

1881.
NEW ZEALAND.

REPORT OF PUBLIC ACCOUNTS COMMITTEE ON THE HON. DR. POLLEN'S PENSION

(TOGETHER WITH MINUTES OF PROCEEDINGS.)

Brought up 1st July, 1881, and ordered to be printed.

ORDER OF REFERENCE.

TUESDAY, THE 17TH DAY OF AUGUST, 1880.

Ordered, "That the matter of pension and arrears of pension to the Hon. Dr. Pollen be referred to the Public Accounts Committee, to report on the circumstances under which the same were granted."—(Mr. Speight.)

REPORT

THE Public Accounts Committee, to which was referred by the House, on the 17th August, 1880, the matter of pension and arrears of pension to the Hon. Dr. Pollen, with directions to report on the circumstances under which the same were granted, have now the honor to lay before the House a copy of the proceedings in the case, and the printed papers and records before the Committee, and to report:—

That, in awarding a pension of £418 15s. a year to Dr. Pollen, and paying that pension from the 30th October, 1876, the Government acted according to the weight of opinion given by the Crown Law Officers, and even paid £1,391 12s. 6d. less than the Audit Department were willing to pass as legally due to Dr. Pollen. The Committee are, however, of opinion that the Crown Law Officers and Civil servants of the colony have put the most favourable interpretation on doubtful points in this claim for pension, and underrate circumstances which appear to make the claim of doubtful legality.

The Committee think it is open to grave doubt whether Dr. Pollen was entitled to reckon, for purposes of his pension, the time during which he held a seat in the Executive Council without pay or portfolio.

The Committee are also of opinion that the promise made by Sir Julius Vogel, that the sum of £300 paid to Dr. Pollen as Paymaster of Imperial Pensions should be included in any calculation for purposes of pension, was one which it was beyond the lawful authority of any Minister to make, and subversive of due parliamentary authority and control.

The Committee consider that any case of the above nature, which may in itself be reasonable, but is surrounded by legal difficulties, should be submitted to Parliament for decision.

1st July, 1881.

E. C. J. STEVENS,
Chairman, Public Accounts Committee.

MINUTES OF PROCEEDINGS.

SESSION 1880.

FRIDAY, 20TH AUGUST, 1880.

THE reference from the House of 17th instant, *re* pension to Dr. Pollen, was read.

The Chairman proceeded to read the correspondence thereon, and the minutes and opinions of the Law Officers, the Auditor-General, &c.; after which the further consideration of the matter was adjourned to Monday following.

TUESDAY, 24TH AUGUST, 1880.

Consideration resumed.

Motion made by Sir G. Grey, and question proposed, "That copies of the papers submitted be printed for the use of the Committee."

Amendment by Mr. Wood:—

To leave out all the words after "that" to the end of the question, in order to substitute the words: "The payment of £1,400 as arrears of pension to Dr. Pollen was a payment which, under the circumstances of the case, ought not to have been made. Difficulties have surrounded this claim for pension from the first. Dr. Pollen has been from 25th November, 1856, to 4th July, 1873, in the Civil Service of the colony. Three times during that period he has been a Minister and Member of the Executive Council holding a political office: he has been Colonial Secretary and Prime Minister. The Law Officers agree in the opinion that a seat in the Executive, to which a high salary attaches, cannot be held in conjunction with a subordinate position in the Civil Service, and that the fact of the appointment to the higher office vacates the lower. This being so, it would seem that it must also vacate all right to salary, emolument, or pension which attaches to the lower office. An office so vacated cannot be said to be retired from in the same sense in which that word is used in the Pension Acts. It is, therefore, doubtful whether Dr. Pollen is entitled to draw any pension at all; and the papers, which are voluminous, show this.

"Should, however, the right to a pension be established, the amount paid appears to be wrong. The amount has been calculated by adding to the salaries drawn by Dr. Pollen of a number of offices held by him, amongst which was an office of Paymaster-General of Imperial Pensions, at £300 per annum. This sum has been regarded as colonial revenue in the calculation of the amount of pension; but it has never been regarded as colonial revenue for any other purpose. It has never in any way been calculated as an integral part of the revenue of the colony, and has never been under the review or the appropriation of Parliament. The Committee is of opinion that this sum should not have formed part of the basis of calculation of Dr. Pollen's pension.

"Considering all the doubts and difficulties of this case, the Committee is of opinion that, instead of settling the amount of the pension claimed by Dr. Pollen, and including it under the head of Permanent Charges, the Government should have submitted the claim to Parliament, to determine what, under the circumstances, the equity of the case required to be done."

Debate arising, original motion, by leave, withdrawn.

Question proposed, That the payment of £1,400 as arrears of pension, &c. (Mr. Wood's motion.)

Whereupon on the motion of the Hon. Major Atkinson, *Resolved*, That the debate be adjourned until Thursday, at 11 o'clock a.m.

THURSDAY, 26TH AUGUST, 1880.

Consideration resumed.

Motion made by Mr. R. G. Wood, and question proposed, That the following be adopted as an interim report:—

As it is impossible at this late period of the session to report fully upon this question, the Committee begs to express its opinion that the sum of £300 per annum which Dr. Pollen received in his capacity of Paymaster of Imperial Pensions, from funds which were not voted by Parliament, ought not to have been included as part of the basis on which the amount of pension was calculated.

Motion made by Mr. McLean, to insert after the word "opinion" the words "notwithstanding the opinion of the Attorney- and Solicitor-General and the two Commissioners of Audit to the contrary"

Question proposed, That these words be inserted.

Whereupon motion was made by the Hon. Major Atkinson, and it was resolved, That the further consideration of the subject be adjourned till the printed papers are in the hands of the members.

SESSION 1881.

TUESDAY, 21ST JUNE, 1881.

The Chairman having read the order of reference and the minutes of last session, the consideration of this subject was resumed; and finally, upon the motion of the Hon. Major Atkinson, further discussion was postponed until the papers (B.—17, 1880), were in the hands of the Committee.

THURSDAY, 23RD JUNE, 1881.

It was resolved, upon the motion of the Hon. Major Atkinson, that, owing to there not being a full Committee, the consideration of this subject should be postponed until Tuesday next.

TUESDAY, 28TH JUNE, 1881.

The Chairman reported that Mr. Wood's motion of last session on the subject of Dr. Pollen's pension should be considered as having been brought to an end by the prorogation, and must be renewed if it were desired to go on with it.

Mr. Wood then moved,—

1. That the payment of £1,400 as arrears of pension to Dr. Pollen was a payment which, under the circumstances of the case, ought not to have been made. Difficulties have surrounded this claim for pension from the first. Dr. Pollen has been from 25th November, 1856, to 4th July, 1873, in the Civil Service of the colony. Three times during that period he has been a Minister and member of the Executive Council, holding a political office: he has been Colonial Secretary and Prime Minister. The Law Officers agree in the opinion that a seat in the Executive, to which a high salary attaches, cannot be held in conjunction with a subordinate position in the Civil Service, and that the fact of the appointment to the higher office vacates the lower. This being so, it would seem that it must also vacate all right to salary, emolument, or pension which attaches to the lower office. An office so vacated cannot be said to be retired from in the same sense in which that word is used in the Pension Acts. It is therefore, doubtful, whether Dr. Pollen is entitled to draw any pension at all; and the papers, which are voluminous, show this.

2. Should, however, the right to a pension be established, the amount paid appears to be wrong. The amount has been calculated by adding to the salaries drawn by Dr. Pollen of a number of offices held by him, amongst which was an office of Paymaster-General of Imperial Pensions, at £300 per annum. This sum has been regarded as colonial revenue in the calculation of the amount of pension; but it has never been regarded as colonial revenue for any other purpose. It has never in any way been calculated as an integral part of the revenue of the colony, and has never been under the review or appropriation of Parliament. The Committee is of opinion that this sum should not have formed part of the basis of calculation of Dr. Pollen's pension. Considering all the doubts and difficulties of this case, the Committee is of opinion that, instead of settling the amount of the pension claimed by Dr. Pollen, and including it under the head of Permanent Charges, the Government should have submitted the claim to Parliament to determine what, under the circumstances, the equity of the case required to be done.

Amendment proposed by Mr. McLean, That, in the opinion of this Committee, the pension awarded to Dr. Pollen appears to have been in accordance with the opinion of the Crown Law Officer and of the Controller and Auditor-General as to the sum to which Dr. Pollen was entitled.

Question proposed, That the words proposed to be omitted stand part of the question.

Mr. Saunders moved, and it was resolved, That the discussion of the resolution and amendment be adjourned till next Thursday, and that the resolution and amendment be printed for the use of the Committee.

THURSDAY, 30TH JUNE, 1881.

The discussion upon this subject was renewed, and finally, upon the question being put, the Committee divided:—

Ayes, 5.—Mr. Montgomery, Mr. Ballance, Mr. Wood, Sir George Grey, Mr. Moss.

Noes, 6.—Mr. McLean, Hon. Major Atkinson, Hon. Mr. Johnston, Hon. Mr. Dick, Hon. Mr. Hall, Mr. Saunders.

Mr. McLean then obtained leave to withdraw his amendment, and Mr. Saunders moved,—

That in awarding a pension of £418 15s. a year to Dr. Pollen, and paying that pension from 30th October, 1876, the Government acted according to the weight of opinion given by the Crown Law Officers, and even paid £1,391 12s. 6d. less than the Audit Department were willing to pass as legally due to Dr. Pollen. The Committee are, however, of opinion, that the Crown Law Officers and Civil servants of the colony have put the most favourable interpretation on doubtful points in this claim for pension, and under-rate circumstances which appear to make the claim of doubtful legality.

The Committee think it is open to grave doubt whether Dr. Pollen was entitled to reckon, for purposes of his pension, the time during which he held a seat in the Executive Council without pay or portfolio.

The Committee are also of opinion that the promise made by Sir Julius Vogel, that the sum of £300 paid to Dr. Pollen as Paymaster of Imperial Pensions should be included in any calculation for purposes of pension, was one which it was beyond the lawful authority of any Minister to make, and subversive of due parliamentary authority and control.

The Committee consider that in future when any case of the above nature, which may in itself be reasonable, is surrounded by legal difficulties, it should be submitted to Parliament for decision.

Motion made, That the words "the Committee consider that" be omitted. Question put, That the words "the Committee consider that" stand part of the question. The Committee divided:—

Ayes, 9.—Mr. McLean, Hon. Major Atkinson, Mr. Wood, Hon. Mr. Johnston, Mr. Ballance, Mr. Montgomery, Hon. Mr. Dick, Hon. Mr. Hall, Mr. Saunders.

Noes, 2.—Sir George Grey, Mr. Moss.

Motion made by Mr. Wood, That the words "in future" be omitted.

Question put, That the words be omitted.

Ayes, 6.—Mr. Wood, Mr. Ballance, Mr. Montgomery, Sir George Grey, Mr. Moss, Mr. Saunders.

Noes, 5.—Mr. McLean, Hon. Major Atkinson, Hon. Mr. Johnston, Hon. Mr. Dick, Hon. Mr. Hall.

On the motion of Sir George Grey, *Resolved*, That the word “when” be struck out.

Motion made by Sir George Grey, That the words “which may in itself be reasonable,” be struck out.

Question put, That the words proposed to be omitted stand part of the question.

Ayes, 6.—Mr. McLean, Hon. Major Atkinson, Hon. Mr. Johnston, Hon. Mr. Hall, Hon. Mr. Dick, Mr. Saunders.

Noes, 5.—Mr. Wood, Mr. Ballance, Sir George Grey, Mr. Montgomery, Mr. Moss.

Resolved, That the word “but” be inserted after the word “reasonable,” and that the word “it” be omitted.

Moved by Sir George Grey, That the words “including the present case” be added at the end of the motion.

Motion withdrawn by leave.

Question put, That the resolution as amended be agreed to.—Carried.

Resolved, That the Chairman report the foregoing resolution and proceedings in the case to the House, with a copy of the printed papers and records before the Committee.