

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 your retirement was £800, and you are therefore entitled under the Act of 1861 to half salary, £400; and $\frac{2}{4} = \frac{1}{2}$ of £800 for seven years' service over seventeen, £66 13s. 4d.; pension, £466 13s. 4d.

I have, &c.,

The Hon. W. Gisborne.

C. T. BATKIN,
Secretary to the Treasury.

No. 37.

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

SIR,—

Wellington, 27th November, 1876.

I have the honor to acknowledge the receipt of your letter of the 24th instant, in which you state that I appear to ask for retiring allowance in respect of the period (from 2nd July, 1869, to 10th September, 1872) during which I was a Minister, and that the Government is of opinion that such time should be deducted from my service in computation of my allowance.

I beg to point out that I do not claim for the time (July to November, 1869) during which I held no appointment in the Civil Service in addition to ministerial office. I only claim on account of an office in the Civil Service (Government Annuities Commissioner) which I held, and the duties of which I performed.

I would respectfully submit the following facts with a view to the reconsideration of this question, which I am sure that the Government does not desire to determine, except with a fair regard to the lawful and equitable claims of an old public servant:—

1. When I accepted the office of Commissioner of Annuities, in November, 1869, it was on the distinct understanding that while I performed its duties, in addition to those of a responsible Minister, I should not draw the salary, but that the time during which I did its duties should count in computation of my pension. For corroboration of my statement I appeal to the Hon. Sir Donald McLean, who was then my colleague, and who is a member of the present Ministry. Sir Julius Vogel, and the Hon. Mr. Fox, were they in this colony, would, I am sure, bear me out to the same effect. Mr. Ormond, who was for nearly a year a member of the same Ministry, and with whom I was on terms of intimate friendship will, I doubt not, confirm me in the statement that I held that office and did its duties in good faith upon that understanding.

2. The salary of that office had been permanently appropriated at a sum to be fixed by the Governor, not exceeding £800 per annum, but, at my request, it was appropriated each year at £700 per annum, the same rate of salary which I drew as Under-Secretary and Secretary to the Cabinet. It was so appropriated, not that I should draw it while I was a Minister, but, in my belief, that the time might count in respect of my pension.

3. I understand that the Commissioner of Audit expressly raised the legal question whether the fact of my being a Minister of the Crown disentitled me to count the time during which I also held a civil office in the calculation of pension, and that the Solicitor-General is of opinion that I was not on that account disentitled to do so. I am not therefore asking for anything, in the opinion of the Law Officer of the Crown, unlawful.

4. In the case of Mr. Fitzherbert, who was allowed to count his time while Minister, but whose case was not to be a precedent, there is an essential distinction between his position and my own in my favour. For the last three years during which he held the office of Commissioner of Crown Lands he did not perform its duties, but they were done by deputy. The question that arose then (for, as a Minister, I had it before me), was whether those years could be counted—the very years on the basis of which the pension was to be calculated. I believe that I am generally correct in this reference to his case, though in speaking from recollection I may not be quite accurate in details.

5. In my case the duties were performed by me—duties of a most responsible and delicate character, involving the initiation and organization of an entirely new department, entailing on the colony enormous responsibilities. I launched the department in face of considerable opposition, and did so—a thing unprecedented in the case of private insurance companies—without subjecting my principal, the colony, to any preliminary expense beyond an advance of £2,000, which was repaid in two years. Sir J. Vogel, who, as you know, felt so great an interest in the matter, has more than once assured me of the importance which he attached to the conduct of the early steps of the department, and of his satisfaction of my administration of the office. I believe, without vanity, that my services in that office, from the great experience which I had acquired as Under-Secretary for fourteen years, aided, by making the new department a success, in saving the colony from great financial loss. I do not refer to this in the spirit of egotism, but in order to show that I spared no effort in doing the duties of Government Annuities Commissioner. It does, therefore, seem to me rather hard that, because I was also a Responsible Minister during that time, my services as Government Annuities Commissioner, for which I drew no salary, should not even be allowed to count towards any time for pension. The colony gets the benefit of those services, and I am to lose pay and time for pension in consideration of them, because in a political capacity, not then, or even, I suppose, now, a very agreeable or lucrative capacity, I was trying to do the colony all the little good I could.

6. At that time there was no feeling adverse to a Minister holding a Civil Service office. There had been repeated precedents for such a course. I was for three years altogether in both Houses, and heard no expression against it. If now it is believed to be so wrong, it seems unreasonable to make retrospective sacrifice of third parties to new-born virtue, and to visit penal consequences for its infraction before it was even thought of. The grossest injustice might, on such a principle, be inflicted.

I trust that these circumstances may induce the Government to give favourable consideration to my case.

I have, &c.,

The Secretary to the Treasury, Wellington.

W. GISBORNE.