

118. Would you tell the Committee what was in your mind when you made that minute?—Probably I had the same feeling that Mr. Gisborne had when he said that the case was a peculiar one, and that the previous Government had given absolute pledges on the subject. The Hon. William Gisborne, writing to Mr. William Fitzherbert on 22nd December, 1869, says: "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." And I think that at that time the general impression was that, whether it was legal or not, the time that was spent by Mr. Fitzherbert in holding his Civil office should be counted.

119. In the fourth paragraph of Mr. Gisborne's letter to the Secretary to the Treasury, dated the 27th November, 1876, the following passage occurs: "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." And Mr. Gisborne, in the evidence which he gave before this Committee a few days ago, says there was a distinct understanding on this subject. His attention was called specially to those words by myself, when I asked him the following question: "In your letter to the Secretary to the Treasury of the 27th November, 1876, you say that there was a distinct understanding that, while you performed the duties of Commissioner of Annuities in addition to those of Minister, that time should count in the computation of your pension?" His reply was, "I say that that was what was told me by the Premier, Sir William Fox, and other Ministers at the time. They told me that the time during which I held office in the Civil Service would count in respect of my pension, notwithstanding that at the same time I was a Minister of the Crown. In making my claim to Major Atkinson, I understood that the Law Officers were of opinion that the services in question would count. I took the Insurance Office on that understanding." Then I asked him, "Do I understand you to imply that you risked the possible interpretation of the law when you took political office, as to your right to take Civil office?" and the reply was, "I was under the impression that the law allowed it, and I was aware that the same thing had been done in the case of other officers." Then I said, "On the very face of these papers, Sir William Fox, who was, I believe, the head of the Government which you joined, made a minute in reference to the case of Sir William Fitzherbert to the effect that the case ought not to be drawn into a precedent?" He replied, "In Sir William Fitzherbert's case there was no pretence that he was doing the work of the Commissioner of Crown Lands, because even when he was in the colony the duties were, I believe, for some time performed by a deputy; but when he went to England I am quite certain that they were done by a deputy." Do you remember the circumstances sufficiently to give any information to the Committee?—Yes, I entirely confirm the statements made by Mr. Gisborne. It was distinctly understood at the time he accepted Ministerial office, which he did at my personal request, that he should hold the position of Commissioner of Insurance, but that he should receive no payment for his services in that capacity while he held his Ministerial office; and I distinctly remember that it was agreed that the time he served as Commissioner of Insurance should count when he applied for his pension. He is also right in saying that there was a difference between his case and that of Mr. Fitzherbert, because I know that he did actually do the work of his office; while Mr. Fitzherbert, being in England, did not do the work of the Commissioner of Crown Lands. I entirely confirm all that he (Mr. Gisborne) has said before this Committee on the subject. There was at that time probably a feeling in my mind, and in the minds of others who were associated with me, that, as both the late Ministry and my own agreed that the time should count, no objection should be raised, and, consequently, the matter did not bear the same aspect that it does now when the question of its impropriety has been raised.

120. You formed your Administration in June, 1869?—It was about that time.

121. And the office of Commissioner of Insurance had not been created at that time?—Yes, I think it had been; at any rate, the office was contemplated.

122. The "distinct understanding" that Mr. Gisborne refers to was, that when he accepted the office of Commissioner of Annuities it was understood that, while he held office as a Minister, he should not draw salary for the former office; but that, in applying for his pension, he should count the time during which he had held the Civil office without salary?—I am certain that that was the condition upon which he accepted office as a Minister.

123. Your impression is that the Government Insurance Office was in existence on or about the 2nd July, when Mr. Gisborne joined your Ministry?—That is my impression; but, at any rate, I am quite certain that such an office was contemplated.

124. The Government Insurance Act was passed by your Government on the 3rd September, 1869?—That was the date of the Act being assented to by the Governor.

125. You say, as I understand, that when Mr. Gisborne took political office with you, it was on the understanding that he should hold the office of Commissioner of Annuities without salary, and that the time that he held that office should count in the computation of his pension?—So far as I can recollect I should say, most positively, that such was the case.

126. You see that the difference between your opinion and Mr. Gisborne's is, that he thinks the time was to count from the time when he took office as Commissioner of Insurance?—I should like to say that one sometimes recollects a fact as a fact, but sometimes you only remember the impression that is left by a fact on your mind. In this case, I have always had the impression on my mind that Mr. Gisborne accepted office on the terms he has mentioned.

127. How could he have taken office on the 2nd July, 1869, with a distinct understanding, or any understanding at all, that he should have an office which was not in existence, according to law, until the 3rd September?—It was contemplated that the Act would be passed, and it was not thought that there would be any difficulty about it.