

done only as a matter of convenience. The Commissioners have no power to insist on a pension being granted in excess of that allowed by the Governor, but simply to determine whether the pension granted is appropriated by law. It was in this view that I requested that the pensions in the case of Judges Smith and Rogan should be referred to the Governor in Council. In the present case, after a careful study of all the Acts concerned, and of the rights intended thereby to be conferred on individuals, I have no hesitation in deciding that if His Excellency is pleased to confer on Mr. Gisborne the pension claimed, it will be my duty to make the issue accordingly. It will be for the members of the Executive Council to determine whether a declaratory Act is necessary to indemnify them for an illegal issue. If such an Act is passed, it should include the Commissioner of Audit, who is equally personally responsible; but I should not myself consider it necessary to move the Government to afford me protection which I cannot perceive is necessary.—JAMES EDWARD FITZ-GERALD, Commissioner of Audit, 10th November, 1876.

THE only difficulty which I see in paying, as proposed by Mr. Batkin, is, that Mr. Gisborne has counted the time he was acting as a Minister; to this I cannot agree, as I see it was specially stated, when the Hon. Mr. Fitzherbert retired, that his case was not to be taken as a precedent. I am willing to approve of payment of the pension, less the time served as a Minister, leaving that a question for the House to decide when the Act is amended.—H. A. A.—20th November, 1876.

No. 34.

The Hon. W. GISBORNE to the Hon. the COLONIAL TREASURER.

SIR,—

Wellington, 8th November, 1876.

May I request you to be good enough to inform me with respect to the pension to be granted to me on my retirement from the service? The leave granted to me by the Government with a view to my retirement expired on the 30th of September last, and for last month I have received neither salary nor pension.

The Hon. the Colonial Treasurer.

I have, &c.,
W. GISBORNE.

A TECHNICAL difficulty has interfered to prevent the payment of this pension, and it is probable that a declaratory Act will be needed to put the matter right. As there can be no doubt that Mr. Gisborne is entitled to receive the allowance, on the faith of which he retired from the public service, I recommend that, pending the settlement of the difficulty referred to, the monthly payments be made, and charged, if need be, to unauthorized expenditure.—C. T. BATKIN.—15th November, 1876.

No. 35.

The AUDITOR-GENERAL to the Hon. the COLONIAL TREASURER.

(Memorandum.)

22nd November, 1876.

THE Hon. Mr. Gisborne's retiring allowance, computed in terms of Mr. Batkin's minute, as approved by the Hon. the Premier, is as follows:—

Mr. Gisborne's period of service extends from the 12th July, 1847, to the 30th September, 1876, or 29 years 11 weeks 4 days. He was absent on leave from 1st May, 1852, to 31st October, 1853, 1 year 26 weeks 2 days; less allowed for two financial years, 12 weeks: total, 1 year 14 weeks 2 days. He was a member of Cabinet from 2nd July, 1869, to 10th September, 1872, 3 years 10 weeks 1 day. And absent on leave from 9th June to 30th September, 1876, 16 weeks 2 days; less allowed for two financial years, 12 weeks: total, 4 weeks 2 days. Total service, 24 years 34 weeks 6 days.

The salary attached to the office of Commissioner of Government Annuities for the three years previous to Mr. Gisborne's retirement was £800, and he is therefore entitled under the Act of 1861 to half-salary, £400; and $\frac{7}{12} = \frac{1}{2}$ of £800 for seven years' service over seventeen, £66 13s. 4d.: pension, £466 13s. 4d.

CHARLES KNIGHT,
Auditor-General.

The Hon. the Colonial Treasurer.

No. 36.

The SECRETARY to the TREASURY to the Hon. W. GISBORNE.

SIR,—

The Treasury, Wellington, 24th November, 1876.

Referring to your application for retiring allowance under the Civil Service Acts. in which you appear to ask for an allowance in respect of the period (from 2nd July, 1869, to the 10th September, 1872,) during which you held an appointment as a Minister of the Crown, I have the honor, by order of the Colonial Treasurer, to inform you that the Government is prepared to recommend His Excellency to grant you a retiring allowance in respect of your term of service from the 12th July, 1847, to the 30th September, 1876, after deducting therefrom the time during which in any year you were on leave of absence for a longer period than six weeks, and the time during which you were acting as a responsible member of the Executive Council.

The amount of pension payable to you will then compute as follows:—

From 12th July, 1847, to 30th September, 1876, 29 years 11 weeks 4 days. Less absent on leave from 1st May, 1852, to 31st October, 1853, 1 year 26 weeks 2 days; less allowed for two financial years, 12 weeks: total, 1 year 14 weeks 2 days. Member of Cabinet from 2nd July, 1869, to 10th September, 1872, 3 years 10 weeks 1 day. Absent on leave from 9th June to 30th September, 1876,