. The words of the section are: "shall be deducted from the period during which he shall have held such appointment."—W. S. REID.—1st February, 1876.

THE opinion of the Solicitor-General is in precise accord with that expressed in my minute. I suggest that Mr. Gisborne's leave be extended, if he continues to desire it, to the date mentioned, and that he be informed that, while the Government is willing to accede to his request, the extension cannot affect the term of service for which he proposes to claim allowance.—C. T. BATKIN.—2nd February, 1876.

I CONCUR.—H. A. ATKINSON.—2nd February, 1876.

## No. 26.

Mr. C. T. BATKIN to the Hon. W. GISBORNE.

SIR,—

The Treasury, Wellington, 27th February, 1876.

I have the honor, by direction of the Colonial Treasurer, to acknowledge the receipt of your letter of the 18th ultimo, specifying the 1st March next as the date on which you desire that the furlough granted to you should commence, and expressing your wish that the period of leave should be extended to the 12th July, so as to enable you to complete another year's service, with a view to include that period in the term of service for which you propose to claim retiring allowance. In reply, I am to point out to you that, as "The Civil Service Superannuation Act, 1858," section 6, provides that, in making the computation for retiring allowance, any leave of absence in excess of six weeks in each year shall be deducted from the term of service for which allowance is claimed, the extension of your leave of absence will not effect the object you desire to attain.

I am at the same time to state that the Government will willingly accord to you the extension of leave for which you ask, should you desire it on other grounds.

The Hon. W. Gisborne.

I have, &c.,  
C. T. BATKIN.

## No. 27.

The Hon. W. GISBORNE to the SECRETARY to the TREASURY.

SIR,—

Government Insurance Office, Wellington, 4th February, 1876.

In reply to your letter of the 2nd instant, I would respectfully point out that you seem to have overlooked the provisions of the Civil Service Amendment Act of 1861, which authorizes, after seventeen years' service, an additional allowance "for every complete year of such service." I would also submit that leave in any one year over and above six weeks cannot reasonably be held to annihilate that year of service in respect to claim for pension; but that the law intends that the aggregate surplus of leave in every year should be deducted from the aggregate of years' service.

Under these circumstances, it seems to me that the extension of leave so as to include my current year of service will prevent the sacrifice of the eight months of the year during which I have actually served.

I have, &c.,

The Secretary to the Treasury.

W. GISBORNE,  
Government Insurance Commissioner.

WILL the Commissioner of Audit be good enough to state what is the practice in regard to the point herein raised.—C. T. BATKIN.—5th February, 1876.

THE practice is to take the full period of service and deduct from it the aggregate surplus leave, then to compute the difference after striking out the fraction of a year, if any.—CHARLES KNIGHT, Commissioner of Audit.—11th February, 1876.

WILL the Solicitor-General be good enough to state whether, in his opinion, the practice is conformable to law.—C. T. BATKIN.—14th February, 1876.

ASSUMING that the practice referred to is founded on the terms of section 3 of the Civil Service Act of 1861, I think it is conformable to law.—W. S. REID.—21st February, 1876.

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### No. 28.

The Hon. W. GISBORNE to the SECRETARY to the TREASURY.

SIR,— Government Insurance Office, Wellington, 22nd February, 1876.

Adverting to former correspondence on the subject of my retirement, I understand from you personally that an official letter approving of the day, 1st proximo, which, at the request of the Government, I named for leaving office, was not necessary, and that the duration of the leave of absence would be settled afterward, together with the pension. Accordingly I wish to remind you that to-morrow is my last day in my office, and as I propose leaving for Christchurch to-morrow afternoon to attend a meeting of the Senate of the University of New Zealand, I have asked Mr. Knight to hand over all official papers, &c., to my successor.

I would take this opportunity of recording my strong sense of the industry, zeal, and ability shown by the staff in my office, and of recommending them to the favourable consideration of the Government, when suitable opportunities of advancement of any of them occur.

Permit me also to ask you to be good enough to convey my thanks to the Hon. the Colonial Treasurer for the courtesy and consideration which he has accorded to me in the discharge of my official duties, and for the efficient support which he has given me in the outset and progress of an institution of which he is the author, and from which I believe, if wisely administered, the whole community will ever derive invaluable advantage.

I have, &c.,

W. GISBORNE,

Government Insurance Commissioner.

The Secretary to the Treasury, Wellington.

UNTIL the Industrial Branch position is better known to me, I am not prepared to receive the resignation of the Commissioner of Annuities. I have no objection to his taking a fortnight's leave when the information I have asked for should be furnished, and the Government consider the matter.—J. VOGEL.—29th February, 1876.

I HAVE seen the Hon. Mr. Gisborne, and he agreed to return in a fortnight. From what he tells me, the Government have certainly agreed to his retirement, and to his taking three months' leave of absence.—J. V.

AFTER a conversation with the Hon. Sir J. Vogel, I do not think that he was fully aware of all the circumstances of my case, the promises made me by the Government, and the fact that I have been holding office since August last at their express wish, and for their convenience. I feel sure that he will, when he is aware of all these things, do me justice. I only received his minute at 2 p.m. to-day, and had already taken my passage to Canterbury. I therefore, with his approval, take a fortnight's leave of absence till the Government have considered the Industrial Branch business. The information required will, I hope, be sent to the Government to-day.—W. GISBORNE.—29th February, 1876.

MR. GISBORNE'S resignation has not, I understand, been accepted. Papers to stand over till the matter settled.—J. E. F'G.—6th March, 1876.

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### No. 29.

The Hon. W. GISBORNE to the Hon. the COLONIAL TREASURER.

SIR,— Government Insurance Office, Wellington, 27th March, 1876.

In accordance with the arrangement sanctioned by you, I propose to leave to-morrow for the South, and to retire from the active duties of my office on the 1st proximo, the promised three months' leave of absence dating from my relinquishment or termination of the mission intrusted by the Government to myself and two others.

I have, &c.,

W. GISBORNE.

The Hon. the Colonial Treasurer.

WRITE saying I approve.—J. VOGEL.—29th March, 1876.

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### No. 30.

The SECRETARY to the TREASURY to the Hon. W. GISBORNE.

SIR,— Treasury, Wellington, 31st March, 1876.

I have the honor, by direction of the Hon. the Colonial Treasurer, to acknowledge the receipt of your letter of the 27th instant, stating that you proposed to retire from the active duties of your

office on the 1st proximo and to take the leave of absence for three months granted to you from the termination of the mission entrusted by the Government to yourself and to two others; and, in reply, to express Sir Julius Vogel's approval of the course you propose to adopt.

The Hon. W. Gisborne,  
Government Insurance Commissioner, Wellington.

I have, &c.,  
JAMES C. GAVIN,  
(for Secretary to the Treasury).

### No. 31.

The SECRETARY to the TREASURY to the Hon. W. GISBORNE.

SIR,—

Treasury, Wellington, 27th June, 1876.

Referring to the leave of absence granted to you for three months from the date of the special service on which you have recently been engaged, which leave of absence it is understood will expire on the 8th September next, being three months from the day following that borne by the report of the Commission to which you were appointed, I have the honor, by direction of the Hon. the Colonial Treasurer, to enclose to you a form of claim under the Civil Service Superannuation Acts, and, with a view to determine the amount of allowance to which, with the sanction of the Governor in Council, you will be entitled on your retirement from the public service, to request that you will be good enough to specify therein the particulars of your service, and forward the same to the Commissioners of Audit for examination.

I have, &c.,

The Hon. W. Gisborne.

C. T. BATKIN,  
Secretary to the Treasury.

### No. 32.

The AUDITOR-GENERAL to the Hon. the COLONIAL SECRETARY.

(Memorandum 114.)

4th July, 1876.

BEFORE the amount of retiring allowance to which Mr. Gisborne is entitled can be ascertained, it will be necessary to take the opinion of the Law Adviser of the Crown in reference to the 9th clause of "The Civil Service Superannuation Act, 1858," whether or not the time during which Mr. Gisborne held a seat in the Cabinet can be reckoned in the computation.

CHARLES KNIGHT,

The Hon. the Colonial Secretary.

Auditor-General.

REFERRED to Law Officer accordingly.—J. VOGEL.—The Solicitor-General.—5th July 1876.

HON. the Premier.—I think that the meaning of section 9 of "The Civil Service Superannuation Act, 1858," is that the Act shall not apply to officers who, in respect of their offices, hold seats in the Executive Council. In this case Mr. Gisborne held an office which in no way depended on his being a member of the Executive. But the Act of 1858 is now repealed, except as to rights of persons appointed before the Act of 1866, and I do not think section 9 is now in operation, as far as Mr. Gisborne is concerned.—W. S. REID.—31st August, 1876.

MEMORANDUM.—On the 29th of June last the Solicitor-General ruled that a person appointed to an office before the passing of the Civil Service Act of 1866 could not avail himself of the privileges conferred in section 29 of that Act, if the office he held were abolished subsequent to the passing of that Act. Mr. Gisborne's office was abolished by "The Government Insurance Act, 1874." It would seem, therefore, that, under the ruling of the Solicitor-General, Mr. Gisborne can only claim retiring allowance under the Civil Service Act of 1866. The present claim is made under the Civil Service Acts of 1858 and 1861.—CHARLES KNIGHT, Commissioner of Audit.—25th October, 1876.

### No. 33.

The COMMISSIONER of AUDIT to the Hon. the COLONIAL SECRETARY.

(Memorandum 143A.)

8th September, 1876.

On the 29th of June last the Solicitor-General ruled that a person appointed to an office before the passing of the Civil Service Act of 1866 could not avail himself of the privileges conferred in section 29 of that Act, if the office he held were abolished subsequent to the passing of that Act.

Mr. Gisborne's office was abolished by the Government Insurance Act of 1874. It would seem that, under the ruling of the Solicitor-General, Mr. Gisborne can only claim pension under the Civil Service Act of 1866.

Incidentally it may be mentioned, in reference to the case of the Auditor of Public Accounts, on which the above opinion of the Legal Adviser of the Crown was given, that, by section 44 of the Civil Service Act, the privileges conferred by section 29 (although apparently not effective in Mr. Gisborne's case) are specially made applicable to the person holding the office of Auditor of Public Accounts, notwithstanding the opinion of the Solicitor-General to the contrary.

Although I did not consider it proper in my own case to recommend the Government not to follow the advice of the Solicitor-General, yet where another officer is concerned I am more at liberty to express my opinion, and try to protect the legal rights of officers when they are set aside, not only without regard to legal maxims, but in violation, as I believe, of the express provisions of the Civil Service Act.

The law details the nature and limit of certain privileges of officers, the mode in which they accrue, and the circumstances under which compensation may be obtained for their loss. It is nevertheless maintained peremptorily by the Legal Adviser of the Crown that the rights which the law has thus expressly invested in certain officers can be utterly lost by the strained interpretation of an Act, which no one for a moment supposes was intended to deprive them of a legal right. The opinion of a legal adviser has only the weight that is due to his knowledge and genius, while common logic dictates that, where words bind, express words are required to loosen, and, without them, that the obligation continues. Besides, a privilege should be interpreted very liberally. On the other hand, a disability which does not arise out of any act or default of an officer himself, but out of the Act of law, must be restricted to the plain intention of the Legislature. But in the cases under consideration the practice is reversed. The sanctioned privileges are capriciously challenged as of no consideration, and are circumscribed by the sharpest limitation; while the supposed disability is strained by the advocate to its utmost, and thus the rights of thirty years' growth are dismissed without any expression of doubt.

CHARLES KNIGHT,

Commissioner of Audit.

The Hon. the Colonial Secretary.

REFERRED to the Solicitor-General.—G. S. COOPER.—23rd September, 1876.

SEEN.—W. S. REID.—2nd October, 1876.

REFERRED to the Solicitor-General.—C. T. BATKIN.—26th October, 1876.

I HAVE given this matter very careful consideration, and have come to the conclusion that retiring allowances can only be claimed under the Acts of 1858 and 1861 in respect of offices held prior to the passing of the Act of 1866. So long as a person holds the office he held at the time of the passing of the Act of 1866, he would be entitled to the privileges by that Act preserved to him; but, where subsequently to that Act such person accepts a new office, I think he cannot, in respect of the new office, claim the privileges of the Acts of 1858 and 1861. Our colonial Statutes have no such provisions as are to be found in many of the Imperial Statutes relating to superannuation allowances, where provision is made for giving allowances where the service has been continued in various offices and various departments (*vide* 22 Vict., cap. 26, sec. 12, 23 and 24 Vict., cap. 89; 32 and 33 Vict., cap. 60 and 35, and 35 and 36 Vict., cap. 12.) My former opinion, referred to by Dr. Knight, was to the effect I have stated above, although there were other circumstances in that case which affected my opinion. I am quite aware that, in giving this opinion, I am dealing with a question which materially concerns the Civil Service as a whole, and probably departing from what has hitherto been the general opinion and practice; but, in such a matter, I conceive it to be my duty to give an opinion on the strict legal aspect of the matter as it presents itself to me. It is not my function to interpret the law in accordance with the equitable or moral rights of parties concerned; and it will be a matter for the Executive Government to consider what measures should be taken to obviate the difficulty which has arisen.—W. S. REID.—3rd November, 1876.

I AM of opinion that, in its legal aspect, as a matter of interpretation of Statutes, the above opinion of the Solicitor-General is correct in stating the law as it stands at present. At the same time I feel quite certain that Mr. Gisborne, and other officers similarly situated, have a clear moral claim which the Legislature, or the Act of 1866 and subsequent Acts, have inadvertently overlooked and not provided for. Had the matter been specially brought under notice, I have no doubt the usual provision would have been made, enabling officers to count all their years of service, though continuity of office might have been broken by the abolition of one office and the creation of another, the officer holding the former being appointed to the latter. Such, no doubt, was the intention of the Legislature, though it has failed to express it. The only remedy, it appears to me, is a declaratory Act of the Assembly; I think that should be prepared as soon as the Assembly meets again.—FRED. WHITAKER.—6th November, 1876.

MR. MCGOWAN.—Will you please tell me the amounts Mr. Gisborne has been drawing since he left the Ministry in 1872 and took charge of the Government Insurance Office: *e.g.*, 1872-73, £700 per annum; 1873-74, £800 per annum; 1874-75, £800 per annum?—H. WILLIAMSON.

FROM 11th September, 1872, to 30th June, 1873, at £700, £563 17s. 10d.; from 1st July, 1873, to 30th June, 1874, at £700, £700; from 1st July, 1874, to 30th June, 1875, at £800, £800; from 1st July, 1875, to 30th June, 1876, at £800, £800; from 1st July, 1876, to 30th September, 1876, at £800 per annum, £200: total, £3,063 17s. 10d.—J. MCGOWAN.—15th November, 1876.

THE papers in the case of Mr. Gisborne's pension have been referred to me for the first time. I have no hesitation in deciding that Mr. Gisborne holds, for the purpose under consideration, the same office to which he was originally appointed. By the third section of "The Government Insurance Act, 1874," "the title of the office of Government Annuities Commissioner" is changed. If the title of an office is changed it follows that the office is not abolished. Further, the Act requires that the Governor shall appoint the Commissioner by warrant, but that Mr. Gisborne should continue Commissioner "without further appointment." I am unable to construe these words in any other sense than that it was the clear intention of Parliament that the officer in question should be deemed to hold a continuous appointment. It is desirable that it should be distinctly stated what are the duties of the Commissioners of Audit in the matter of pensions. Pensions are granted by the Governor on the advice of his Ministers, limited by law. The sole duty of the Commissioners is to say whether they will refuse to issue a pension so granted, on the grounds that the issue is not in accordance with law. It is usual to refer the claims to the Commissioners of Audit before the pension is granted, but this is

done only as a matter of convenience. The Commissioners have no power to insist on a pension being granted in excess of that allowed by the Governor, but simply to determine whether the pension granted is appropriated by law. It was in this view that I requested that the pensions in the case of Judges Smith and Rogan should be referred to the Governor in Council. In the present case, after a careful study of all the Acts concerned, and of the rights intended thereby to be conferred on individuals, I have no hesitation in deciding that if His Excellency is pleased to confer on Mr. Gisborne the pension claimed, it will be my duty to make the issue accordingly. It will be for the members of the Executive Council to determine whether a declaratory Act is necessary to indemnify them for an illegal issue. If such an Act is passed, it should include the Commissioner of Audit, who is equally personally responsible; but I should not myself consider it necessary to move the Government to afford me protection which I cannot perceive is necessary.—JAMES EDWARD FITZGERALD, Commissioner of Audit, 10th November, 1876.

THE only difficulty which I see in paying, as proposed by Mr. Batkin, is, that Mr. Gisborne has counted the time he was acting as a Minister; to this I cannot agree, as I see it was specially stated, when the Hon. Mr. Fitzherbert retired, that his case was not to be taken as a precedent. I am willing to approve of payment of the pension, less the time served as a Minister, leaving that a question for the House to decide when the Act is amended.—H. A. A.—20th November, 1876.

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### No. 34.

The Hon. W. GISBORNE to the Hon. the COLONIAL TREASURER.

SIR,—

Wellington, 8th November, 1876.

May I request you to be good enough to inform me with respect to the pension to be granted to me on my retirement from the service? The leave granted to me by the Government with a view to my retirement expired on the 30th of September last, and for last month I have received neither salary nor pension.

The Hon. the Colonial Treasurer.

I have, &c.,  
W. GISBORNE.

A TECHNICAL difficulty has interfered to prevent the payment of this pension, and it is probable that a declaratory Act will be needed to put the matter right. As there can be no doubt that Mr. Gisborne is entitled to receive the allowance, on the faith of which he retired from the public service, I recommend that, pending the settlement of the difficulty referred to, the monthly payments be made, and charged, if need be, to unauthorized expenditure.—C. T. BATKIN.—15th November, 1876.

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### No. 35.

The AUDITOR-GENERAL to the Hon. the COLONIAL TREASURER.

(Memorandum.)

22nd November, 1876.

THE Hon. Mr. Gisborne's retiring allowance, computed in terms of Mr. Batkin's minute, as approved by the Hon. the Premier, is as follows:—

Mr. Gisborne's period of service extends from the 12th July, 1847, to the 30th September, 1876, or 29 years 11 weeks 4 days. He was absent on leave from 1st May, 1852, to 31st October, 1853, 1 year 26 weeks 2 days; less allowed for two financial years, 12 weeks: total, 1 year 14 weeks 2 days. He was a member of Cabinet from 2nd July, 1869, to 10th September, 1872, 3 years 10 weeks 1 day. And absent on leave from 9th June to 30th September, 1876, 16 weeks 2 days; less allowed for two financial years, 12 weeks: total, 4 weeks 2 days. Total service, 24 years 34 weeks 6 days.

The salary attached to the office of Commissioner of Government Annuities for the three years previous to Mr. Gisborne's retirement was £800, and he is therefore entitled under the Act of 1861 to half-salary, £400; and  $\frac{7}{12} = \frac{1}{2}$  of £800 for seven years' service over seventeen, £66 13s. 4d.: pension, £466 13s. 4d.

CHARLES KNIGHT,  
Auditor-General.

The Hon. the Colonial Treasurer.

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### No. 36.

The SECRETARY to the TREASURY to the Hon. W. GISBORNE.

SIR,—

The Treasury, Wellington, 24th November, 1876.

Referring to your application for retiring allowance under the Civil Service Acts. in which you appear to ask for an allowance in respect of the period (from 2nd July, 1869, to the 10th September, 1872,) during which you held an appointment as a Minister of the Crown, I have the honor, by order of the Colonial Treasurer, to inform you that the Government is prepared to recommend His Excellency to grant you a retiring allowance in respect of your term of service from the 12th July, 1847, to the 30th September, 1876, after deducting therefrom the time during which in any year you were on leave of absence for a longer period than six weeks, and the time during which you were acting as a responsible member of the Executive Council.

The amount of pension payable to you will then compute as follows:—

From 12th July, 1847, to 30th September, 1876, 29 years 11 weeks 4 days. Less absent on leave from 1st May, 1852, to 31st October, 1853, 1 year 26 weeks 2 days; less allowed for two financial years, 12 weeks: total, 1 year 14 weeks 2 days. Member of Cabinet from 2nd July, 1869, to 10th September, 1872, 3 years 10 weeks 1 day. Absent on leave from 9th June to 30th September, 1876,

16 weeks 2 days; less allowed for two financial years, 12 weeks: total, 4 weeks 2 days. Total service, 24 years 34 weeks 6 days.

The salary attached to the office of Commissioner of Government Annuities for the three years previous to your retirement was £800, and you are therefore entitled under the Act of 1861 to half salary, £400; and  $\frac{3}{4} = \frac{1}{2}$  of £800 for seven years' service over seventeen, £66 13s. 4d.; pension, £466 13s. 4d.

I have, &c.,

The Hon. W. Gisborne.

C. T. BATKIN,  
Secretary to the Treasury.

### No. 37.

The Hon. W. GISBORNE to the SECRETARY to the TREASURY.

SIR,—

Wellington, 27th November, 1876.

I have the honor to acknowledge the receipt of your letter of the 24th instant, in which you state that I appear to ask for retiring allowance in respect of the period (from 2nd July, 1869, to 10th September, 1872) during which I was a Minister, and that the Government is of opinion that such time should be deducted from my service in computation of my allowance.

I beg to point out that I do not claim for the time (July to November, 1869) during which I held no appointment in the Civil Service in addition to ministerial office. I only claim on account of an office in the Civil Service (Government Annuities Commissioner) which I held, and the duties of which I performed.

I would respectfully submit the following facts with a view to the reconsideration of this question, which I am sure that the Government does not desire to determine, except with a fair regard to the lawful and equitable claims of an old public servant:—

1. When I accepted the office of Commissioner of Annuities, in November, 1869, it was on the distinct understanding that while I performed its duties, in addition to those of a responsible Minister, I should not draw the salary, but that the time during which I did its duties should count in computation of my pension. For corroboration of my statement I appeal to the Hon. Sir Donald McLean, who was then my colleague, and who is a member of the present Ministry. Sir Julius Vogel, and the Hon. Mr. Fox, were they in this colony, would, I am sure, bear me out to the same effect. Mr. Ormond, who was for nearly a year a member of the same Ministry, and with whom I was on terms of intimate friendship will, I doubt not, confirm me in the statement that I held that office and did its duties in good faith upon that understanding.

2. The salary of that office had been permanently appropriated at a sum to be fixed by the Governor, not exceeding £800 per annum, but, at my request, it was appropriated each year at £700 per annum, the same rate of salary which I drew as Under-Secretary and Secretary to the Cabinet. It was so appropriated, not that I should draw it while I was a Minister, but, in my belief, that the time might count in respect of my pension.

3. I understand that the Commissioner of Audit expressly raised the legal question whether the fact of my being a Minister of the Crown disentitled me to count the time during which I also held a civil office in the calculation of pension, and that the Solicitor-General is of opinion that I was not on that account disentitled to do so. I am not therefore asking for anything, in the opinion of the Law Officer of the Crown, unlawful.

4. In the case of Mr. Fitzherbert, who was allowed to count his time while Minister, but whose case was not to be a precedent, there is an essential distinction between his position and my own in my favour. For the last three years during which he held the office of Commissioner of Crown Lands he did not perform its duties, but they were done by deputy. The question that arose then (for, as a Minister, I had it before me), was whether those years could be counted—the very years on the basis of which the pension was to be calculated. I believe that I am generally correct in this reference to his case, though in speaking from recollection I may not be quite accurate in details.

5. In my case the duties were performed by me—duties of a most responsible and delicate character, involving the initiation and organization of an entirely new department, entailing on the colony enormous responsibilities. I launched the department in face of considerable opposition, and did so—a thing unprecedented in the case of private insurance companies—without subjecting my principal, the colony, to any preliminary expense beyond an advance of £2,000, which was repaid in two years. Sir J. Vogel, who, as you know, felt so great an interest in the matter, has more than once assured me of the importance which he attached to the conduct of the early steps of the department, and of his satisfaction of my administration of the office. I believe, without vanity, that my services in that office, from the great experience which I had acquired as Under-Secretary for fourteen years, aided, by making the new department a success, in saving the colony from great financial loss. I do not refer to this in the spirit of egotism, but in order to show that I spared no effort in doing the duties of Government Annuities Commissioner. It does, therefore, seem to me rather hard that, because I was also a Responsible Minister during that time, my services as Government Annuities Commissioner, for which I drew no salary, should not even be allowed to count towards any time for pension. The colony gets the benefit of those services, and I am to lose pay and time for pension in consideration of them, because in a political capacity, not then, or even, I suppose, now, a very agreeable or lucrative capacity, I was trying to do the colony all the little good I could.

6. At that time there was no feeling adverse to a Minister holding a Civil Service office. There had been repeated precedents for such a course. I was for three years altogether in both Houses, and heard no expression against it. If now it is believed to be so wrong, it seems unreasonable to make retrospective sacrifice of third parties to new-born virtue, and to visit penal consequences for its infraction before it was even thought of. The grossest injustice might, on such a principle, be inflicted.

I trust that these circumstances may induce the Government to give favourable consideration to my case.

I have, &c.,

The Secretary to the Treasury, Wellington.

W. GISBORNE.

## No. 38.

The SECRETARY to the TREASURY to the Hon. W. GISBORNE.

SIR,—

2nd January, 1877.

I have the honor, by desire of the Colonial Treasurer, to acknowledge the receipt of your letter of the 27th November, on the subject of the allowance to be granted to you under the Civil Service Acts, and in reply to inform you that the Government is prepared at once to recommend His Excellency to grant you a retiring allowance in terms of my letter of the 24th November.

The reasons you urge in favour of being permitted to count the time during which you held office as a Minister of the Crown shall in the meantime receive further consideration; it being understood that your acceptance of the allowance now proposed shall not prejudice your position as claiming to receive allowance in respect of the period above referred to.

The Hon. W. Gisborne.

C. T. BATKIN.

Mr. Fox.—This matter should now, I suppose, be brought before the Cabinet.—C. T. BATKIN.—2nd January, 1877.

YES. When you receive Mr. Gisborne's reply.—H. A. A.

## No. 39.

The Hon. W. GISBORNE to the SECRETARY to the TREASURY.

SIR,—

Wellington, 8th January, 1877.

I have the honor to acknowledge the receipt of your letter of the 2nd instant, informing me that the reasons which I urged in my letter of the 27th November last in favour of my claim "to count the time during which I held office as a Minister of the Crown" shall receive further consideration, it being understood that in the meantime my acceptance of the retiring allowance now proposed shall not prejudice my position as claiming to count the period above referred to.

Permit me to correct a slight verbal error in your reference to my claim, as it is an error which leads to a wrong inference. I do not claim to count the time during which I was a Minister as such, but the time during which I held and did the duties of the office of Government Annuities Commissioner, as it was then called, in addition to and independently of the office of Minister.

I have to thank the Hon. the Colonial Treasurer for promising that my letter of the 27th November last shall receive further consideration, and to state that, on the understanding which you specify, I have sent in a claim for the retiring allowance proposed from 1st October last.

I have, &c,

W. GISBORNE.

The Secretary to the Treasury, Wellington.

## No. 40.

IN EXECUTIVE COUNCIL.

HIS Excellency the Governor is recommended to grant to the Hon. William Gisborne, late Government Insurance Commissioner, under section 3 of "The Civil Service Amendment Act, 1861," a pension at the rate of four hundred and sixty-six pounds thirteen shillings and fourpence (£466 13s. 4d.) per annum, dating from the 1st October, 1876.

H. A. ATKINSON.

APPROVED.—N.—In Council, 2nd January, 1877.—FOSTER GOBING, Clerk of the Executive Council.

REFERRED to the Commissioners of Audit.—C. T. BATKIN.—12th January, 1877.

## IV.—RE DR. POLLEN'S PENSION.

## No. 41.

MEMORANDUM as to Departmental and other Arrangements in Auckland.

THE Imperial Government have consented to allow 3 per cent. on the amount of pensions paid to persons entitled thereto who are residing within the colony, if the payments are undertaken by the Colonial Government; and the amount so agreed to be allowed will be about £600. This will afford an opportunity of relieving the Treasury of some departmental expenditure.

The payments to pensioners will require some amount of professional knowledge, and will occasion a great deal of trouble. I have arranged with Dr. Pollen that he shall take charge of the whole matter, and shall draw out of the moneys allowed by the Imperial Government the sum of £300 per year, that amount being taken in lieu of the £300 now received by him as Paymaster. Dr. Pollen also draws £100 from the vote for Treasury contingencies. I propose that that amount shall still be paid to him for performing the duties of Sub-Treasurer, and that it shall appear in the estimates as "Sub-Treasurer and Paymaster, Auckland." The result on the estimates will appear a saving of £200 a year, although there will really be a saving of £300. A great many Treasury duties still devolve upon Dr. Pollen, notwithstanding the change to a system of direct payments. I have told him that the £300 to be received by him out of the allowance to the colony by the Imperial Government shall, for the purpose of any claim he may have on account of services rendered and pay received, be considered as a departmental payment or salary.



It is absolutely necessary that Dr. Pollen shall have some assistance in preparing and making the payments to pensioners, and I have appointed Colonel Haultain for the purpose, he to draw £250 a year out of the Imperial allowance.

I propose that payment from that allowance shall in each case commence from 1st February next, Dr. Pollen's salary from Treasury to cease at same date. The payments by the Imperial Government will, of course, only be made quarterly, but I presume the Treasury will have no difficulty in making advances on account, so as to adjust the payments satisfactorily, and to allow Dr. Pollen and Colonel Haultain to receive monthly the amount stated. I think it is right that Colonel Haultain's salary should commence on 1st January, because there are some arrangements in connection with the payments to pensioners which it is desirable he should make whilst the Deputy Commissary General remains in the colony.

I have arranged to dispense altogether with Mr. Ward's services, allowing him to have four months' leave of absence (say until 30th April), and he then taking the pension to which he may be entitled in accordance with his period of service.

The other officer drawing salary from the Treasury, Mr. Boardman, receives £50 a year. Dr. Pollen has very heavy duties to perform, and Mr. Boardman's duties will, consequent on the arrangement with Mr. Ward, be increased rather than decreased. I propose, therefore, not to reduce Mr. Boardman's salary, but to allow him to draw £50 from the Treasury as assistant to Dr. Pollen, the remainder of his salary being paid as at present.

Mr. J. Macfarlane I have arranged to appoint Curator of Intestate Estates for the province. He is to resign his connection with the Insurance and Annuities Department.

The result of the changes now made will be to dispense altogether with the services of Mr. Ward, and to save departmental salaries now paid out of the Treasury amounting to £575.

Colonel Haultain's duties will be special: his salary cannot be considered a departmental charge, and I am of opinion it is absolutely necessary there should be some one to assist Dr. Pollen in the duties connected with the payment of pensions, which, I am given to understand, will be very troublesome. I propose that Dr. Pollen shall prepare in Auckland the necessary forms for the payment of all the pensioners in the colony, and that he shall also have general charge of the whole matter.

There will be left of the amount to be allowed by the Imperial Government a balance of about £100 a year. This might, if found necessary, be applied wholly or in part to making allowances to officers in other parts of the colony where many pensioners reside; but it must be borne in mind that the sum receivable from the Imperial Government will decrease greatly, consequent upon the death or removal of pensioners.

Auckland, 5th January, 1872.

JULIUS VOGEL.

## No. 42.

The Hon. D. POLLEN to the Hon. the COLONIAL TREASURER.

SIR,—

Wellington, 6th July, 1876.

With reference to the annexed statement, I have the honor to request that His Excellency the Governor in Council may be moved to grant to me a retiring allowance under "The Civil Service Amendment Act, 1861," as from the 25th November, 1873, at which time I had completed seventeen years of service.

I have, &c.,

The Hon. the Colonial Treasurer.

DANIEL POLLEN.

STATEMENT to accompany Application for a Superannuation or Retiring Allowance.

*Name in full, and Offices held by Applicant during three years previous to date of Application, or (under sections 33, 35 of "The Civil Service Act, 1866,") during two years previous to said date.*—Daniel Pollen: Government Agent, Auckland; Sub-Treasurer for purpose of Native Lands Act; Paymaster, Imperial Pensions; Receiver of Land Revenue; Commissioner, Confiscated Lands; Trust Commissioner, Native Lands Frauds Prevention Act.

*Length of Service on Establishment of General Government, or under any Provincial Government, giving date of first Appointment.*—Treasurer, Waste Lands Board, and Receiver of Land Revenue; 25th November, 1856.

*Total Amount of Salary drawn by Applicant during last three years of service, or two years if retiring under section 33 or 35 of "The Civil Service Act, 1866."*—£2,475.

*Total Amount of Fees drawn as Salary by Applicant during last three years of service; or two years, if retiring under section 33 or 35 of "The Civil Service Act, 1866."*—None.

*Whether Absent (on leave or otherwise) for any and what period exceeding six weeks in every year of service.*—Never absent from duty on leave for any period in any year.

*Has the Department ever been transferred to or from the Provincial Government.*—

*Age at Date of Application.*—Sixty-four years.

*Remarks.*—During the period from 31st December, 1864, when Mr. Haselden was appointed a Receiver of Land Revenue at Auckland, to the 24th June, 1865, when I was appointed Government Agent and Sub-Treasurer, I had no active duty as a Civil Servant; my salary as Receiver of Land Revenue was transferred to Mr. Haselden, but my appointment was not cancelled, or my sureties released. The correspondence on this subject is printed in the Appendix to Journals, House of Representatives, 1865, C. No. 1.

[This letter is withdrawn, as requested by Dr. Pollen in his letter of 30th October, 1876.—G. S. C.]

REFERRED to the Solicitor-General, and Commissioners of Audit.—JULIUS VOGEL.—28th August, 1876.

FORWARDED to the Commissioners of Audit. I do not see on the face of this application anything calling for remark from me. No legal question appears to be involved. Possibly a question may arise on the matter referred to in the "remark" in the accompanying form of claim.—W. S. REID.—31st August, 1876.

## No. 43.

The COMMISSIONER of AUDIT to the Hon. the COLONIAL SECRETARY.

Re *Dr. Pollen's Retiring Allowance.*

SIR,—

Audit Office, 6th September, 1876.

The computation of Dr. Pollen's retiring allowance depends on the question which has already been raised in the case of Mr. Gisborne: whether the time during which a Civil servant has held political office, without retiring from his office under the Civil Service, is entitled to count under the Acts of 1858 and 1861, under which the claim in both cases arises.

There does not appear to me, after a careful study of the Acts, to be anything which can preclude the counting of this time.

The words relied on as proving the contrary occur in the 9th section of the Act of 1858: "This Act shall not apply to offices whose holders have seats in the Executive Council," &c. I think this must be held to mean "whose holders have, in virtue of such seats," &c., and is intended to refer to Ministerial offices only.

The non-payment of salary during the time of holding a seat in the Executive Council does not seem to me to affect the question, as it is always by arrangement that the officer entitled to the lower salary abandons it for the higher. If the Minister had not been receiving salary as Minister, he would receive the salary of his permanent office.

There is a maxim of law that the acceptance of a higher office vacates a lower one—thus a colonel ceases to be a captain, and a bishop to be a rector; but I am not aware whether this could be applied to a political appointment.

Nor is it our duty to express any opinion as to the propriety or legality of the position on constitutional grounds of the double character of a political and civil office being united.

Taking the Acts as they stand, I am unable to say that Dr. Pollen has not been a Civil servant within the meaning of the Acts of 1858 and 1861, during the time for which he claims, although doubt may fairly be raised on the point, and it is clearly one that ought to be settled.

I have, &amp;c.,

The Hon. the Colonial Secretary.

JAMES EDWARD FITZGERALD.

REFERRED to the Solicitor-General, to consider the point raised by the Audit. It must be remembered that the Hon. Dr. Pollen, when formerly in the Ministry, never held a portfolio, and never ceased to perform the active duties of his Civil offices. He always resided in Auckland during the recess, and regularly attended the office. I understand from him that, not desiring to have a doubtful point ruled in his favour, he waives all the time of his Civil service since his accession to the Vogel Ministry, in which he has held a portfolio, except the six months from May to November, 1873, which period is always allowed to officers in leaving the Civil Service, and which he has, as it appears to me, a right to claim.—G. S. COOPER.—8th September, 1876.

MR. COOPER.—I have already given an opinion as to the construction of the 9th section of "The Civil Service Superannuation Act, 1858." That opinion was given in Mr. Gisborne's case, and was to the effect stated by Mr. FitzGerald in the within memorandum. I have no doubt on the point as to the proper construction of the section, and that it only refers to Ministerial offices. I do not think there is any other matter calling for remark from me herein.—W. S. REID.—20th September, 1876.

REFERRED to the Commissioners of Audit.—G. S. COOPER.—21st September, 1876.

The opinion of the Solicitor-General in Mr. Gisborne's case has not, to the best of my recollection, been before me.

MR. ANDERSON.—Calculate Dr. Pollen's retiring allowance in accordance with the Solicitor-General's opinion.—J. E. F.—21st September, 1876.

THE Commissioners request to be informed how the sum of £2,475 is made up.—CHARLES KNIGHT, Commissioner of Audit.—22nd September, 1876.

£400, Government Agent; £100, Receiver of Land Revenue; £300, Paymaster, Imperial Pensions, &c.; £25, Native Frauds Commissioner.—DANIEL POLLEN.—27th October, 1876.

## MEMORANDUM (No. 175) for the COMMISSIONER.

IN examining Dr. Pollen's claim for retiring allowance, I observe from his memorandum of this morning that he includes his salary as Paymaster of Imperial Pensions, in the aggregate amount on which he proposes to compute his pension. As you are no doubt well aware, this salary is not paid by the colony, but out of an allowance of 2½ per cent. debited to the Imperial Government in the Pension Expenses Account. It is not voted by the Colonial Parliament. The account referred to is an open one, on which there may be a profit, but no part of the 2½ per cent. has, so far as I am aware, found its way to the revenue. I therefore think Dr. Pollen's claim under this head is very questionable, and request your instructions on the subject. Beyond this, no question of consequence seems to arise. If the Imperial Pensions salary is disallowed, the computation will stand thus: 25th November, 1876, to 11th May, 1873, 16 years 24 weeks; out of service, 31st December, 1864, to 24th June, 1865, 25 weeks: total service, 15 years 51 weeks. Average salary of office for three years (one-third of £1,575), £525, of which one-third is £175, which will be the pension for a service of fourteen and under seventeen years. It will be observed that it requires one full year and upwards to bring the period of service up to seventeen years, which is required to give the next higher rate of pension, so that the six months to 10th November, 1873, if conceded (which is questionable), would not affect the result.—J. G. ANDERSON.—27th October, 1876.

To the Hon. the Colonial Treasurer.—It is requested that the opinion of the legal adviser of the Crown may be taken.—CHARLES KNIGHT.—27th October, 1876.

REFERRED to the Solicitor-General.—C. T. BATKIN.—27th October, 1876.

MR. BATKIN.—I understand that the offices in respect of which Dr. Pollen claims retiring allowance are all offices held under the Colonial Government, and in the Civil Service of the colony. The claim is made under the Act of 1861, which secures to officers who have entered the Civil Service before the 10th of August, 1858, and served the prescribed periods, an allowance in respect of the "office or offices held by them during the last three years of the period of service." This being so, I think the claim is good. Speaking generally, the provisions of the second section of the Civil Service Act of 1866 do not apply to claims under the Acts of 1858 or 1861.—W. S. REID.—30th October, 1876.

REFERRED to the Commissioner of Audit.—C. T. BATKIN.—30th October, 1876.

Dr. Pollen's minute herewith.—30th October, 1876.

MEMORANDUM.—Since the time when the arrangement for the payment of the Imperial pensions by me was made by the Colonial Treasurer (*see* Treasury minute, 6th January, 1872), I have held that office and discharged the duties required of me in connection with it up to the present date.—DANIEL POLLEN.—30th October, 1876.

It is understood that Dr. Pollen continued up to the 31st December, 1874, in the active discharge of the duties of the several offices for which he claims pension. It has also been ruled that it is the salary attached to the office, irrespective of the amount actually drawn, that should form the basis of computation. The pension will accordingly be £408 6s. 8d.—CHARLES KNIGHT, Commissioner of Audit.—31st October, 1876.

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#### No. 44.

The Hon. Dr. POLLEN to the Hon. the COLONIAL TREASURER.

SIR,—

Wellington, 30th October, 1876.

As it appears that the date—namely, 25th November, 1873, ultimo, as that upon which a retiring allowance should be computed—would not give me "seventeen years and upwards" of service, as I expected, I have now the honor to request that I may be permitted to withdraw that letter, and to ask that His Excellency the Governor may be moved to grant me a retiring allowance as from the 31st December, 1874.

I believe that, as I still hold my appointments in the Civil Service, I am entitled to claim the full consideration for my services up to this present date; but I desire to be permitted to waive all claim for the intervening period.

The total amount of salary for the last three years would thus be £2,450.

I have, &c.,

The Hon. the Colonial Treasurer, Wellington.

DANIEL POLLEN.

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#### No. 45.

The Hon. Dr. POLLEN to the Hon. the PREMIER.

SIR,—

Wellington, 30th October, 1876.

I beg leave to tender my resignation of the undermentioned appointments in the Civil Service of the colony, which I have continued to hold up to this time, namely: Government Agent, Auckland; Paymaster, Imperial Pensions; Receiver of Land Revenue; Commissioner of Confiscated Lands.

The question of the amount of retiring allowance to which I am entitled may be allowed to stand over for future consideration.

I have, &c.,

The Hon. the Premier, Wellington.

DANIEL POLLEN.

APPROVED.—H. A. A.—31st October, 1878.

APPROVED.—N.

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#### IN EXECUTIVE COUNCIL.

HIS Excellency the Governor is recommended to sanction the issue of a retiring allowance to the Hon. Dr. Pollen, at the rate of four hundred and eight pounds six shillings and eightpence (£408 6s. 8d.) per annum, in accordance with the provisions of "The Civil Service Superannuation Act, 1858," and of "The Civil Service Amendment Act, 1861."

H. A. ATKINSON.

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#### No. 46.

The Hon. the PREMIER to the Hon. Dr. POLLEN.

SIR,—

Government Buildings, 31st October, 1876.

I have the honor to acknowledge the receipt of your letter of yesterday's date, in which you tender your resignation of the undermentioned appointments which you have continued to hold up to this time, namely: Government Agent, Auckland; Paymaster, Imperial Pensions; Receiver of Land Revenue; Commissioner of Confiscated Lands. In view of the operation of "The Disqualification

Act, 1876," I have submitted your resignation to the Governor, and His Excellency has been pleased to accept the same, without prejudice to your claim to a retiring allowance in pursuance of the Civil Service Superannuation Acts of 1858 and 1861, which is still under consideration.

The Hon. Dr. Pollen.

I have, &c.,  
H. A. ATKINSON.

### No. 47.

The Hon. Dr. POLLEN to the Hon. the COLONIAL SECRETARY.

SIR,—

Wellington, 13th October, 1877.

With reference to my letter of date 30th October, 1876, addressed to the Hon. the Premier, and to Major Atkinson's reply thereto, copy of which is annexed, I have the honor to request that His Excellency the Governor may be moved to grant to me the retiring allowance to which I may be found entitled under the provisions of the Civil Service Acts of 1858 and 1861, on and from the date at which the resignation of the offices in the Civil Service held by me was accepted.

The Hon. the Colonial Secretary, Wellington.

I have, &c.,  
DANIEL POLLEN.

Dr. KNIGHT.—Please look over these papers and state whether the pension is properly calculated, and whether the appointments held were *bonâ fide* General Government appointments entitling Dr. Pollen to count service.—G. S. W.

MEMORANDUM.—In the case of Dr. Pollen I was doubtful whether, in computing the amount of his retiring allowance, the salary paid to him for services as Paymaster of the Imperial Pensioners residing in the colony should count. The office was not known to the Legislature, and the pay (£300 per annum) was provided for out of an allowance of 2½ per cent. paid by the Imperial Government into the colonial chest. The question was referred for the opinion of the Law Adviser of the Crown, who stated that he understands that the offices in respect of which Dr. Pollen claims a retiring allowance are all offices held under the General Government and in the Civil Service of the colony, and he thought the claim is good. Acting on this opinion, and having obtained Dr. Pollen's certificate that he has held the office and discharged the duties required of him up to the 30th October, 1876, the claim of £408 6s. 8d. was not further objected to.—CHARLES KNIGHT, Commissioner of Audit, 31st October, 1877.

The Hon. Colonel Whitmore.

### No. 48.

The Hon. the COLONIAL SECRETARY to the Hon. Dr. POLLEN.

SIR,—

Wellington, 12th November, 1877.

I have the honor to acknowledge the receipt of your letter of the 13th October ultimo, in which you request that His Excellency the Governor may be moved to grant to you the retiring allowance to which you may be found entitled under the provisions of the Civil Service Acts of 1858 and 1861, on and from the date on which the resignation of the offices in the Civil Service held by you was accepted.

In reply, I have the honor to inform you that the question, which is surrounded by some difficulties, is still under the consideration of the Government.

The Hon. Dr. Pollen, M.L.C.

I have, &c.,  
G. S. WHITMORE.

### No. 49.

The Hon. Dr. POLLEN to the Hon. the COLONIAL SECRETARY.

SIR,—

Wellington, 14th November, 1877.

I do myself the honor to acknowledge the receipt of your letter of date 12th instant, in which, with respect to the application for a retiring allowance made by me on the 13th October ultimo, you inform me that "the question, which is surrounded by some difficulties, is still under consideration."

By the Disqualification Act of 1876 I was placed in the dilemma of being forced to resign my Civil appointments, or to cease to be a member of the Legislative Council, and, consequently, of the Ministry; and as I was apparently the only individual in the Civil Service whose position could be immediately affected by the provisions of section No. 14 of that Act, I may not unreasonably conclude that it was specially intended to affect me, as it did.

On the day before that Act came into operation I tendered the resignation of all my appointments in the Civil Service, without prejudice to my claim to a retiring allowance. That claim, for reasons which I hope will be obvious, I did not then press further. My resignation, with the condition stated, was at once accepted by Ministers, and approved by His Excellency the Governor.

The merits of my claim to a retiring allowance had been previously considered, and my right admitted, by the Law Officers of the Crown and by the Commissioner of Audit, for whose decision in the first instance such applications are usually submitted. These facts are on record.

Under these circumstances, I beg leave respectfully to request that you will be good enough to inform me what are the difficulties which are now found to surround this question, in order that I may be able, by supplying possibly deficient information or otherwise, to endeavour to remove them; and, as the question is for me one of pressing importance, I solicit the favour of an early reply.

The Hon. the Colonial Secretary, Wellington.

I have, &c.,  
DANIEL POLLEN.

## No. 50.

The Hon. Dr. POLLEN to the Hon. the COLONIAL SECRETARY.

SIR,—

Auckland, 29th December, 1877.

On the 13th October last I made application for the retiring allowance to which, as a Civil servant, I was entitled under the provisions of the Civil Service Acts of 1858 and 1861, on and from the 30th October, 1876, the date of the acceptance by His Excellency the Governor of my resignation of the several appointments then held by me.

On the 13th November I had the honor to receive from you a letter, in which I was informed that "the question, which is surrounded by some difficulties, is still under the consideration of the Government."

On the 14th November I asked that you would be good enough to inform me what those difficulties were, in order that I might, by supplying possibly deficient information, or otherwise, endeavour to remove them. And I also ventured to solicit the favour of an early answer. I have not, as yet, received a reply to that letter.

The Hon. the Colonial Secretary, Wellington.

I have &amp;c.,

DANIEL POLLEN.

## No. 51.

The Hon. the PREMIER to Mr. E. Fox.

(Telegram.)

Alexandra, 8th May, 1878.

Two days before I left Wellington, Mr. Fitzgerald, Commissioner of Audit, brought me papers relating to the expenditure of the sum of money appropriated by the British Government for the cost of paying British pensioners in this colony. In them was mentioned the annual sum of £300 a year allowed to Dr. Pollen. I put them up with the pension papers of Dr. Pollen, which lie on the table in my office. Mr. Fitzgerald appeared to think the papers important. Would you therefore pass them, with Dr. Pollen's pension papers, round to the other Ministers. The Solicitor-General gave his opinion that, as he understood, the £300 a year mentioned in those papers were, in fact, colonial funds, and therefore should count in Dr. Pollen's pension; but I understood him to tell me that he did not thoroughly understand the subject when he gave that opinion, and relied merely on a statement made to him by, he thought, Dr. Pollen. The Solicitor-General should again be consulted on this point. I do not, myself, think that British money could be made colonial funds.

Record this telegram.

E. Fox, Esq., Government Buildings, Wellington.

G. GREY.

FOR Ministers.—The papers mentioned by the Hon. the Premier are herewith.—E. Fox.—Hon. Colonel Whitmore.—8th May, 1878.

MR. REID will be so good as to give a further opinion, taking note of the point raised by Mr. FitzGerald, which I take to be that marked in pencil in Sir J. Vogel's memorandum of January, 1872.—G. S. W.—9th May, 1878.

HON. MR. MACANDREW.—J. M.—9th May, 1878.

HON. MR. FISHER.—J. T. F.—10th May, 1878.

MR. REID.—10th May, 1878.

## No. 52.

The Hon. D. POLLEN to the Hon. the COLONIAL SECRETARY.

SIR,—

Wellington Club, Wellington, 28th June, 1878.

On the 13th October last, upon the resignation of the Ministry of which I was a member, I did myself the honor to request that you would be good enough to move His Excellency the Governor to grant me the retiring allowance to which I might be found entitled under the provisions of "The Civil Service Acts, 1858 and 1861."

The tender of my resignation of the offices which I held had been made to the Government and accepted by the Hon. the Premier, with the approval of His Excellency the Governor, upon the condition stated in Major Atkinson's letter No. 767, of date 31st October, 1876—namely, that the resignation was then made and accepted without prejudice to my claim to a retiring allowance. I need not advert to the circumstances which made my resignation then expedient. My position in the Government precluded me, as I thought, from bringing my own claim to a settlement, and it was upon the resignation of my offices as Colonial Secretary and Native Minister that I wrote to you the letter first above mentioned.

On the 12th November last I was informed that my letter of the 13th October was under consideration, and that the question of my retiring allowance was surrounded by some difficulty.

On the 14th November I wrote and respectfully begged that I might be informed what the difficulties referred to were, in order that I might, by supplying possibly deficient information, endeavour to remove them; and, as the matter was of great importance to me, I ventured to solicit the favour of an early answer. No answer was accorded to me.

About the close of the month of March last I waited personally on the Hon. Mr. Ballance, who was then acting for the Colonial Secretary, and to him I repeated my request for a reply to my former letters. Mr. Ballance was good enough to promise that I should receive an immediate reply. No reply has as yet been received by me.

Under these circumstances I am forced to request that you will do me the favour to inform me why it is that I am denied the ordinary courtesy of an official reply to my official letters.

I have, &amp;c.,

The Hon. the Colonial Secretary, Wellington.

DANIEL POLLEN.

## No. 53.

## MEMORANDUM for CABINET.

THE questions of difficulty which arise on this claim are two: 1. Was Dr. Pollen a Civil servant up to 1876, when he resigned his position? 2. If he was, is he entitled to claim a pension; if so, at what rate?

Referring to the first, I am of opinion he was a Civil servant up to the date of his retirement, 30th October, 1876, although his holding such a position was in violation of the spirit if not the letter of "The Disqualification Act, 1870."

As to the second question, the terms of section 3 of "The Civil Service Amendment Act, 1861," are precise: The officer is entitled to an allowance equal to the average salary of office or offices held by him during the last three years of the period of his service. Now Dr. Pollen held certain offices, though 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. For example: How could he, as Premier, be an agent for the Government, or a Receiver of Land Revenue under the Minister of Lands? Other persons, therefore, performed the duties of offices that he nominally held, and were paid for so performing those duties. No salary, save as Minister, was drawn by Dr. Pollen; and though in 1874 £400 was voted for Resident Agent in Auckland, and £100 for Receiver of Land Revenue, and the same amounts in 1875, whilst in 1876 £100 was voted for a Receiver of Land Revenue, yet these sums were not voted for any special officer; and, as regards either of these offices, there was no law prohibiting the Government from appointing two Agents, or two or more Receivers of Land Revenue. Was, then, the voting of this sum a voting of salary to Dr. Pollen? Really this becomes a matter of speculation, or rather a question of probability; and, treating it as such, is it probable that these sums could have been meant for a gentleman who was Premier? The best reply is that Dr. Pollen did not think they were so meant, for he neither performed the duties nor drew the salaries. If the salary belonged to him, his non-drawing of it would not now prevent him claiming it. His own action therefore shows that, from May, 1873, up to October, 1876, Dr. Pollen conceived he was in receipt of no salary save as Minister of the Crown. On what, then, can his allowance be based? The law says on the average salary of the office or offices held by him during the last three years of the period of his service; but during these three last years there was no salary, hence there can be no allowance. As to the question of the salary for paying Imperial pensions, Colonel Haultain has been paid that from May, 1873, up to and inclusive of 1876. No question can therefore be raised as to it. It seems to me, therefore, that the Governor cannot, under the existing law, grant Dr. Pollen any allowance.

*Re* equity of the claim it is not for me to discuss. I may, however, remark that, if equitably Dr. Pollen is entitled to an allowance, there are others in the Parliament who would have as good a claim: Mr. Bowen, for example. I have to deal only with the existing law. The Parliament, if necessary, can deal with Dr. Pollen's case on its equitable side.

22nd July, 1878.

ROBERT STOUT.

P.S.—If, however, my opinion is wrong, and he is entitled to claim, then the *quantum* of his pension could only be: Total amount of salaries voted and not drawn for three years, 1873, 1874, 1875–76, £1,100. One-third of this is £366 13s. 4d. Six-twelfths of this is £183 6s. 8d.; add three-eighths-fourths of such salary, £12 0s. 6d.: making in all £195 7s. 2d.—R. S.

INFORM Dr. Pollen that Attorney-General advises that, as no salary was appropriated for him during the last three years of his service, no amount can be paid him as pension.—G. S. W.—30th November, 1878.

## No. 54.

The Hon. the COLONIAL SECRETARY to the Hon. DR. POLLEN.

SIR,—

Colonial Secretary's Office, Wellington, 4th December, 1878.

I have the honor to acknowledge the receipt of your letter of June last, calling attention to your application for the retiring allowance to which you may be found entitled under the provisions of the Civil Service Acts of 1858 and 1861.

In reply, I have to inform you that the Law Officers of the Crown advise that as no salary was appropriated for the offices held by you during the last three years of your service, as set forth in your application, excepting that drawn by you as a Minister, it is not legally competent to the Government to direct that any specific amount shall be awarded to you as pension under "The Civil Service Amendment Act, 1861."

The Hon. Dr. Pollen, M.L.C., Wellington.

I have, &c.,

G. S. WHITMORE.

## No. 55.

The Hon. DR. POLLEN to the Hon. the COLONIAL SECRETARY.

SIR,—

Wellington, 2nd December, 1878.

On the 28th June last I had the honor to address to you a letter, in which, after recapitulating the circumstances attending my retirement from the Civil Service, and the efforts I have in vain made to get a reply from you to my letter on the subject of my claim to a pension, I requested that you would inform me why I had been denied the ordinary courtesy of an official reply to my official letters. More than five months having now elapsed, and as you have not thought fit to take any notice of that letter, I am forced again to repeat that question, and to crave the favour of a speedy reply.

I have, &c.,

The Hon. the Colonial Secretary, Wellington.

DANIEL POLLEN.

THE HON. MR. BALLANCE.—Enclosed is the answer prepared for Dr. Pollen, which you suggested my keeping back till you re-discussed the matter with the Attorney-General. This is another request for a reply.—G. S. W.

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## No. 56.

The Hon. Dr. POLLEN to the Hon. the COLONIAL SECRETARY.

SIR,—

Wellington Club, Wellington, New Zealand, 6th December, 1878.

I have the honor to acknowledge receipt of your letter of date 4th December instant. My application for my retiring allowance was made to you on the 13th October, 1877, and you now inform me that "the Law Officers of the Crown advise that, as no salary was appropriated for the offices held by me during the last three years of my service as set forth in my application, excepting that drawn by me as a Minister, it is not legally competent for the Governor to direct that any specific amount shall be awarded to me as a pension."

In June, 1873, a month before I was honored by and appointed to the office of Colonial Secretary, I had reached my sixtieth year, and might then have secured the advantage provided by clause 33 of "The Civil Service Act, 1866," and retired with the half-pay of the offices then held by me, which would have given me a pension as large as I could have hoped to obtain by a much longer service. I might also have enjoyed the advantage of receiving that pension in addition to the pay drawn by me as a Minister. If I had then retired, however, it would have been necessary to fill the offices vacated, and to provide a salary for my successor. I took the labour and the serious responsibility of continuing to hold my Civil Service appointments in conjunction with my Ministerial offices until, by the operations of "The Disqualification Act, 1876," I was forced to resign them or to vacate my seat in the Legislature. I had thus saved to the public the charges of salary of my Civil Service offices and the annual payment of the pension to which I was entitled. It now appears that, in so far as my personal interests are concerned, I have made a grand mistake. I cannot believe, however, that I shall be allowed to suffer for it permanently.

On the 28th June last, having failed to receive any answer to previous communications on the subject of my retiring allowance, I did myself the honor to ask that you would do me the favour to inform me why it was that I had been denied the ordinary courtesy of an official reply to my official letters. Not having received an answer I again, in my letter of 2nd December instant, repeated that request. In the letter now before me no notice is taken of these requests. I am forced again therefore to ask that you will be good enough to inform me why the ordinary courtesy of an official reply to an official communication has been so long denied to me. I respectfully crave the favour of a speedy reply.

I have, &c.,

The Hon. the Colonial Secretary, Wellington.

DANIEL POLLEN.

MEMORANDUM.—Mr. Cooper.—Reply that the question was necessarily a long time under consideration, and the answer was sent as soon as the reply was received from the Law Officers.—G. S. W.—10th December, 1878.

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## No. 57.

The Hon. the COLONIAL SECRETARY to the Hon. Dr. POLLEN.

SIR,—

Colonial Secretary's Office, Wellington, 11th December, 1878.

I have the honor to acknowledge the receipt of your letter of the 6th instant, requesting to be informed why you had been so long denied an official answer to an official communication on the subject of your retiring allowance.

In reply, I have to state that the question was necessarily a long time under consideration by the Government, and the answer was sent as soon as the reply was received from the Law Officers, to whom it had been referred.

I have, &c.,

The Hon. Dr. Pollen, M.L.C., Wellington.

G. S. WHITMORE.

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## No. 58.

The Hon. Dr. POLLEN to the Hon. the COLONIAL SECRETARY.

SIR,—

Wellington, 11th October, 1879.

By "The Disqualification Act, 1876," I being then a member of the Legislative Council, and holding appointments in the Civil Service of the colony, was placed in a dilemma, and forced to resign my seat in the Council and my place in the Executive, or to retire from the Civil Service. I chose the latter alternative, and, on the 30th October, 1876, the day before the Disqualification Act came into operation, I tendered to the Hon. Major Atkinson, then Premier, my resignation of the offices of Government Agent at Auckland, Sub-Treasurer and Paymaster Imperial Pensions, Receiver of Land Revenue, and Commissioner of Confiscated Lands then held by me.

On the next day, 31st October, I received a letter from the Hon. the Premier, in which I was informed that His Excellency the Governor had been pleased to accept my resignation, without prejudice to my claim to a retiring allowance. No further action was taken by me in the matter until the resignation of the Ministry of which I was a member, in October, 1877. On the 13th of that month I addressed a letter to the Hon. the Colonial Secretary, respectfully requesting that His Excellency the Governor should be moved to grant to me the retiring allowance to which, under the provisions of the Civil Service Acts, I might be found to be entitled, on and from the date (30th October, 1876) at which my resignation of the offices in the Civil Service held by me had been accepted.

On the 13th November, a month after the date of that application, and then only in response to an urgent request personally made to the Hon. Colonel Whitmore, I received a letter informing me that "the question, which was surrounded by some difficulty, was still under the consideration of the Government."

Subsequently, on several occasions in writing, and on one occasion personally, I made application to the Hon. the Colonial Secretary for an answer to my letter of 13th October, 1877, hereinbefore mentioned, but without success. At length on the 15th December, 1878, nearly fourteen months after the date of my first application, I was informed that "the Law Officers of the Crown advise that as no salary was appropriated for the offices held by me during the last three years of my service as set forth in my application, excepting that drawn by me as a Minister, it was not legally competent for the Government to direct that any specific amount shall be awarded to me as pension under the provisions of 'The Civil Service Act Amendment Act, 1861.'" On receipt of this communication, I requested the Hon. the Colonial Secretary to be good enough to inform me why it was that the ordinary courtesy of an official reply to an official communication had been so denied to me, and was told, in reply, that "the question was necessarily a long time under consideration by the Government, and that the answer had been sent to me as soon as the reply had been received from the Law Officers to whom it had been referred."

I have not since that time moved further in this matter. I now respectfully crave a reconsideration of my claim. In my letter of date 6th December, 1878, I pointed out that on the 2nd June, 1873, a month before I joined the Ministry of Sir Julius Vogel, I had attained my sixtieth year, and was then entitled under the provisions of clause 33 of "The Civil Service Act, 1866," to the advantage of a retiring allowance equal to the half-pay of the offices then held by me. I venture respectfully to suggest that the technical difficulties which, as I am informed, have been found to surround my claim, may be obviated by taking the amount of my salary during the two years preceding that date, as giving the basis upon which the amount of pension now to be awarded to me may be calculated, and to request that payment may be directed to be made to me at the rate so to be fixed, as from the 30th October, 1876, the day on which His Excellency the Governor was pleased to accept my resignation of all the offices in the Civil Service then held by me.

I have, &c.,

The Hon. the Colonial Secretary, Wellington.

DANIEL POLLEN.

### No. 59.

The Hon. F. WHITAKER to the Hon. the COLONIAL SECRETARY.

(Telegram.)

Auckland, 1st January, 1880.

PLEASE send Pollen's pension papers, and I will report on them.

The Hon. the Colonial Secretary.

FREDK. WHITAKER.

### MEMORANDUM by the Hon. F. WHITAKER.

I HAVE carefully gone through Dr. Pollen's pension papers, and considered the whole case. I now state the conclusions I have come to: Mr. FitzGerald, Commissioner of Audit, in his minute of 6th September, 1876, points out that "there is a maxim of law that the acceptance of a higher office vacates a lower one;" and Mr. Stout, Attorney-General, in his memorandum of the 22nd July, 1878, refers to the same subject, and expresses an opinion that the office of Minister was incompatible with the offices Dr. Pollen held as Government Agent, &c.; but neither of those gentlemen drew what appears to be the necessary inference from the facts and law referred to. It is an undoubted rule of law that the holder of an office 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 that the fact of his joining the Ministry of Sir Julius Vogel in July, 1873, had the effect *per se* of vacating those offices. If I am correct, then this disposes of Dr. Pollen's claim to pension, as put forward in his letter of 30th October, 1876; but in his letter, dated 11th October, 1878 (I presume 1879 is meant), he bases his claim on clause 33 of "The Civil Service Act, 1866." That clause provides that any officer who within ten years after the passing of the Act shall have attained the age of sixty years, as soon as he has been fifteen years in the Civil Service shall retire (not optional) on an annual allowance of half the average annual salary received by him during the two years preceding his superannuation. Is Dr. Pollen within the provision? It appears to me that he is so. On the 2nd June, 1873, he had attained the age of sixty years. At that date he had been fifteen years in the service, and, therefore, not only was entitled but was required to retire. He did not then, it appears, actually do so, but continued in the performance of the duties until his acceptance of a Ministerial office in the July following, when by doing so he vacated his other offices, if they were not already vacant under the clause referred to. Assuming the facts and dates to be correctly stated in the papers, I am of opinion that Dr. Pollen is entitled to an annual allowance of half the annual salary received by him during the two years preceding the acceptance of a Ministerial office in July, 1873, if not on the 3rd June preceding, under the 33rd clause above referred to. From what date is he so entitled? Section 36 of "The Civil Service Act, 1866," provides that "In case any person enjoying any superannuation or retiring allowance under this Act shall be appointed to fill any office in the Civil Service every such allowance shall cease to be paid for any period subsequent to such appointment, if the annual amount of the profits of the office to which he shall be appointed shall be equal to those of the office formerly held by him." Dr. Pollen ceased, it appears, to be a Minister on 13th October, 1877, and from that date he is, I think, entitled to receive his retiring allowance. The only remaining question is whether the salary that Dr. Pollen received in respect of his office of Paymaster of Imperial Pensions is to be reckoned in fixing the amount of the allowance. As I understand the matter it stands thus: The Imperial Government made an arrangement with the Colonial Government to allow the latter £2 10s. per cent. on the amount of pensions payable in this colony by the former, the Colonial Government undertaking the work at their own cost. In consequence of this arrangement Dr. Pollen was appointed by the Colonial Government at a fixed salary to perform the work. In my opinion the



£2 10s. per cent. on payment becomes colonial funds, and the salary paid is therefore paid out of colonial funds to an officer appointed by the Colonial Government. Under these circumstances that salary will, in my opinion, be properly reckoned in fixing Dr. Pollen's colonial retiring-allowance.—FREDK. WHITAKER.—15th January, 1880.

MEMORANDUM.—Will the Solicitor-General be kind enough to give his opinion on this subject?—J. HALL.—20th January, 1880.

THE PREMIER.—Dr. Pollen, in his letter of 11th October, 1879, bases his claim to a superannuation allowance upon the 33rd section of "The Civil Service Act, 1866." This puts his case in a new aspect, the previous claim having been based upon the Civil Service Superannuation Acts, 1858 and 1861. I have read the opinion of the Attorney-General herewith, and, upon consideration of the facts, I concur in the opinion that Dr. Pollen is entitled to a retiring allowance upon the terms and in the manner stated by the Attorney-General.—W. S. REID.—28th January, 1880.

REFERRED to the Controller and Auditor-General, to be so good as to calculate the amount of retiring allowance to which Dr. Pollen will be entitled according to these opinions.—G. S. COOPER.—29th January, 1880.

MR. FITZGERALD.—As you are aware, the case has been under consideration on several occasions, and a variety of opinions have been held on its merits. The papers are again referred to Audit to compute the pension on the basis of the attached opinion obtained from the Hon. the Attorney-General. This gentleman has put the case in a new light, as coming under the 33rd section of the Civil Service Act, and this view would greatly simplify the matter, were it not for what appears to me a fatal objection—namely, that the Hon. Dr. Pollen's length of service as a "Civil servant" is within the fifteen years prescribed by the Act as necessary to entitle him to the benefit of the clause in question. It will be observed that the Hon. the Attorney-General distinctly states that the fact of any officer accepting any office incompatible with his original duties, *ipso facto* vacates his former appointment. Also, that the office of Minister was incompatible with that of the other offices held by Dr. Pollen. The same opinion is held by the Hon. Mr. Stout, as will be seen on referring to his memorandum attached. Accordingly, it would therefore appear clear that the time during which Dr. Pollen held the office of a Minister of the Crown cannot be reckoned in computing his pension. His first appointment dates from the 25th November, 1856, and from that date to the 12th May, 1873, is sixteen years twenty-four weeks. He was, according to his own statement, out of the service from 31st December, 1864, to 24th January, 1865, 25 weeks; Minister from 20th July, 1861, to 6th August, 1862, 1 year 2 weeks 4 days; Minister from 10th June, 1868, to 28th June, 1869, 1 year 2 weeks 5 days: total deducted, 2 years 30 weeks 2 days. Total service, 13 years 45 weeks 5 days, or upwards of a year short of the required period. With reference to the Hon. the Attorney-General's remarks as to Dr. Pollen's office of Paymaster of Imperial Pensions, may I be permitted to point out with the greatest deference that the salary attached to the office has never been paid out of a Parliamentary vote, a condition which is emphatically required by the Act. If any objections which may be entertained by the Audit are overruled, the pension to be given will be simply half-salary received in May, 1873, or £1,670 ÷ 4 = £417 10s.—J. G. ANDERSON.—11th February, 1880.

MEMORANDUM.—I am much afraid the 2nd section, excluding from the operation of the Act of 1866 offices of which the salary is not voted by the Legislature, precludes Dr. Pollen from counting his salary as Paymaster of Imperial Pensions. It must not be inferred from the Hon. Mr. Whitaker's opinion that I agreed to the view that Dr. Pollen's time of service should not count when he was Minister. I stated the view, but did not, and do not agree with it. The Audit is still unable to compute the pension.—J. E. F'G.—11th February, 1880.

MEMORANDUM.—The Premier.—The provision of "The Civil Service Act, 1866," to which attention is called by the Controller and Auditor-General is, no doubt, one of general application; but I am inclined to think there are cases to which it may be necessary to give a different construction. It should be recollected that the clause is peremptory in terms, and that as there was no provision in the Act of 1858 restricting its operation to offices in respect of which salary was appropriated by the Legislature, it would have defeated the intention (or at least might have done so), if the general provision in section 2 of the Act of 1866 could have applied to the cases provided for in section 33. I am disposed to think that the general provision of section 2 does not restrict the special privileges conferred upon those who are brought within the operation of the 33rd section.—W. S. REID.—12th February, 1880.

MEMORANDUM.—Mr. Anderson—calculate Dr. Pollen's pension on the opinion given by Mr. Reid.—J. E. F'G.—13th February, 1880.

MEMORANDUM.—Mr. Anderson.—The opinion of the Law Officers is that the time during which Dr. Pollen was Minister was not to count, but that the salary as Paymaster of Imperial Pensions was to count. Please calculate accordingly under the most favourable Act.—J. E. F'G.—13th February, 1880.

MEMORANDUM.—Mr. FitzGerald.—I regret that I should have misunderstood the decision, the effect of which is that Dr. Pollen's claim under the 33rd section of "The Civil Service Act, 1866," will require to be abandoned, his length of service being under the requisite period. The most favourable Act under which the honorable gentleman can retire is "The Civil Service Amendment Act, 1861." Having received an average salary of £825 for three years previous to retiring, for a service of upwards of fourteen and under seventeen years, the 3rd section of the Act entitles him to a pension of one-third of the above average salary of £275 a year.—J. G. ANDERSON.—14th February, 1880.

**MR. FITZGERALD.**—By an oversight, an old computation of Dr. Pollen's length of service has been used instead of the accurate and recent one. Unless the few weeks short of the fourteen years required by the Act is disregarded, the Acts of 1858 and 1861 are not applicable to his case. I beg to direct attention to the Act of 1861, sections 2 and 3. From the first of these sections it would appear that an officer must serve fifteen years before he can retire without a medical certificate; but the 3rd clause gives a pension to those who have served only fourteen years. It is difficult to understand the meaning of this, unless it be that the first part of clause 3 provides a new scale for officers retiring under the Act of 1858 upon a medical certificate. I beg also to draw attention to the opinion of the Hon. Mr. Whitaker that Dr. Pollen is only entitled to draw his pension from 1877, as when he ceased to be a Minister, and not from June, 1873, when he finally retired from the Civil Service. This opinion is of very considerable importance on the final settlement of the case, and is at variance with the procedure in the case of the Hon. W. Gisborne, who has drawn his pension during all the time he was a Minister.—**J. G. ANDERSON.**—23rd February, 1880.

THERE is certainly nothing whatever in the Acts which prevents pensions being drawn by a Minister. Pensions cannot be drawn where a permanent office is held of higher salary than the former one. (sections 4 and 5 of Act, 1858), but by section 9 this does not apply to Ministers. Sir W. Fitzherbert and Mr. Gisborne have both drawn pensions as Ministers; and this having been the ruling for many years under successive Attorney-Generals ought not now to be disturbed. I also submit the question that the acceptance of political office necessarily, without resignation, vacates a permanent office, has been too hurriedly accepted. There is no positive law on the subject, and the maxim that the acceptance of higher office vacates lower, is limited to officers in the same profession, or of the same kind. Several permanent offices are held in England during political office: an officer of the army or navy holds his rank and pay during the time he holds the office of Minister at War, or Lord of or Secretary to the Admiralty. The Warden of the Cinque Ports holds his office though a Minister. I have no doubt many similar instances may be found. In this country the Officer Administering the Government did not vacate the Superintendency of Auckland, or the command of the troops, or of the 58th Regiment. The Chief Justice continues so whilst acting as Governor (but this is by Statute). The offices of Secretary of Crown Lands and Commissioner of Stamps have been held jointly with political offices—so that the rule is not by any means fixed. It is admitted that Sir J. Vogel specially promised Dr. Pollen that his acceptance of office should not operate to debar his pension; and, looking to the interpretation the law had otherwise received, there seems no reason why he should not have done so. If, therefore, the Governor should see fit to grant Dr. Pollen a pension, on the calculation of his time of service reckoning during his Ministry, I should not feel it my duty to object to such a pension as illegal.—**J. E. F'G.**—23rd February, 1880.

ON this memorandum of Mr. FitzGerald's I have only shortly to observe, that it is not doubted that the acceptance of a political office does not necessarily vacate a permanent office unless the one is incompatible with the other: incompatibility is the test in all cases, whether the offices are political or permanent. 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. In reference to Mr. Anderson's memorandum, it appears to me that in the years 1861–62 and 1868–69 Dr. Pollen held the honorary office of Executive Councillor, only without the pay or power of a Minister (see his memorandum, 1st March, 1880), and in my opinion such an office was not incompatible with the offices of which he performed the duties, and for which he received salary. I think, therefore, that no deduction should be made from his length of service on that account.—**FRED. WHITAKER.**—5th March, 1880.

### No. 60.

**MEMORANDUM** for the Hon. the Attorney-General.—From November, 1856, to July, 1873, I count sixteen and a half years of service, less a period of six months during which, although I was still a Receiver of Land Revenue—not having resigned or been discharged—I had no active duty. I note that it is proposed to deduct from this period the term during which I was in office with Mr. Stafford in 1868–69, more than two and a half years in all. During the first term I was a member of the Executive Council of the colony without portfolio, and without pay. During the second term I was a member of the Executive Council without portfolio, but with the title of Resident Minister at Auckland. I had no increase of pay then; the honorarium given to me as Deputy-Superintendent of the province, which office I then resigned, made my salary equal to that received by me as Minister—namely, £1,000. Excepting during the Parliamentary session of 1868 I was always in Auckland, actively and personally engaged in the discharge of the duties of the several offices in the Civil Service then held by me. I believe that I am entitled to reckon the whole term of my service from November, 1856, to October, 1876, when, in view of the operation of the Disqualification Act just then passed, I resigned my Civil Service appointments. I was and am willing, in order to avoid objections which had, I think, very much of a political party character, to take advantage of the provisions of the 33rd clause of "The Civil Service Act," 1866, and thus to allow the pay received by me during the years 1871–72 and 1872–73 to be taken as the basis of calculation for my retiring allowance. I did not and do not make any claim for payment of pension before the time when the resignation of my Civil Service offices was accepted by His Excellency the Governor. But from that period, 30th October, 1876, I hold that I am entitled to receive that payment, notwithstanding the fact that I held office and received pay as a Minister of the Crown. I know nothing in the law regulating the Civil Service of the colony adverse to that claim; and it has the sanction of custom as exemplified in the cases of Sir William Fitzherbert and the Hon. Mr. Gisborne.—**DANIEL POLLEN.**—Auckland, 1st March, 1880.

HAVE the pension calculated from 13th October, 1877, at the rate of salary paid to Dr. Pollen during the two years prior to the time, 2nd June, 1873, that he reached the age of sixty years.—**THOMAS DICK.**—17th March, 1880.

DR. POLLEN's pension will be that to which he was entitled on 2nd June, 1873, £418 15s., to be paid from 13th October, 1877, inclusive.—G. S. COOPER.—18th March, 1880.

### No. 61.

IN EXECUTIVE COUNCIL.

HIS Excellency the Governor is recommended to grant to Daniel Pollen, under the 33rd section of "The Civil Service Act, 1866," a pension at the rate of four hundred and eighteen pounds fifteen shillings (£418 15s.) per annum, such pension to commence from the 13th October, 1877.—THOMAS DICK.

I THINK the Government cannot recommend this pension until the amount has been certified by the Controller and Auditor-General.—JOHN HALL.

THE time during which the Hon. Dr. Pollen held the office of Minister (without portfolio) in 1861–62 and 1868–69, being admitted in the computation of his pension, gives him a service upwards of the fifteen years required by the Civil Service Act, section 33. The pension will therefore be £418 15s. per annum.—JAMES EDWARD FITZGERALD.

IN passing this pension I feel it right to add that a different interpretation has been given to the law from that hitherto in force. If all are to be treated alike, Dr. Pollen is entitled to pension from 1873.—J. E. F'G.—30th March, 1880.

### No. 62.

IN EXECUTIVE COUNCIL.

HIS Excellency the Governor is recommended to grant to Daniel Pollen, under the 33rd section of "The Civil Service Act, 1866," a pension at the rate of four hundred and eighteen pounds fifteen shillings (£418 15s.) per annum; such pension to commence from the 13th October, 1877.—THOMAS DICK.

APPROVED.—H. R.—31st March, 1880.—In Council: FOSTER GORING, Clerk of the Executive Council.

### No. 63.

The Hon. the COLONIAL SECRETARY to the Hon. Dr. POLLEN.

SIR,— Colonial Secretary's Office, Wellington, 3rd April, 1880.

Adverting to your memorandum of the 1st ultimo, addressed to the Attorney-General, and to the correspondence generally which has taken place upon the subject, I have the honor to inform you that His Excellency the Governor in Council has been pleased to grant to you under section 33 of "The Civil Service Act, 1866," a pension at the rate of £418 15s. per annum, such pension to commence from the 13th October, 1877.

I have, &c.,

W. ROLLESTON,

(for the Colonial Secretary).

The Hon. Dr. Pollen, M.L.C., Auckland.

### No. 64.

The Hon. Dr. POLLEN to the Hon. the COLONIAL SECRETARY.

(Telegram.)

12th April, 1880.

HAVE received letter of 3rd instant, and tender thanks. In memorandum of 1st March I must have misquoted date, which context would show. I respectfully crave reconsideration of time for commencement of payment, and that it should be fixed at 30th October, 1876, when my resignation of office was accepted.

The Hon. the Colonial Secretary, Wellington.

DANIEL POLLEN.

REFERRED to Controller and Auditor-General.—J. HALL.—15th April, 1880.

### No. 65.

MEMORANDUM (No. 140) by the ASSISTANT-CONTROLLER and AUDITOR.

DR. POLLEN entered the public service on the 25th November, 1856, and, with the exception of a period of twenty-five weeks, from the 31st December, 1864, to the 24th June, 1865, he continued to hold certain offices under the Colonial Government up to the 4th July, 1873.

It is true that during three periods within the term of service—namely, from the 20th July, 1861, to 6th August, 1862, from 10th June, 1863, to 28th June, 1869, and from the 12th May to the 4th July, 1873—he held the appointment of member of the Executive Council without portfolio, and, in the first two instances, without pay; but the Hon. the Attorney-General has expressed the opinion, in which I entirely concur, that those appointments were not entirely incompatible with the permanent offices held by Dr. Pollen at the time, and of which he continuously performed the duties. It follows, I think, that his holding those political appointments during the periods named does not prejudice the tenure of his permanent appointments.

On the 12th May, 1873, Dr. Pollen entered the Ministry of Sir Julius Vogel as a member of the Executive Council without portfolio. On the 4th July he was appointed Colonial Secretary, and con-

tinued to hold office as a Minister of the Crown to the 13th October, 1877. He at the same time, held up to the 31st October, 1876, the offices, and, to some extent, performed the duties of Government Agent at Auckland, Receiver of Land Revenue, Paymaster of Imperial Pensions, Commissioner of Confiscated Lands, and Trust Commissioner under "Native Lands Frauds Prevention Act."

Dr. Pollen has made application for a retiring allowance under the Civil Service Acts of 1858 and 1861, and claims to be entitled to draw pension for a service extending from the 25th November, 1856, to the 31st October, 1876. It has been urged that having, during the period from the 4th July, 1873, to the 31st October, 1876, held the political office of Colonial Secretary, he is not entitled to claim that period as a part of his Civil Service. The Hon. the Attorney-General has given a very decided opinion in opposition to the claim, and, though I do not agree with that opinion in certain minor points, I think it supplies sufficient grounds for disallowing the claim. The precedents on the point whether an officer can be allowed to include in the term of his service a period during which, while continuing to hold a permanent office, he also held office as a Minister of the Crown are in favour of the disallowance of the claim; for, though in the case of Sir William Fitzherbert the period was allowed to be included, and in the case of the Hon. Mr. Gisborne it was disallowed, the point was conceded in the former case on the express stipulation that it was not to form a precedent for future concessions.

As Dr. Pollen, in his memorandum of the 1st March, 1880, has expressed himself willing to waive his claim to retire under the Acts of 1858 and 1861, and to retire under section 33 of "The Civil Service Act, 1866, it is needless to refer further to the question of his position under the Acts first named.

Under the Civil Service Act of 1866, section 33, it is enacted that "Any officer who at the passing of this Act has attained or within ten years thereafter shall have attained the age of sixty years, if or as soon as he shall have been fifteen years in the Civil Service of New Zealand, and if he has not received any other compensation or retiring allowance in respect of such service, shall retire from active service on an annual allowance of half the average annual salary received by him during the two years preceding his superannuation;" and it is understood that Dr. Pollen is content to accept such pension as he may be held to be entitled to under the enactment quoted, for a service extending from the 26th November, 1856, to the 4th July, 1873, the date of his accepting a portfolio as a Minister. Deducting from that service the interregnum of twenty-five weeks in 1875, we find that he has served for a period of sixteen years, or something in excess of the time by which, having attained the age of sixty on the 2nd June previous, he would be entitled under the Act to a retiring allowance equal to one-half of the annual average salary received by him during the two years immediately preceding his retirement.

The salaries so received were:—

				Aggregate for two years.	
			£	£	
As Receiver of Land Revenue	...	...	100	200	
As Government Agent	...	...	300	600	
As Sub-Treasurer	...	...	100	200	
As Paymaster of Imperial Pensions	...	...	300	600	
As Native Lands Frauds Commissioner	...	...	50	75	
					£1,675

Some question has arisen as to whether the salary drawn by Dr. Pollen as Paymaster of Imperial Pensions should be included in the calculation, inasmuch as that salary was never appropriated by Parliament, and that the Act under which the claim now under consideration is made provides (section 2) that it shall not apply to any person to whose office salary is not appropriated by the Colonial Legislature. I think, as stated by the Solicitor-General in his minute of the 12th February last, that the general provision contained in the clause cited cannot be held to restrict the privileges of the special class of persons referred to in clause 33, and I may point out that all rights acquired under the Acts of 1858 and 1861 are expressly preserved by section 29 of the Act of 1866.

In regard to the date from which the retiring allowance to which Dr. Pollen is entitled should be paid, I am of opinion that it is payable from the date at which he accepted the portfolio of Colonial Secretary—namely, the 4th July, 1873. It will be observed that, while Dr. Pollen ceased to draw salary as a Civil servant on the 11th May, 1873, he did not attain the age at which he was qualified to retire under section 33 of the Civil Service Act until the 2nd June following. As, however, the position of member of the Executive Council without portfolio, which Dr. Pollen occupied from the 12th May to the 4th July, 1873, has been held in regard to the periods in 1862 and 1869, when Dr. Pollen was in the like position, to be not incompatible with the tenure of his permanent offices, which offices it must be remembered he did not formally resign till 1876, it must, I think be conceded that, although Dr. Pollen ceased to draw salary as a Civil Servant on the 11th May, he did not *ipso facto* vacate that position till the 4th July following, when he accepted office as Colonial Secretary.

It is held that there is nothing in the Civil Service Act to debar an officer from continuing to draw retiring allowance, although he be at the same time in receipt of a Ministerial salary, and this rule has been acted on in the cases of Sir William Fitzherbert and the Hon. W. Gisborne.

The total amount of salary drawn by Dr. Pollen during the two years immediately preceding his retirement being, as already stated, £1,675, the "average annual salary received by him" will amount to £837 10s., and the pension payable will therefore be £418 15s. per annum, payable from the 4th July, 1873.

Audit Office, 23rd April, 1880.

C. T. BATKIN,  
Assistant Controller and Auditor.

I DIFFER from this. Whatever incompatibility there may be between the offices of Minister and those which Dr. Pollen held, as a matter of fact he did hold them, and becomes entitled to pension accordingly. But as Dr. Pollen waives his claim, no more need be said. He is, of course, entitled to draw pension from the date of resignation of his offices.—J. E. F.G.—27th April, 1880.

## No. 66.

The Hon. the PREMIER to the Hon. the ATTORNEY-GENERAL.

(Telegram.)

27th April, 1880.

*Re* Dr. Pollen's pension.—In your memorandum of January last you state that this pension should commence from 13th October, 1877. The Controller and Deputy-Controller are both of opinion that he is entitled to it from 1873, but at any rate from 30th October, 1876. Will you kindly reconsider this question, and state what course, in your opinion, should be adopted.

Hon. F. Whitaker, Auckland.

JOHN HALL.

It appears to me to be a great anomaly that any officer should be entitled to a large salary and a pension at the same time; but I must admit that there is not in the Civil Service Acts any express prohibition against it, and the view appears to have been acted on in former cases. This would entitle Dr. Pollen to a retiring allowance it appears from 1873, but he only claims from October, 1876, and I think that should be accepted as a settlement of the matter.—FREDK. WHITAKER.—3rd May, 1880.

## No. 67.

HIS Excellency the Governor is recommended to approve of the date at which Dr. Pollen's pension was to commence being altered from the 13th October, 1877, to 30th October, 1876.

4th May, 1880.

THOMAS DICK.

APPROVED.—H. R.—5th May, 1880.—In Council: FOSTER GORING, Clerk of the Executive Council.

## No. 68.

The Hon. the COLONIAL SECRETARY to the Hon. Dr. POLLEN.

SIR,—

Colonial Secretary's Office, Wellington, 11th May, 1880.

Adverting to the correspondence which has taken place upon the subject, I have the honor to inform you that the Government have come to the decision that you are entitled to draw pension at the rate of £418 15s. a year from the 30th October, 1876, instead of from the 13th October, 1877.

I have, &amp;c.,

The Hon. Dr. Pollen, M.L.C., Wellington.

THOMAS DICK.

By Authority: GEORGE DIDSBURY, Government Printer, Wellington.—1880.

