

269. What arrangement was there with regard to remitting the money to England?—We owed the Government in England certain moneys in connection with postal matters, and out of that we paid the pensioners. There was no arrangement for remitting money Home. I have always understood that it was the proposal of the English Government, that, instead of remitting the money to England, we should pay their pensioners in this colony with it.

270. Do you not know that it was the proposal of the Imperial Government that we should pay these pensioners, without any reference to postal matters?—No, I only know that we were paying the pensioners out of money that we owed to the English Government.

271. *The Chairman.*] Is it not a fact that the Government of the colony has been in the habit of advancing money to pay these pensions?—Yes. I do not know whether the exchange was at times against us or not.

272. *Mr. Reader Wood.*] Was it not merely an exchange transaction?—Yes; and it was a convenience to both parties.

THURSDAY, 4TH AUGUST, 1881.

Hon. F. WHITAKER examined.

273. *The Chairman.*] The Committee have asked you to come here for the purpose of getting your opinion in reference to several cases in which pensions are involved.

274. *Mr. McLean.*] You have given opinions in reference to some of these pensions, particularly that of Dr. Pollen?—I have given an opinion in Dr. Pollen's case, but no other.

275. Will you tell us plainly whether Dr. Pollen's pension was granted and is being paid according to law?—Yes; I think the pension was properly granted, and is accordingly being properly paid. The only doubt that arose in my mind in connection with the pension was whether the time he held office as a member of the Executive Council, without a portfolio, should count in his application for a pension. After careful consideration of that point I came to the conclusion that the time during which he was an Executive Councillor only should not be deducted from his term of service. It did not appear to me that holding office as a member of the Executive Council without other office was incompatible with holding a position in the Civil Service.

276. In referring to the time in which Dr. Pollen was a Minister, do you mean the time in which he was an Executive Councillor only?—That was the point that raised a doubt in my mind.

277. Do you hold that the time during which a Minister receives a salary as a Minister should be counted in the event of his applying for a pension?—No; I still adhere to the opinion I formerly expressed, which was that a Minister cannot at the same time be a Civil servant.

278. Then you think that when a Civil servant holds the position of a Minister, and receives salary as a Minister, he should not be allowed to count that time when applying for a pension?—I think not. I think that, when a man holding an office in the Civil service accepts a position as Minister, he cannot hold both positions, as they are incompatible. I think the lower office becomes vacant when he accepts the higher. I may say that I do not think the question would have arisen if Dr. Pollen had only held the honorary office of Executive Councillor.

279. You know nothing about the pensions of Messrs. Fitzherbert, Domett, and Gisborne?—No. With regard to Dr. Pollen's pension I have only to say that I gave all the attention that was necessary to it in order to enable me to form a correct opinion.

280. *Mr. Moss.*] The last paragraph but one of page 24 of the papers is to this effect: "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." In this case I do not see anything to show that the salary was appropriated by the Colonial Legislature?—I know nothing about that. In my opinion the money was colonial funds, and it was a misappropriation to use that money without authority of Parliament.

281. *Mr. Saunders.*] Do I understand you to state that your doubt as to the position of Dr. Pollen in the matter arose entirely from the fact that he held his political office without salary—that is to say, if he had held the office with salary, would he have been entitled to count his time?—If he had held the office of Minister with salary in the ordinary way, I do think that the time would have to be disallowed.

282. *Mr. Ballance.*] Was the fact not before you that the salary of £300 had not been appropriated by Parliament?—It was not.

283. Then you gave your opinion respecting it on the supposition that the funds you were dealing with were colonial funds?—I assumed that the money had been properly paid, and there was no question in my mind as to its being colonial funds. On principle I think it is wrong that a man should draw a salary as well as a pension. It appears to me that the spirit of the law is against a man drawing a pension as well as a salary; at the same time I admit that a strict interpretation of the law may lead to an opposite conclusion.

284. Do you think that any person claiming a pension under the Act of 1866 would be entitled to have his rights protected under the Act of 1858 or that of 1861?—My attention was not drawn to the matter, but I will look into it. Those Acts were repealed by the Act of 1866, and do not apply to Dr. Pollen's case, who gets his pension under the Act of 1866.

285. Can a Minister, in your opinion, hold a Civil Service appointment whilst he is a Minister?—I should say not. My opinion is very decisive on that point.