

individual can do. In prosecuting a claim by law, the Crown is often freed from all liability for actions done by Ministers, especially in positions of breach of contract, when a company or private individual would be undoubtedly liable. Sir Julius Vogel would very likely find himself met by various technical niceties of the law. Although he might have a moral claim against the Government, yet, at the same time, as far as the law goes, he might be defeated. This Committee is, perhaps, neither a Court of equity nor a Court of law. It sits here to deal out justice. It represents the very highest tribunal in the land, and, as I say, sits here to deal out justice as impartially and as fairly as it possibly can. Indeed, its duty is really to endeavour to remedy cases where justice cannot be done in the law-courts. It is impossible for the law always to do justice, and it is just in those very cases that this Committee has a right to act. Now, I would point out to the Committee that by far the most important part of the services in connection with the raising of the loan, and the whole of the services as Inscription of Stock Agent, would be rendered at the 10th November. These are almost the very words of Sir. H. Atkinson (page 10, question 39); that is after Sir Julius had been dispensed with as Agent-General. Now, as to Sir Penrose Julyan's position: I quote from Sir H. Atkinson's evidence when questioned by Sir Julius Vogel:—

61. If I had communicated with you, saying that I thought I should get commission for the loan, I should have been doing what you just now said would have been looked upon as trying to take advantage of the Government in an emergency, which I quite agree with you the Government would have been very indignant at. At that time, too, I was in much closer relationship to the Government than an ordinary Agent-General, because you were consulting me almost as a colleague. To have made any claim at that time would have been very indecorous on my part?—Yes; we consulted you freely.

62. I wish to ask you about telegrams of Sir Penrose Julyan's which have never been made public. For months past, in anticipation of this loan, the Government had obtained exceptionally heavy advances from various monetary institutions in England principally by assistance of Sir Penrose Julyan?—Yes; that is so.

63. To my amazement, as much as to anybody's else, only five or six days before the loan was to be floated, Sir Penrose Julyan came to me and told me he had cabled out that he ceased to be one of the Crown Agents, but that he was willing to give his services as an ordinary Loan Agent. To that the Government replied that I must retain Sir Penrose Julyan's services. I think I was justified in doing what was necessary to retain those services. If his name had been withdrawn it would have been almost fatal to getting the loan. You will bear me out in saying it was a most critical period of the negotiations—a few days before we agreed to bring out the loan. It was almost impossible to get the institutions at Home to accept such an amount?—Yes; it was a very critical time.

64. Then, Sir Penrose Julyan received a reply, and I think I did also, that his services were to be retained. In putting it as you did—that he did not require to know what remuneration he was to receive—if I assure you that he absolutely insisted on it, do you not think the other Loan Agents were acting rightly in agreeing to the condition, there not being time to communicate with the Government?—No; I always thought they ought to have communicated with the Government. I cannot suppose for a moment that a man in Sir Penrose Julyan's position would have withdrawn simply because the amount of his commission was not agreed upon. I believe Sir Penrose Julyan would have been quite willing to leave the payment to the Government.

65. I assure you to the contrary. He insisted on having the amount settled in advance?—Of course I can only give my opinion.

66. At the same time I wish to state that I cannot see it reflects in the smallest degree on Sir Penrose Julyan that he should ask that the terms should be settled before he acted?—No; of course I cast no reflection on Sir Penrose Julyan at all. I think very highly of him indeed. But I cannot help thinking that if the Agent-General had said, I cannot pay this commission without communicating with my Government, he would have said it was perfectly reasonable.

67. I am not certain that the Government did not authorize me to make arrangements with Sir Penrose Julyan?—I cannot say I am absolutely certain, because I have not seen the telegrams since the time they were sent, but to the best of my memory and belief there was nothing about payment in the telegrams.

The following extract from the previous evidence not only refers to the whole matter very succinctly, but touches very plainly on this question of Sir Julius being indispensable to the Government, and of his being able, had he chosen, to have done like Sir Penrose Julyan—viz., settled in advance for his commission.

87. *Mr. Turnbull* (to Sir Julius Vogel).] You said you were in correspondence with Major Atkinson rather as a colleague of the Government?—Yes; the Government asked my advice about various measures. I think the correspondence is not published. They seemed to look upon me not only as Agent-General but as one of themselves, who had better opportunities of knowing what was taking place at Home than they had, and asked my advice.

88. *Mr. J. W. Thomson* (to Sir Julius Vogel).] It struck me, in reading over your statement, that you were scarcely justified in saying you were holding office for the convenience of the Government. You and Major Atkinson have already been discussing that point. Have you anything further to say in reference to that subject?—I am obliged to you for giving me the opportunity of saying so again, that I consider the course I took was absolutely and obviously a refusal to give up the directorship of the Agricultural Company. I was also notoriously continuing as a candidate for Falmouth, a position quite incompatible with that of Agent-General. I considered that I was holding the office entirely for the convenience of the Government, otherwise I should have been in a most insubordinate position. And when the question was raised by the lawyers at Home as to whether I was eligible to stand, as receiving salary from the Crown, I telegraphed out that instead of receiving salary I would act as Loan Agent; and the Government telegraphed back at once to say they were agreeable. If there was any chance of my continuing as Agent-General, would I have been permitted to continue to be a candidate for Falmouth? I certainly say in my mind, and I think the evidence is undoubted, that I was holding office for the convenience of the Government. I used that phrase because Sir John Hall used it. It is not exactly the phrase I should have invented myself. I would say I held office until it suited the Government to appoint my successor. But I had ceased to be permanent Agent-General.

89. Do you think that the Government had in their mind any person to succeed you, because you telegraphed on the 7th November giving the names of members of the Government that knew about you being director of the Agricultural Company, and Mr. Hall sent you a telegram four days afterwards? Do you think that during those four days Sir John Hall had made some arrangements for your successor?—The telegram of the 11th November contained the names of the late Government who were aware of my holding the directorship. I think my answer was conclusive. I said, "Cannot name time resign." I did not think Sir John Hall could possibly have contemplated my continuing as Agent-General. I put it as strongly as I could in respectful language. The Government said you must resign. They afterwards said we will give you time because of members of the late Government knowing of your becoming a director; to which I replied, "Cannot name time resign." Then I said I should be willing to act as Agent-General without salary as long as it suited the Government. Two or three months afterwards, when the time came for my standing for Falmouth, I suggested that course again, and the Government said at once there was no objection. They treated me and I treated them with full knowledge that I had ceased to be permanent Agent-General.

90. Do you not think, if you had stated absolutely to the Grey Government that you would not resign the directorship, that they would have taken some means to appoint a successor to you; and that, if they had done that, this claim