

1869, and was appointed Commissioner of Annuities under the Act of 1869, which did not become law until the 3rd September following.

247. *Sir G. Grey.*] Did Mr. Gisborne make it a condition that if he resigned his office he should get a seat in the Legislative Council which he could hold for life?—I know nothing about that. I know that he was appointed to the Legislative Council.

248. Which he could have held for life, and to which was attached an allowance of £200 a year, while he would have to pay no election expenses?—Yes, that is the case. I agree with you.

249. Was that the case with Dr. Pollen too?—Yes. Dr. Pollen was also in the Legislative Council.

250. *Mr. Moss.*] Was not the time during which Messrs. Gisborne, Pollen, and others were acting as Legislative Councillors, counted in the computation of their pensions?—The fact of their being Legislative Councillors was not considered at all.

251. On page 20 of the papers you state that Dr. Pollen's case is peculiar, in this respect: that the salary paid to him for services rendered as Paymaster of Imperial Pensions was computed in the amount of his retiring allowance?—Yes, it added a certain number of years to his claim.

252. And you were doubtful whether or not that should be the case?—Yes, I was doubtful about it.

253. And your reason for being doubtful was that the office was not known to the Legislature; and the salary of £300 a year, which was attached to it, was not provided by the Legislature?—Yes.

254. And you changed that opinion because, when the question was referred to the Law Adviser of the Crown, he stated that he understood that all the offices in respect of which Dr. Pollen claimed were offices held by him under the General Government and in the Civil Service of the colony?—Yes; I acted on the opinion of the Law Adviser of the Crown.

255. Do you think that the office of Paymaster of Imperial Pensions was a Civil Service office?—Yes.

256. On what ground do you think so?—On the ground that the Government have a right to appoint any officer they please to do official work, as I stated just now.

257. Under which of the Acts do you think he was a Civil servant?—Under the Act of 1858, which provides for the retirement of officers and others employed in the Civil Service of the colony. I think the fact of his being required to do certain work for the Crown made him a Civil servant for the time. It is the right of the Crown to appoint anybody it likes to do its work; and it is the privilege of Parliament alone to provide the money to pay the salary of any person so appointed. Without such provision no remuneration by way of salary can be made to him.

258. You consider that he was a Civil servant, though he was not necessarily entitled to a pension as a Civil servant holding that position?—Yes, because the Act distinctly states that no person shall be entitled to draw a retiring allowance whose office has not been provided for by the General Assembly.

259. What is your opinion on the subject now?—I am of opinion that Dr. Pollen was not entitled to count the period or reckon the salary, when applying for his pension, for the time during which he was acting as Paymaster of Imperial Pensions, because the Legislature distinctly stated that no officer should have a claim for a retiring allowance unless the Legislature had made provision for the payment of his salary.

260. Is there any point similar to that to be considered in reference to the pensions of Messrs. Fitzherbert, Gisborne, or Domett?—No; I do not think there is any similar point.

261. Then, in your opinion, they were unquestionably Civil servants, who were entitled to draw pensions?—Yes. In Mr. Domett's case, there was a period for which he was mulct of the time during which he was a Minister.

262. *The Chairman.*] In reply to Sir George Grey, you stated that you agreed with him that Mr. Gisborne had accepted an appointment in the Legislative Council, which he might have held for life, and to which a sum of £200 a year was attached, the money being given for his expenses?—I do not know that I said exactly that. I simply agreed with Sir George Grey as to the facts, as far as they existed at the time.

263. I understood from your manner that you considered that the payment of £200 a year was a certainty in connection with the office?—No; of course I know that it is an uncertainty, and that it depends on the Assembly whether it shall be voted or not.

264. *Sir G. Grey.*] In the event of Dr. Pollen's being paid money by Great Britain, and if he was entitled to receive a pension for the money so paid, do you not think that Great Britain should pay him that pension?—I do not consider that Great Britain paid him that money. I think that Great Britain paid the money to the colony, and that the colony paid Dr. Pollen. The Imperial Government paid into the colonial chest the percentage out of which Dr. Pollen's salary was paid, but it knew nothing of Dr. Pollen. Dr. Pollen was engaged to do the work by the Government of this colony.

265. Then you think it was colonial money that was used to pay him?—Yes; strictly and unquestionably.

266. Then the pensioners were paid with colonial money and not with British money?—No; the Imperial Government were previously sending out moneys to pay their pensioners in the colony, while on the other hand New Zealand was remitting moneys to England on account of the postal service, and the two transactions were running on concurrently. Now, the Imperial Government pays our postal account, and we pay the Imperial pensioners.

267. What relation was there between the two accounts?—Simply that of reciprocity. If the colony had not been indebted to the Imperial Government we should have required them to pay us the money direct; but, as we owed the Imperial Government moneys, we agreed to pay the pensioners in discharge of our liabilities.

268. The ownership of the money was not altered by that?—The money was money owing to the English Government, but, instead of being remitted to England, it was paid to certain creditors of the British Government here.