

# REPORT

OF THE

## PUBLIC ACCOUNTS COMMITTEE

ON

# THE PUBLIC REVENUES BILL,

AS AMENDED IN COMMITTEE OF THE WHOLE HOUSE;

TOGETHER WITH

MINUTES OF PROCEEDINGS AND EVIDENCE.

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REPORT BROUGHT UP 24<sup>TH</sup> SEPTEMBER, 1872, AND ORDERED TO BE PRINTED.

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WELLINGTON.

—  
1872.

ORDER OF REFERENCE.

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*Extract from the Journals of the House of Representatives.*

TUESDAY, THE 17TH DAY OF SEPTEMBER, 1872.

*Ordered,* That the Public Revenues Bill, as amended in Committee, be referred to the Select Committee on Public Accounts to report thereon.

*Ordered,* That the Committee do report within a week.

# REPORT OF THE PUBLIC ACCOUNTS COMMITTEE ON THE PUBLIC REVENUES BILL.

The Public Accounts Committee, to whom was referred the Public Revenues Bill as amended in Committee of the whole House, have the honor to report that they have gone through the Bill, and made certain amendments therein, as shown in the copy of Bill attached to this report, and beg to recommend their adoption by the House.

Wellington, 24th September, 1872.

READER WOOD,  
Chairman.

## MINUTES OF PROCEEDINGS.

THURSDAY, 19TH SEPTEMBER, 1872.

The Committee met pursuant to notice.

PRESENT :

Hon. Mr. Curtis, Hon. Mr. Fitzherbert, Hon. Mr. Gillies, Mr. Pearce,		Mr. J. Shephard, Mr. Speaker, Hon. Mr. Stafford, Mr. Vogel.
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Mr. Wood in the chair.

The minutes of the previous meeting were read and confirmed.

Order of reference of 17th September, 1872, read.

The Public Revenues Bill, as amended in Committee of the whole House, was then considered.

After some preliminary discussion as to the contents of the Bill, the Hon. the Colonial Treasurer explained that the Bill had been framed by the Controller, Mr. Fitzgerald, and introduced by Mr. Vogel, and that he believed both the Controller and the Auditor-General agreed to the proposed amendments.

The Hon. Mr. Fitzherbert then moved, That the Bill be considered clause by clause.

Carried.

Clauses 1 to 6 read and agreed to.

With reference to proposed clause 7, the Hon. the Colonial Treasurer stated that it was in accordance with the Imperial system of audit, and was proposed to be inserted in case of disputes arising between the Commissioners and the Treasury.

After some further discussion, the Hon. the Colonial Treasurer moved, That the Controller and the Auditor-General be requested to attend the Committee at 11.30 a.m. to-morrow, for the purpose of giving evidence.

Carried.

Committee then adjourned till 11.30 a.m. to-morrow.

FRIDAY, 20TH SEPTEMBER, 1872.

The Committee met pursuant to adjournment.

PRESENT :

Hon. Mr. Curtis, Hon. Mr. Fitzherbert, Hon. Mr. Gillies, Mr. T. Kelly, Mr. Pearce,		Mr. J. Shephard, Mr. Speaker, Hon. Mr. Stafford, Mr. Vogel.
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Mr. Wood in the chair.

The minutes of the previous meeting were read and confirmed.

The Auditor-General attended, and was examined.

The Controller also attended.

The Committee then adjourned till 12.30 p.m. tomorrow.

SATURDAY, 21ST SEPTEMBER, 1872.

The Committee met pursuant to adjournment.

PRESENT :

Hon. Mr. Curtis, Hon. Mr. Fitzherbert, Hon. Mr. Gillies, Mr. T. Kelly,		Mr. Pearce, Mr. J. Shephard, Mr. Speaker, Mr. Vogel.
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Mr. Wood in the chair.

The minutes of the previous meeting were read and confirmed.  
 The Controller attended, and was examined.  
 The Controller was thanked, and withdrew.  
 The Auditor-General attended, and was further examined.  
 The Auditor-General was thanked, and withdrew.  
 The Committee then adjourned till 11.30 a.m., on Monday, 23rd September.

MONDAY, 23RD SEPTEMBER, 1872.

The Committee met pursuant to adjournment.

PRESENT :

Hon. Mr. Curtis,  
 Hon. Mr. Fitzherbert,  
 Hon. Mr. Gillies,  
 Mr. T. Kelly,

Mr. J. Shephard,  
 Mr. Speaker,  
 Hon. Mr. Stafford.  
 Mr. Vogel.

Mr. Wood in the Chair.

The minutes of the previous meeting were read and confirmed.

A letter from the Controller (Mr. Fitzgerald), stating he was unable to attend the Committee on account of illness, was received and read.

The Committee resumed the discussion on the proposed clause 7 of the Public Revenues Bill.

Moved by Mr. Vogel, That in the new clause 7, after the words "made by the Commissioners shall be," the words "by them" be inserted.

Carried.

Moved by Mr. Vogel, That at the end of new clause 7, after the words "meeting of Parliament," the words "Provided that if, in the opinion of the Commissioners, the proposed mode of charge is illegal, the opinion of the Attorney-General shall be taken, and the matter shall then be decided by the Governor in Council," be added.

Carried.

Clause 7 as amended was agreed to.

The Hon. the Colonial Treasurer intimated his intention to propose the following further alterations in the Bill:—

Clause 8. To add after "altered by," in the tenth line, "the Commissioners and the Colonial Treasurer concurrently. If the Commissioners and the Colonial Treasurer do not agree as to the proposed alteration, the Commissioners shall be bound by the decision of the Colonial Treasurer, subject to the provisions in the previous section of this Act relative to the laying of objections before Parliament, and the mode of ultimate decision by the Governor in Council."

From the word "imprest," on the tenth line to the end of clause 8, to be a new clause 9.

After "imprests" on the thirteenth line, to insert "within the Colony," and to substitute "seventy-five" for "fifty" on the sixteenth line.

To alter the numbers of the succeeding clauses.

In the new clause 14, to omit "of forty thousand pounds," and insert "authorized to be issued by way of Deficiency Bills."

Also in same clause, on the fifty-second line, after the words "in the whole" to bring in the words "in any one financial year," which are on the same line.

These alterations were agreed to by the Committee.

Moved by Mr. T. Kelly, That the Bill as amended be agreed to.

Carried.

The Hon. Mr. Fitzherbert requested that the replies to certain questions he had written for the opinions of the Auditor-General and the Controller, should be placed on record.

Agreed to.

The Committee then adjourned *sine die*.

*Questions by Hon. Mr. Fitzherbert to the Auditor-General and Controller, to which replies were requested.*

1. In case of difference of opinion between Treasurer and Commissioners as to what vote any proposed absolute payment should be charged, with whom, in your opinion, should final decision rest?

2. In case of difference of opinion as to what vote imprests should be ultimately brought to charge, with whom, in your opinion, should final decision rest?

3. After some particular votes have been charged, whether in case of absolute payments or in case of imprests, ought any power of transfer from one vote to another to reside with the Colonial Treasurer?

*Replies to Questions by Auditor-General.*

1. Under the proposed law, the Commissioners will audit claims prior to payment. No payments will be made, except in pursuance of their orders on the Bank where the "Public Account" is kept. The issues must not exceed the votes, and must be for the special services for which each vote is granted. The Commissioners will have to be satisfied on the above points before they commit themselves to an issue of public moneys, and will charge the issues in accordance with their decision in each case. If the Treasury in making up the Public Accounts elect to charge the payments to a vote other than that under which the Commissioners issued their orders for, this would not interfere with the accounts kept by the Commissioners, if these officers are satisfied that the issues as charged by them are in every respect in accordance with the law. If they are uncertain as to a point of law, they should take the opinion of the Law Adviser of the Crown; but in no case should their decision be

absolutely overridden by the Department which they are supposed to control in the issue of public moneys. My answer to the question is, that the final decision should rest with the Commissioners, subject to the opinion of the Law Adviser of the Crown, if the Treasurer should think proper to refer a difference of opinion to that functionary.

2. This question is involved in that of No. 1, and my reply is the same as above.

3. This also seems involved in No. 1. If the Treasury can, at their option, make transfers after payment, and can compel the Commissioners to follow their controlling power, this would be giving the Treasury all the authority that they would have if their decision were final at the time of absolute payment. My answer is, that no transfer should be made without the assent of the Commissioners.

If, however, I have mistaken the question, and it is only intended to decide whether the Treasury should have the power to make transfers in the Public Accounts as rendered to Parliament, then I am of opinion that the Treasury cannot be interfered with by the Commissioners in this respect, since no such alteration will force them to alter their accounts; nor would it affect the further issues of public moneys, the extent of which will be governed by their own mode of treating the issues in their accounts.

CHARLES KNIGHT,  
Auditor-General.

#### *Replies to Questions by the Controller.*

1. In answering this question, I wish to guard against giving any general expression of opinion under any other system of control and audit. I confine my answer to the system at present in the course of establishment by the proposed Bill. With this limitation, I think the Commissioners should accept the vote stated on the voucher submitted to them, unless such an issue would be absolutely illegal. The functions of the Commissioners are strictly judicial; every matter depending on discretion is ministerial, and rightly lies with the Treasurer. To allow the Commissioners to exercise any other function than that of determining the plain legality or illegality of a step would destroy their character as Controllers, and invest them with duties of Ministers. As to the legality of an issue their power should be absolutely uncontrolled, except by *mandamus* of the Supreme Court, and by the ultimate power of suspension vested in the Governor in Council.

2. In any alteration of the charge of an imprest the same rule should apply. The Treasurer should charge them as he pleased, subject to the decision of the Commissioners that such charge was not illegal. Obviously, had the Commissioners resolved not to issue, against a vote, the vote ought not to be charged through the indirect process of an imprest.

3. Certainly not. The present system will do comparatively little good unless it results in two absolutely identical accounts, one in the Treasury and one in the Audit. It is hardly an exaggeration to say that one-half the time of these Departments is wasted in adjusting discrepancies of account. No charge ought therefore ever to be made in one account without a corresponding entry in the other. This involves a consent of both officers, which should therefore be the rule before any charge is altered.

JAMES EDWARD FITZGERALD,  
Controller.

## MINUTES OF EVIDENCE.

FRIDAY, 20TH SEPTEMBER, 1872.

Dr. KNIGHT, Auditor-General, in attendance and examined.

1. *The Hon. Mr. Gillies* directed the attention of the witness to clause 7 of the Public Revenues Act, which was read as follows:—"In case any difference of opinion shall arise between the Commissioners and the Treasurer as to the vote or authority to which any expenditure ought to be charged, the question shall be determined by the Colonial Treasurer, but the objections made by the Commissioners shall be laid before Parliament within ten days thereafter, if Parliament be then in session, and if not, within ten days after the next meeting of Parliament." The witness was asked to state his opinion with respect to that provision.—The first I heard of an alteration proposed to be made in the Bill was by information gained from the newspapers. It was stated that disputes had arisen between the Controller and the Auditor-General, and that a provision was rendered necessary so as to admit of the Colonial Treasurer deciding the points in dispute. The only difference of opinion that I have heard of—for disputes there could not have been, seeing that there has been no official communication between the Controller and the Auditor-General—arose I understand in this way: I objected to a certain expenditure which was afterwards passed by the Controller. It will be seen on reference to "The Immigration and Public Works Act, 1870," that a sum of £40,000 is allocated out of the loan as un-apportioned, to be expended by direction of the General Assembly. As the General Assembly has made no direction in the matter, I have been compelled to refuse passing any claim for payment under this part of the loan. The Controller, I understand, has taken a different view, and seems to have treated the provision as a vote to be spent as the Government may direct, without specific direction from the General Assembly. I think a provision in the Act should be made, to enable the Colonial Treasurer to decide how expenditure should be charged in such cases of difference between the two Commissioners. But the provision to which my attention is now called is a very different one. It gives to the Treasurer absolute power to make transfers from one vote to another, in opposition to the decision of the Commissioners. In fact, it leaves matters pretty much as they are at present. Under the existing law, public money is drawn from the Public Account for one service, and is spent in another. Under the proposed law, the public

*Dr. Knight.*

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money is spent on a service in conformity with the decision of the Controller, but is afterwards transferred to another vote, under the direction of the Colonial Treasurer. I may mention, as an illustration of the working of the law as it now stands, the provision made in "The Immigration and Public Works Act, 1870," for the extension of the telegraph. The sum provided for that service is £60,000. The sums issued by the Controller, up to the 30th June last, was £49,000. On that date the sums actually disbursed on the extension of the telegraph was £58,000, or more; on taking the imprest outstanding, the sums actually disbursed amounted to about £60,000, so that we may say the vote was exhausted on the 30th June last. But as only £49,000 had been drawn through the Controller, there still remained in the books of that officer, on the 30th June, a balance of £11,000 to the credit of "Telegraph," and the Treasury continued to draw upon this balance, until at length the vote has been exceeded by five or six thousand pounds. The Controller could not stop this expenditure; he had no means of knowing that the Treasury had been diverting other funds to Telegraph purposes, and that the vote was being greatly exceeded. To put a stop to these grave irregularities, the present Bill puts the Commissioners of Audit in full knowledge of how the money is actually spent. But the proposed alteration is simply a travesty of the existing law, by allowing the Treasurer to transfer from one vote to another any sums he pleases, so that the only difference between the present and the proposed law is, that now a vote can be exceeded without the knowledge of the Controller, while under the proposed law it can be done with the knowledge of the Controller, and in opposition to his decision, thus legalizing an irregular expenditure. Clause 7, as now altered, is only of importance when the Treasury designs to exceed a vote. The Treasury can then make transfers from an exhausted vote to another, as, for instance, to "Miscellaneous." This may be done even if the vote for Miscellaneous is exceeded; for the Treasury may urge that the Miscellaneous vote is exceeded merely because a number of expenses have been unnecessarily crowded into it; that these will be culled out and distributed among other votes, and the Miscellaneous vote thus relieved of the excess. Their redistribution can only be completed at the end of the financial year, and when the annual amount is made up and rendered, for from it the Commissioners will learn how the Miscellaneous vote has been adjusted. This annual account has not hitherto been rendered until about a year after the date required by law. It is scarcely necessary to add that any observations of the Commissioners on such a state of accounts have as little interest as possible.

2. What I wish to ascertain is, would it be wise or proper. Take for example the case of a payment admittedly correct, and which is authorized by one of two votes, say, for instance, Votes 30 and 35. The appropriation is made by Vote 30 but charged against Vote 35. Would you consider it right that the Treasurer should have authority to decide the point?—If the expense belongs to Vote 30, and the Commissioners have no doubt that it does, and that it does not belong to Vote 35, the Treasurer ought not to have the power to transfer it to Vote 35 in opposition to the Commissioners.

3. *Mr. Speaker.*] In your opinion, does the clause give authority to the Treasurer to control the vote?—I think the new clause does give an overriding power to the Treasurer.

4. *The Hon. Mr. Gillies.*] Will you explain to the Committee your remarks with regard to what would occur in connection with the transfer of votes when improperly charged. Could the transfer be made under the Bill?—It could be done if the Commissioners concurred in it as being correct.

5. It could only be done with the consent of the Commissioners?—The transfer could be made under directions of the respective Ministers.

6. In the case of disputes arising between the Commissioners and the Treasurer, do you not think that the decision of the Treasurer should decide the point?—No.

7. This clause is intended to apply when a difference of opinion arises between the Treasurer and the Commissioners. Do you not consider its provisions a wise safeguard?—I consider the new clause spoils the Bill.

8. Suppose a misunderstanding to arise between the Treasurer and the Commissioners; the Treasurer considered that the vote was so and so, and the Commissioners considered that it was some other thing: who would decide as to its ultimate disposal?—Under the amended Bill the Treasurer can charge the expenditure as he pleases, and compel the Commissioners to follow his lead.

9. Then do you consider that the power of determining to what vote an expenditure ought to be charged should be taken out of the hands of the Treasurer and lodged in the hands of the Commissioners?—Yes, I think so, if there is to be a pre-audit mixed up with the control. Unless the power of making transfers in opposition to the decision of the Control is taken from the Treasury, the present Bill will leave matters in this respect as they are under the Revenues Act. The Treasury will obtain money to discharge claims under one vote and will charge it to another.

10. You think that, after sums have been voted by Parliament, Ministers should have no power to say to what particular vote certain sums that have been expended shall be charged?—Yes, I think so. The Treasurer should not have an arbitrary power to charge a vote with expenses that do not belong to it in opposition to the decision of the Commissioners. The Commissioners have no political views to carry out. They guard the issues of public money, and determine whether they are spent in accordance with the votes of the Legislature; and under the Bill, they have to determine this before the moneys are issued.

11. *Mr. Vogel.*] When you say that this clause would perpetuate the present system, I understand you to mean that it will enable the Colonial Treasurer to take the money from under the control of the Commissioners and pass it into another vote. I understand you to mean that now, if there is any question of difference between the Auditor and Treasurer as to the particular vote to which an expenditure is to be charged, the Treasurer can override the Auditor?—Yes.

12. If the Auditor-General considers an expenditure to have been wrongly made, do not the regulations established since 30th June last enable the Auditor to allow or disallow the expenditure, and to charge it against another vote?—Yes, they do.

13. I would ask you then, whether or not the clause as it at present stands, would enable the Colonial Treasurer to override that power?—Yes.

14. In that case could the Auditor refuse to pass the expenditure?—No.

15. Would this clause not enable the Treasurer to obtain money for one purpose and apply it to another?—Yes. It would not give him power to divert the money to other purposes, but it would give him authority to charge it to any vote he pleased, and thus relieve the vote to which it properly belongs.

16. Would its further effect not be to increase unauthorized expenditure?—Yes, I think so.

17. Are you aware whether or not it is always the case, that at the end of the year it is found to be impossible to charge the whole of the expenditure against the votes for the year, and that a considerable amount of money is not shown against the votes?—Yes; that arises from the Imprest system. Towards the end of the year, the greatest anxiety exists to get in the whole of the Advance accounts, but they come in so late that they are necessarily excluded from the accounts of the year to which they belong.

18. You understand this clause to mean, that where a difference of opinion arises between the Colonial Treasurer and the Auditor-General, whether the expenditure incurred has been authorized by Parliament or not, that clause gives the Colonial Treasurer power to determine that it shall be charged against a certain vote?—Yes, exactly so.

Mr. FITZGERALD in attendance, and examined.

19. Mr. Fitzgerald said, in reference to payment of Commissioners, that the first question would be whether payment, under any circumstances, was legal or not. If there was a difference of opinion on the subject, it was generally left for Ministers to decide. But, the House having passed a vote, they were certainly not able to alter it. Supposing that a million vote was all expended, and that Ministers had made a subsequent expenditure on any other vote, to meet charges which might arise, it would be competent to do so. I am taking, as an illustration, the million vote—it might be made use of for any other vote. I think, however, that was not at all within the intention of the Colonial Treasurer. At the same time, if there is the slightest apprehension that the clause may be interpreted so as to give undue latitude, the Committee would be wise to put in a clause to avoid that.

*Mr. Fitzgerald.*

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20. *Mr. Speaker.*] If you are going to examine into the Controller's construction of the clause, I may say it was not with that view it was suspended.

21. *Mr. Vogel.*] The view expressed by the Controller is in accordance with my own.

22. *The Hon. Mr. Gillies.*] That is in the next clause. Am I right?—Yes.

23. *Mr. Speaker.*] Has this vote not reference to money drawn out of the Treasury?—Yes.

24. Well, to put a question: A Minister sends certain sums of money to be voted for "Defence;" supposing it should be charged against "Native Affairs," would that be right?—Yes; I think it would be in the power of the Minister to do so, supposing the expenditure to be lawful, and that he was prepared to see the service done for the money. The clause will enable him to do so, subject to an appeal to Parliament, if it is considered that the judgment of the Treasurer is wrong.

25. *The Chairman.*] I would like you to trace the expenditure on votes, say "A" and "B," on each of which Parliament has allowed Government to expend £10,000. On vote "A" that amount has been expended, and more is wanted. Would it be competent for the Treasurer to take the deficiency from vote "B"?—Yes; if the money has been expended.

Dr. KNIGHT in attendance, and further examined.

26. (In reply to last Question)—Yes; I think the Treasurer could, under the amended Bill, determine finally what vote any expenditure can be carried to.

*Dr. Knight.*

27. Under the explanation from the Controller, do you think it would be possible to refuse the money?—I think it could not be refused.

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28. *Mr. Vogel.*] The Native vote and the Defence are cognate; supposing they were mixed and a sum charged on the Defence vote which should go to the other, would that be paid—supposing the vote was not exceeded?—Yes, it would.

29. *Mr. Speaker.*] You assume the fact of Parliament having the complete control of the public money?—Yes, I do.

30. Will you allow me to ask you whether, in your opinion, it might not be a much more satisfactory mode to do this: that within all the votes granted by Parliament the authority of the Commissioners should be absolute and final?—These are my opinions.

31. May I ask whether it would not be a very much safer course to have an absolute control over the Treasury, and, on the other hand, to appropriate a sum of money yearly for which they should be responsible to Parliament, than to have so little control?—I think so.

32. Is it your opinion that under such a system as that a dead-lock could not exist?—I think not.

33. If the Commissioners did not look into all the votes of Parliament, the Treasurer would have undivided control?—Yes.

34. The present unauthorized expenditure is £40,000. Do you not think the Treasurer should have a supplementary vote of £100,000, and, on the other hand, the power of the Commissioners to be absolute, with respect to the votes granted by Parliament: would the sum of £100,000 be sufficient?—That sum would be more than sufficient.

35. With your experience of the public expenditure, what would be in your opinion a reasonable amount to give to the Treasurer?—I should say about £70,000.

36. Supposing that a sum of £50,000 is voted for Defence, and is expended before the financial year expires, but that at the same period there exists £20,000 to the credit of the "Miscellaneous" vote, could the Treasurer under the Bill as amended apply this £20,000 to Defence purposes?—Yes, he could.

37. If this occurred in the beginning of June, what period would elapse before Parliament was made acquainted with the fact by the Commissioners' report?—That would depend on circumstances. The report of the Commissioners should be laid on the table of the House as early as possible.

38. Would that be the case?—Well, I do not know; the Bill provides that the report should be laid before the House within ten days, but it does not provide that it should be laid by the Commissioners.

