

## MINUTES OF EVIDENCE.

TUESDAY, 4TH SEPTEMBER, 1883.

Mr. FITZGERALD. Auditor and Controller-General, examined.

1. *The Chairman.*] Do you wish to add anything in further explanation of the memorandum which you sent to Mr. Speaker yesterday?—No.

2. *Mr. Barron.*] Do you consider this sum to be public money, as defined by the Public Revenues Act?—Yes, certainly.

3. Why did you address this memorandum to the House?—Because in the meantime I met the Hon. the Colonial Treasurer, and understood him, in conversation, to say he approved of matters as they were without intending to make any change: he did not consider these to be public moneys. I thought, then, I had no discretion but to submit it to the House for decision.

4. Had the Treasurer written yesterday a memorandum to this effect: that this stands to the credit of the Minister for Public Works—had that been written yesterday morning, would that have put it entirely within the law?—No; I should say it would have been contrary to the law.

5. Had the Treasurer reasonable time to do what is necessary to do in order to bring the transaction regularly under the law?—I think the money ought to have been paid in to the Public Account at once. I think the clause with reference to deposit accounts did not contemplate large transactions of this kind, but only those transactions which occur in the ordinary course of business, such as payments on account of Customs and lands. I do not think it was actually outside the words of the law to treat this sum as a deposit; but I say the proper course would have been to pay it to the Receiver-General's Deposit Account, or pay it to the deposit of some public officer, as the Act requires. Its expenditure would then have been under the control of the Audit Office, the same as other moneys for public expenditure. But where it stood to the private account of the Minister for Public Works, unknown to the Audit, and outside the usual machinery by which expenditure is regulated, I think that was illegal.

6. Of course, standing to the private account of the Minister as it did, interest was accruing. Had the Minister dealt with the sum otherwise, would interest have been still payable to those to whom the money legitimately belonged?—If the money had been in any public account the bank would have had to pay interest at the rate at which all public funds bear interest; and if that interest had been payable over to the company no doubt it would have been paid in the usual way, as is done in other cases where interest accruing on deposits has been paid to the bodies entitled to it.

7. Do you think there would have been any loss of interest if the strictly legal course you say had been followed?—None whatever.

8. *Hon. Major Atkinson.*] Where would the interest have come from then which the Board is getting at present above the interest paid on the Public Account?—I do not know what interest the Board is getting.

9. You say positively no interest would have been lost; how is that?—The rate of interest on public deposits would have been paid.

10. You mean that the money would have got the interest payable by the bank on the Public Account?—Yes.

11. Under what authority of law would the Board have got that?—As money equitably belonging to them.

12. But where is the authority in law to pay it?—There are many things paid for which there is not the actual authority of an Act, but where there is no question at all as to the proprietorship.

13. Such payments have to get your sanction?—Yes. We have never questioned the payment of money to persons to whom the money equitably belonged.

14. You think we could have paid the rate of interest given on the Government current account with your consent?—Yes, I think so.

15. And it would not have been done without your consent?—Not if the money had been in the Public Account.

16. So the discretion, practically, was with you whether they could get interest or not?—In the same sense in which every farthing paid by the Government rests with me.

17. Not in the same sense, because, of course, if I make a payment under the law you are bound to sign it, which is not included in the law?—Not within the statute, but I should consider it to be within the law.

18. Then there are things not included in the law which you consider yourself at liberty to pass?—Certainly.

19. That is to say, you exercise the discretion of Parliament in the matter?—There are very few payments of public money in which a discretion has not to be used by the Audit. In every payment there is a question by the Audit whether or not it is according to law, and on the decision of which rests the payment.

20. But finding out what the law is is the business of the law officers of course; but when the law is found out there is no discretion. This matter is admitted to be outside the law, but I want to get the position you take in it. Now, I understood you to say; in reply to Mr. Barron, that if I had directed this to remain in a deposit account to the Minister for Public Works that would have been sufficient. Apparently I had no power to do that. Then the money would have been under the law?—I did not say if it had been paid to a deposit account of the Minister for Public Works; I said to his private account.

21. Supposing I had directed this to remain in the deposit account of the Minister for Public Works, would that have been sufficient?—Yes; but in that case the Minister for Public Works