

1886.
NEW ZEALAND.

PUBLIC ACCOUNTS COMMITTEE

(REPORT OF THE) ON DR. POLLEN'S CLAIM FOR PENSION FOR THE PERIOD FROM 3RD JULY, 1873, TO 30TH OCTOBER, 1876, TOGETHER WITH MINUTES OF PROCEEDINGS AND EVIDENCE, AND APPENDIX.

Report brought up 20th July, 1886, and ordered to be printed.

REFERENCE FROM THE TREASURY.

(No. 154.)

In pursuance of the resolution of the House of the 8th July, 1870, the Colonial Treasurer transmits to the Public Accounts Committee the papers (85/2257) relative to the Hon. Dr. Pollen's retiring allowance, with the request that the Committee will take into its consideration and report upon Dr. Pollen's claim for payment of retiring allowance for the period 3rd July, 1873, to 30th, October, 1876.

The Treasury, Wellington, 8th June, 1886.

JULIUS VOGEL,
Colonial Treasurer.

REPORT.

THE Public Accounts Committee, having received from the Colonial Treasurer a memorandum dated the 8th June, 1886, transmitting papers (85/2257) relative to the Hon. Dr. Pollen's retiring allowance, and requesting the Committee to report upon Dr. Pollen's claim for payment of retiring allowance for the period from the 3rd July, 1873, to the 30th October, 1876, have the honour to report,—

That they have carefully considered the claim and the previous papers connected therewith—namely, B.-17, Appendix to Journals, House of Representatives, 1880; No. 13, Session II., Legislative Council Appendix, 1884; and Report of Public Accounts Committee, Appendix, House of Representatives, 1881—and find that Dr. Pollen was one of the Ministry from the 12th May, 1873, to the 13th October, 1877; that he held the offices for which his pension is now claimed till the 30th October, 1876, and resigned them on that date in consequence of "The Disqualification Act, 1876," coming into operation; that he could at any time between 1873 and 1876 have resumed the said offices; and that he could have no claim for pension until they were actually resigned.

The Committee therefore see no reason for reopening the question of pension allowed to Dr. Pollen, or for recommending payment of the retiring allowance referred to in your memorandum.
20th July, 1886. F. J. Moss, Chairman.

MINUTES OF PROCEEDINGS.

TUESDAY, 15TH JUNE, 1886.

The Committee met pursuant to notice.

Present: Mr. Moss (Chairman), Mr. Barron, Mr. Dargaville, Mr. Holmes, Mr. Peacock.

The minutes of the previous meeting were read and confirmed.

Reference from the Treasury, dated the 8th June, 1886, and signed by Sir Julius Vogel, read by Clerk.

The Committee then adjourned till Thursday, at 11 o'clock.

THURSDAY, 17TH JUNE, 1886.

The Committee met pursuant to notice.

Present: Mr. Moss (Chairman), Hon. Major Atkinson, Mr. Barron, Mr. Dargaville, Mr. Montgomery, Mr. Peacock, Mr. Wilson.

The minutes of the previous meeting were read and confirmed.

Dr. Pollen attended and stated the nature of his claim, and his evidence was taken down.

Resolved, on the motion of Mr. Montgomery, That the Committee do now adjourn till such day as may be fixed by the Chairman for the next meeting.

THURSDAY, 24TH JUNE, 1886.

The Committee met pursuant to notice.

Present: Mr. Moss (Chairman), Hon. Major Atkinson, Mr. Barron, Mr. Dargaville, Mr. Montgomery, Dr. Newman, Hon. Sir Julius Vogel, Mr. Wilson.

The minutes of the previous meeting were read and confirmed.

Resolved, on the motion of Mr. Montgomery, That the question of Dr. Pollen's pension be postponed till next sitting day.

The Committee then adjourned.

THURSDAY, 8TH JULY, 1886.

The Committee met pursuant to notice.

Present: Mr. Moss (Chairman), Hon. J. Ballance, Mr. Barron, Mr. Cowan, Mr. Dargaville, Mr. Montgomery, Mr. Gore, Dr. Newman, Mr. Peacock, Mr. Wilson.

The minutes of the previous meeting were read and confirmed.

Mr. Wilson moved, That the Committee recommends Dr. Pollen's claim for the favourable consideration of Parliament.

Mr Barron moved, as an amendment, That all the words after the word "That" be omitted, for the purpose of inserting the following in lieu thereof: "the Committee sees no reason for recommending that any further payment beyond that already authorized be made to Dr. Pollen."

Upon the question being put, "That the words proposed to be omitted stand part of the question," the Committee divided, and the names were taken down as follows:—

Ayes, 4.—Mr. Dargaville, Dr. Newman, Mr. Peacock, Mr. Wilson.

Noes, 5.—Hon. Mr. Ballance, Mr. Barron, Mr. Cowan, Mr. Gore, Mr. Montgomery.

So it passed in the negative.

And the question being put, "That the words proposed to be inserted be so inserted," it was resolved in the affirmative.

On the motion of Mr. Dargaville, *Resolved*, That the report be considered at a meeting of the Committee on Thursday next; and that notice of the same be given to each member of the Committee.

Notice of motion was given by Mr. Dargaville for Thursday next, That the resolution arrived at relative to Dr. Pollen's pension be rescinded.

The Committee then adjourned.

THURSDAY, 15TH JULY, 1886.

The Committee met pursuant to notice.

Present: Mr. Moss (Chairman), Hon. Major Atkinson, Hon. Mr. Ballance, Mr. Barron, Mr. Cowan, Mr. Dargaville, Mr. Gore, Mr. Montgomery, Dr. Newman, Mr. Peacock, Sir J. Vogel, Mr. Wilson.

The minutes of the previous meeting were read and confirmed.

Mr. Dargaville moved the resolution of which he had given notice on the 8th July, 1886, as follows: That the resolution arrived at relative to Dr. Pollen's claim be rescinded.

Amendment proposed by Dr. Newman, "That the consideration of the motion be deferred to a convenient day, to be named hereafter, of which day due notice be given to each member of the Committee."—Carried.

The Committee then adjourned.

WEDNESDAY, 28TH JULY, 1886.

The Committee met pursuant to notice.

Present: Mr. Moss (Chairman), Hon. Major Atkinson, Hon. Mr. Ballance, Mr. Barron, Mr. Cowan, Mr. Dargaville, Mr. Gore, Mr. Holmes, Mr. Montgomery, Dr. Newman, Mr. Peacock, Hon. Sir Julius Vogel, Mr. Wilson.

The minutes of the previous meeting were read and confirmed.

Mr. Dargaville moved, That the resolution passed on the 8th July, on motion of Mr. Barron, relative to Dr. Pollen's pension, be rescinded.

Upon the question being put, the Committee divided, and the names were taken down as follows:—

Ayes, 6.—Hon. Major Atkinson, Mr. Dargaville, Dr. Newman, Mr. Peacock, Hon. Sir Julius Vogel, Mr. Wilson.

Noes, 6.—Hon. J. Ballance, Mr. Barron, Mr. Cowan, Mr. Gore, Mr. Holmes, Mr. Montgomery.

The votes being equal, the Chairman gave his casting vote in favour of the Noes.

So it passed in the negative, and the report was adopted and ordered to be presented this day.

The Committee then adjourned.

MINUTES OF EVIDENCE.

THURSDAY, 17TH JUNE, 1886. (Mr. Moss, Chairman.)

Hon. Dr. POLLEN examined.

1. *The Chairman.*] The Committee would be glad to know if you have any information to lay before them in addition to that contained in your letters?—I should like to say a few words besides what is contained in the papers before the Committee.

2. Will you be good enough to state what you wish to say?—No doubt the whole case is contained in the papers; but I do not know whether the last letter which I wrote alluded to the cause of reference to the Government.

3. In connection with that letter, it is dated the 3rd July, 1884, but I take it to mean 1885?—Yes, it is so. It will be seen from the papers that my retiring allowance was granted to me under the Civil Service Act of 1866, 33rd clause; and that the law officers of the Crown, the Controller and Auditor-General, and the Assistant Controller and Auditor, have all decided that I was entitled to draw the full amount of my allowance. At the time of my retirement, the 3rd July, 1873, at which time I had attained the age of sixty years, I was by law not only entitled but required to retire from the public service. I was asked by Sir Julius Vogel in 1873 to join his Ministry on the same conditions on which I had formerly joined two other Ministries—without portfolio; and it was understood that I should not be required to live out of Auckland, but continue to discharge the duties of the position which I then held in the Civil Service. This was in May. I came down to Wellington in the end of June or July following. Mr. Reynolds was then Colonial Secretary, and I was induced to accept office with that portfolio. This upset all the the arrangements which had been made with regard to my continuing to hold office in the Civil Service, and the mistake I made was in not withdrawing at once from the Civil Service. I did not do so for the reason that I was a Minister, and unwilling to decide on my own case. It would have been necessary, if I had then given up my office, to have made fresh appointments in my place, the time not having arrived when the offices which I filled could have been distributed or done away with. I continued to hold these offices till 1876, when the Disqualification Act was passed, in which appeared a clause, a copy of which—as I was the only person affected by it—was directed to my address, which clause precluded any person holding office in the Civil Service from having a seat in the Legislature. The alternative was then before me, either to give up my portfolio and retire from the Council, or to resign my Civil Service appointments. I did so, and made no further movement with regard to my retiring allowance till 1877, when the Ministry were put out of office. I then made the application in the usual way. It was many months before I could get an answer of any kind; but after a long time I got an answer containing a decision that I could by no means accept. It was three years before I had an opportunity of getting a settlement of the question, or received any allowance at all. Members will excuse me if I refer to something personal: I am a member of the Council, supposed to be representative of property in New Zealand; my property qualification, however, is below the average. I am and always have been a poor man. Failing to receive the income I expected to receive, for three years I was subjected to pecuniary embarrassment, and was obliged to dispose of a property which I had hoped to be able to keep. When the opportunity came for getting a settlement of my claim it was prudent for me to put in one so moderate as not to admit of question, and, instead of insisting on the whole amount, I was content to draw my retiring allowance for the period of my resignation of office in 1876, hoping in this way to get a quiet settlement of the whole affair. I got my allowance on these terms, but, unfortunately, the matter was not allowed to rest there. Members will remember what took place in 1881, when the whole question was reopened and referred to the Public Accounts Committee for decision, during which time, I am informed, a very considerable difference of opinion took place amongst members, and what I may, without offence, describe as a party-fight took place over my unfortunate claim. I was laid, so to say, under the harrows. I had no opportunity of saying a word for myself, and, it being the “silly season” in journalism, the case was taken up outside, and there was hardly a paper in the colony in which my claim was not made the subject of leading articles of all kinds, but invariably unfavourable to me. It was not possible for me to sit down calmly under the kind of accusations made on the occasion, and I then took the opportunity, the question having being reopened, to put my case fully before the Government and the public as far as I could, and claim the consideration I was entitled to—the payment of the whole pension from the time of my official retirement in 1873 up to the time when I resigned my offices in 1876. That is the claim that I make now. I wish the Committee to understand that I made it in the second place because the case was reopened, and because, seeing the misapprehensions that prevailed, and the indignities to which I was subjected, it became my duty to put my case fully before the Government and the public. I have done so, and I claim the same privilege as was accorded to Mr. Gisborne, Sir William Fitzherbert, and others. “The Pensions Act, 1884,” having been passed, a case such as mine can never occur again, and I am the only person whose claim has not been settled. It is a distinction which is invidious, and, I think, ought to be removed if possible.

4. *Mr. Dargaville.*] Do I understand that the period of service for which you claim a pension expired in 1874; the seventeen years you speak of expired then?—I claimed under different Acts. The question has been raised as to the incompatibility of the offices which I held in the Civil Service with the ministerial office, and I did not press my claim for the reasons I have stated, namely, that I was a Minister; and my colleagues agreed that I should retire unconditionally, and leave the question to be settled in the future.

5. The difficulty the Committee will have to deal with is presented by the fact of your having closed the matter to all intents and purposes in the receipt that you gave in 1880, as shown by Mr. Dick's letter of 1882. In your letter of the 1st March, 1880, you say, "I do not and did not make any claim for pension," &c. (see letter referred to). You urge, as against that, the fact that Parliament reopened the matter, and that is your sole justification for making this claim?—I hold that the question was not finally settled, and that the fact of my getting any pension at all was still in abeyance. In one of the Acts passed in the House there was a clause which was retrospective in its operation, and which would have fatally cut me off altogether from any kind of consideration for my long services. The passing of the Act was resisted in the Council (I was not here at the time), and only by this resistance I was saved from having to begin the world again. I believed that the compromise which I made not having been held, and the question reopened, I was entitled to claim the whole of the consideration for my services. I may be permitted to say this generally: that where a Civil servant gives his time to the Government under the sanction of the Civil Service Acts, as in my case, his retiring allowance should be regarded not as a gratuity or a privilege or an act of grace, but as a right, as, in fact, a deferred payment for services performed; and if I had not been quite sure of this I would not have remained in the Government service for one hour. It was always open to me to make two or three times the income in other ways. It was merely by an accident that an Act was not passed which would have deprived me of everything.

APPENDIX.

DR. POLLEN'S CLAIM.

The Hon. Dr. POLLEN to the Hon. the COLONIAL SECRETARY.

SIR,—

Wellington, 3rd July, 1885.

With reference to the more recent correspondence on the subject of my retiring allowance, as laid before the Houses of Assembly last year, and printed in the Appendix to the Journal of the Legislative Council, I venture to express the hope that all doubt has been removed as to the validity of the claim put forward by me, and that I have been able to show satisfactorily that, even waiving the technical objection based upon my having held place in the Executive Council of the Colony in the years 1861–62, and 1868–69, I had given more than a sufficient length of public service to entitle me to the half-pay of my Civil appointments at the time when in June, 1873, I had attained the full age of sixty years, and when, in accordance with the provisions of clause 33 of "The Civil Service Act, 1866," I ought to have retired.

If, when in July, 1873, I accepted the portfolio of Colonial Secretary in the Ministry of Sir Julius Vogel, I abstained from pressing my claim, it was because then, as at a later period, in 1876, I was unwilling to use my influence or authority as a Minister in a decision upon my own case; and because by continuing to do the work of my Civil appointments, not doubting of the future, I was enabled to save to the colony the cost of providing a successor in those offices.

You will find that it has been admitted by the Controller and Auditor-General, and by the Assistant-Controller and Auditor, Mr. Batkin, as well as by the law officers of the Crown, that I was entitled to receive payment of my retiring allowance as from July, 1873; and if, in 1880, after more than three years of patient waiting for a decision, I accepted the settlement then made, it was in a sense under duress, and with the hope that it would be regarded as complete and final.

In this I was disappointed; and, therefore, after the whole case had been reopened in the House of Representatives, and referred for adjudication to the Public Accounts Committee, I felt that I was at liberty to prefer the claim made in my letter of date 8th September, 1882, for payment of my retiring allowance from 3rd July, 1873, to 30th October, 1876.

That claim I now beg most respectfully to renew. The provisions of "The Pensions Act, 1884," will prevent any similar claim to mine from arising in the future; but, as that Act has not a retrospective operation, it does not affect my case; the only bar to my present claim appears to be that set forth in the letter of date 15th September, 1882, from the Hon. Mr. Dick, and this bar I submit has been removed by the reopening of the case as hereinbefore mentioned.

The Hon. Sir William Fitzherbert and the Hon. Mr. Gisborne have been permitted, as they were indeed entitled, without question, to draw their retiring allowance during the whole time of their holding ministerial office, and the right to do so has been conceded in my own case as to the period from 30th October, 1876, to 13th October, 1877. I hope, therefore, that there is now no sufficient reason why I should be exceptionally treated, and a distinction, which appears invidious, continued in my regard.

I have, &c.,

The Hon. the Colonial Secretary, Wellington.

DANIEL POLLEN.

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