

12th July, 1847 Appointed Private Secretary to Lieutenant-Governor Eyre.
 Feb., 1848. Appointed Clerk to Executive Council.
 1st Sept., 1849. Appointed Commissioner of Crown Lands, Auckland.
 1st July, 1856. Appointed Under-Secretary
 2nd July, 1869. Resigned as Under-Secretary
 Appointed Member Executive Council.
 5th July, 1869. Took office of Colonial Secretary
 22nd Nov., 1869. Appointed Commissioner of Government Insurance.
 10th Sept., 1872. Ceased to be Colonial Secretary
 30th Sept., 1876. Resigned as Commissioner of Insurance.
 5th July, 1879, to } Minister of Lands, Mines, and Education, and Member Executive Council.
 8th Oct., 1879. }
 Leave granted: 1st May, 1852, to 31st October, 1853; 9th June, 1876, to 30th September, 1876.
 Sums of money received with pension: Salary as Minister, July–October, 1879, £325 18s. 10d.

SIR,—

Wellington, 11th July, 1881.

For obvious reasons I refrain from taking part in the deliberations of the Public Accounts Committee on the subject of certain pensions.

I wish, however, in this letter to explain why my correspondence with the Government on the subject of my pension appears unfinished. While my claim, to count as part of the time of my service the period during which I held the office of Government Insurance Commissioner in addition to a ministerial portfolio, was under the consideration of the Government in 1877, I became a candidate for, and was elected to, a seat in the House of Representatives. Thereupon I waited on the Hon. Major Atkinson, the Colonial Treasurer, and, in order to avoid misconstruction, I withdrew that claim.

I shall of course be ready, if the Committee desire it, to give my evidence on any point which, in their opinion, requires my examination.

I have, &c.,

The Chairman of the Public Accounts Committee, &c.

W GISBORNE.

SIR,—

I might have added yesterday that an officer on half-pay in the army or navy does not, I believe, lose his pay when he becomes Minister. I am under the belief, though I will not say I am certain, that the Commander-in-Chief who used to be a Minister, though not in the Cabinet, drew his General's or Field Marshal's pay in addition to his pay as Minister. And the Duke of Wellington as Premier, or General Peel as Secretary of War, drew pay as Field Marshal and General in addition to that of their office.

I should also like to express the opinion that, whatever be thought of the propriety of a permanent office being held conjointly with a nominated one, the question cannot be raised as regards pension. The latter matter depends not on whether the civil office ought to have been, but on whether it actually was, held. In Gisborne's case the office was held, and to say it was not would invalidate his acts as Commissioner of Annuities; and Parliament was aware of the arrangement at the time.

I need not say I think the matter should be put at rest by an Act, and that Ministers should not be allowed to hold civil offices nor time to count for pensions. But such is not, in my mind, the law at present.

I enclose the memorandum I promised yesterday

I have, &c.,

The Chairman, Public Accounts Committee.

JAMES EDWARD FITZGERALD.

DR. POLLEN'S PENSION

THE SOLICITOR-GENERAL'S OPINIONS.

I HAVE carefully considered the various questions put to me on attached papers,* and now beg to reply to them in their order, adapting my answers to the circumstances of Dr. Pollen's case:—

1. Can a Civil servant, who resigns, claim his pension as a matter of right?—If a Civil servant resigns his office absolutely he cannot claim his pension as a matter of right. The act of resignation usually carries with it a surrender of the privileges attached to the office; and, in the Civil Service Acts the expressions used in respect of officers claiming superannuation allowances are, to “retire from the service,” “retiring allowances,” &c., which convey quite a different meaning from resignation. But I think an officer may, in resigning his office, reserve the question of his right to receive a retiring allowance; and this Dr. Pollen did, in his letter of the 30th October, 1876, and his resignation was accepted upon those terms by the Governor.

2. If Civil servant called to Legislative Council, can he remain Civil servant: (a.) under “The Disqualification Act, 1870;” (b.) under “The Disqualification Act, 1876?”—Speaking generally a Civil servant—i.e., one holding any office, place, or employment, &c., within the meaning of the Disqualification Acts—would not be *capable* of being summoned to the Legislative Council. But the Disqualification Act of 1870 exempted from its operation members of the Executive Council holding certain Ministerial offices; and under this Act there is no prohibition of a person being called to the Legislative Council while a Civil servant, so long as he also remains a member of the Executive Council, and holds his Ministerial office. There is a similar provision in the Disqualification Act of 1876, to which the same remark would apply, subject, however, to the terms of section 14, which enact that a member of the Civil service shall not, while he is such member or for six months thereafter, be capable of holding a seat in the Legislative Council. As a matter of fact, members of the Executive have held offices in

* NOTE.—The above series of questions are unsigned. They are in the handwriting of Mr. Stout, the Attorney-General of the period.