

No. 4.

The COMMISSIONERS of AUDIT to the Hon. Major ATKINSON.

(No. 121.)

THE Commissioners of Audit beg to acknowledge the receipt of the Hon. Major Atkinson's memorandum of the 20th March, No. 120, informing the Commissioners that "the Government will," for certain reasons set forth in memorandum, "give orders that the whole of the Immigration accounts of the Agent-General are to be withheld from the Audit until the 1st July next, to prevent their being brought to charge during the current financial year."

As the duty of furnishing these accounts is imposed by law (section 49, "Public Revenues Act, 1867") upon the Colonial Treasurer, the Commissioners submit that the above communication should be made by him or a member of the Ministry acting in his behalf.

The Commissioners understand that the object of the course taken by the Government is to leave a sufficient balance in the vote to meet the issues required in the colony before the 30th June, which would be exhausted if the expenditure out of the Foreign Imprest Account were brought to charge as required by section 19 of "The Public Revenues Act, 1872."

As the Government admit the illegality of the course proposed, and rely on an indemnity by Parliament, the Commissioners are relieved from the duty which would be imposed on them of reporting the facts to Parliament immediately on its meeting. It only remains for them to consider whether the law has placed at their disposal any means for preventing the step contemplated by the Government, which it would be beyond question their duty to use should such exist, and such means would be the power to stop the issues on the vote.

The issues on any vote are limited by the balance standing to its credit in the Public Account as kept by the Audit Office. All issues take place on the requisition of the Colonial Treasurer; and the duty of the Commissioners is that of the Comptroller, set forth in the 26th section of "The Public Revenues Act, 1867," to satisfy themselves "that each sum mentioned in each such requisition has been legally appropriated to the service for which the same is required, and can be paid without exceeding the amount so appropriated." The latter point is determined by the balance standing in their books to each appropriation. The imprests accounted for are also (by practice, although not so required by law) put into requisition, and charged to the proper votes when passed by the Auditors. The question therefore presents itself, whether the Commissioners are authorized in issuing money on a vote, knowing that if all the expenditure properly chargeable thereon were put into their account, the sum asked for could *not* be paid without exceeding the amount so appropriated.

On full consideration it does not appear to the Commissioners that they would be justified in refusing to issue money so long as a credit balance appears in their books, or, where an illegality is believed to exist, to exceed the powers vested in them by Parliament to correct or prevent it. In the absence of the information which they have a right to receive, but which the Government declines to give, they cannot be certain, when any requisition is presented, whether the account is really overdrawn or not; and should it prove that the account was not overdrawn, they would have overstepped the law in refusing to issue.

The Commissioners desire, however, to point out what great abuses may be committed if the course pursued by the Government were to be drawn into precedent and become a general practice. The objections are that whilst the Parliament has declared what the Government shall do, in order to render the control and audit of the accounts effective, it has not invested the Commissioners of Audit with powers enabling them to compel obedience to the law. It is to be hoped that another Session of Parliament will not pass without such powers being placed in their hands.

It is indeed open to the Commissioners to compel the attendance of the Treasury or other clerks, with all books and vouchers, under a penalty of one hundred pounds, and so to possess themselves of the information required; but they do not conceive that it would be right or seemly to put that power in force in a case in which the action is taken by the Ministers of the Crown under their responsibility to Parliament.

The Commissioners request that this correspondence may be laid before Parliament at its next Session.

25th March, 1875.

JAMES EDWARD FITZGERALD,
Commissioner of Audit.

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