

The UNDER-SECRETARY to the CHAIRMAN of the PUBLIC PETITIONS COMMITTEE.

SIR,—

Colonial Secretary's Office, Wellington, 15th June, 1882.

I have the honor to acknowledge the receipt of your letter of the 6th instant, and am directed to enclose herewith copy of an opinion by the Solicitor-General on the subject of the payment of compensation to provincial officers under "The Abolition of Provinces Act, 1875."

I have, &c.,

HUGH POLLEN,

(for the Under-Secretary.)

T. Kelly, Esq., M.H.R.,

Chairman, Public Petitions Committee, Wellington.

Enclosure.

OPINION ON QUESTION No. 17, 1882, from the PUBLIC PETITIONS COMMITTEE.

1. IN answer to the first question, I think that, in order to entitle a person to compensation under section 13 of "The Abolition of Provinces Act, 1875," it is not necessary his services should have been dispensed with on the date when abolition took place.

Reference must be made to "The Financial Arrangements Act, 1876" (sections 34, 35, and 36). Under section 35 there is express power to retain the services of provincial officers for a stated period, and it seems clear that Parliament did not contemplate the possibility of dispensing with the services of provincial officers immediately upon the Abolition Act coming into force.

2. The answer to the second question must, I think, be in the affirmative.

Section 13 of "The Abolition of Provinces Act, 1875," was brought into operation when services were dispensed with in consequence of abolition. There was no necessity that the *office* held should be abolished, and I presume it frequently happened that, upon abolition taking effect, an officer was dispensed with simply because the duties of his office could readily be discharged by some other officer. This was, in fact, a consequence of abolition.

3. To this question only a general reply can be given, as it would depend upon the facts of any particular case whether compensation should be given or withheld, having regard to the views hereafter expressed.

Upon the whole question I may observe that the sections of the Financial Arrangements Act, above mentioned, were evidently intended to enable the Executive Government to perfect the arrangement of the public service necessitated by the abolition of the provinces. Section 34 directed that provincial officers should become officers of the Colonial Government, thus giving the latter a necessary control over persons who had not previously been in the colonial service. The provision of the latter part of the clause is ambiguous: possibly it meant that provincial officers should not, by reason of the transition from provincial to colonial service, have any right to pension. This part of the enactment does not, however, affect the questions put to me, and it was rendered quite clear by a subsequent provision in "The Civil Service Amendment Act, 1878" (section 8).

Taking the clauses as a whole the effect of them seems to be,—

(a.) If an officer were permanently transferred to the Civil Service of the colony, then he would come under the ordinary law affecting civil servants, and would have had no claim for compensation under the Abolition of Provinces Act;

(b.) If his services were retained temporarily under section 35 of the Financial Arrangements Act, and then dispensed with, the officer would receive the compensation provided for by the Abolition of Provinces Act.

I think that, in so far as the question of compensation to provincial officers was concerned, the enactments under consideration ought to have been liberally construed.

For instance, if the services of an officer had been retained beyond the period prescribed in section 35, and then were dispensed with, the officer would still, in my opinion, have been entitled to compensation.

It may be assumed that the Legislature intended to do what was fair and equitable in all cases which could reasonably come within the scope of the provisions referred to.

I have dealt with the question generally; there may have been particular cases in which the facts would have made a difference, having regard to the views above expressed.

W. S. REID.

Crown Law Office, 14th June, 1882.