

£54,000 to the province in 1874?—The credit to the Land Fund was distributable, less the permanent charges.

52. Did you not feel yourself entitled to retain it?—Yes.

53. Then, in that case, why did you not take it at once, instead of not doing anything until after the expiry of the financial year, and then say you had still in hand the money as revenue received, and that it formed part of the £279,000 available for special services?—You mean to say, why was the amount not taken before the end of the year?

54. Yes; because apparently, by law, if you did not deduct it not later than 31st December, 1877, you were required to pay it to the local bodies on or before the 31st March, 1878?—I presume it was overlooked; but it was always considered that it was an asset. I cannot say exactly why it was not done. If considered an asset, why should it have been distributed?

55. From the 30th June, 1877, to the 31st December, 1877, there accrued £56,000 of surplus land revenue, after defraying all charges, which would have been divided amongst the local bodies had there not been this debt by the province to Public Works Account?—Yes; but for this £54,000.

56. Then why did you not, as soon as possible, deduct from the land revenue received during the six months the £54,000 you thought should have been charged against it. Why did you do nothing? Apparently you did not even make an entry; but, on the contrary, so late as July, you publish a statement of revenue received and charges against it, showing a surplus of £56,000 apparently due to the local bodies?—I do not know why it was not done. It was overlooked, I suppose.

57. Nothing having been done with the amount in your possession, do you think that the law is so clear that no further legislation is required?—Undoubtedly; in my opinion there is no doubt about the law on the matter.

58. In point of fact, it is out of the power of the House to appropriate it?—It is out of the power of the House to do anything except to reverse the action by legislation.

59. *Mr. Oliver.*] You say that the counties have been endowed with this 20 per cent., and with this surplus revenue: then how do you expect to deduct from the surplus?—We deduct under the special agreement.

60. Has not that agreement become squashed by the Financial Arrangements Act?—I do not think so.

*Mr. J. E. FITZGERALD*, Commissioner of Audit, examined.

61. *Mr. Curtis.*] We have asked you to attend the Committee for the purpose of giving us any information in your power on the subject of the transfer of about £57,000 from the Land Fund of Otago to the Public Works Loan?—The transfer was made to repay advances made to the Province of Otago under the Otago Provincial Public Works Advances Act, which were, under an agreement between the Governor and the late Superintendent of Otago, to be repaid by monthly instalments in cash; or, if not paid in cash, then by deductions from the Land Fund. The sum in question was the unpaid balance of that loan.

62. Do you not consider that the effect of the Financial Arrangements Acts was to abrogate that arrangement, and make the Land Fund the property of the Counties?—The Commissioners of Audit had great doubts on that point. I declined, in the first instance, to pass the voucher for the transfer, on the ground that the balance of Land Fund on the 31st December had been otherwise appropriated by Parliament. But it was pointed out to me that this was a legal charge on the Land Fund, which was preserved under the 11th and 12th sections of "The Financial Arrangements Act, 1876," which has not been repealed, and is still law. I therefore requested that the opinion of the Solicitor-General might be obtained, in the following memorandum:—

"The Commissioners of Audit would be glad to have the opinion of the Law Officers of the Crown on this question: Has the agreement between the Government and the late Superintendent of Otago made in virtue of 'The Otago Provincial Public Works Advances Act, 1874,' the effect of a permanent charge on the Land Fund of Otago within the meaning of the 12th section of 'The Financial Arrangements Act, 1876'?

"If the Law Officers decide yes, the transfer may pass.

"J.E. F.-G.—2/9/78."

The Solicitor-General's reply was as follows:—

"It is difficult to construe such a provision as that contained in 'The Otago Provincial Public Works Advances Act, 1874.' The power conferred is in very general terms, and the advance authorized is to be made on such terms and conditions as shall be agreed upon between the Minister for Public Works and the Superintendent of the Province of Otago. If the agreement made distinctly provides that the advances were to be a charge upon the Land Fund, then I think it would come within the meaning of the 11th or 12th section of 'The Financial Arrangements Act, 1876,' according to circumstances.

"W. S. REID.—15/9/78."

In the face of this opinion, I did not think the Commissioners of Audit ought to refuse to pass the voucher presented to them by the Government.

63. *Mr. Montgomery.*] When was application made to you to audit this account?—The account was sent in about the 3rd of July.

64. Section 6 of "The Financial Arrangements Act, 1877," effected a complete change in working these accounts. Does not this section nullify the Act of 1876, so far as relates to the stoppage of this Land Fund?—No. The effect of the Law Officers' decision was, that the balance of Land Fund on 31st December, 1877, must be interpreted to mean the Land Fund less any legal charges under previous Acts.

65. Do not these Acts conflict?—They may do so.

66. Would not the latter Act, in this case, become law?—I am not prepared to say.

67. You had great doubts, had you not, as to the legality of these deductions?—Yes; I objected to pass the voucher at all, in the first instance.

68. Does not the Financial Arrangements Act of 1877 whitewash the indebted provinces, and enable them to start on a new basis? Does not section 6 appropriate 20 per cent. of the whole Land