

1883.  
NEW ZEALAND.

## PUBLIC ACCOUNTS COMMITTEE.

REPORTS ON LETTER OF THE CONTROLLER AND AUDITOR-GENERAL, DATED 3RD SEPTEMBER, 1883 (B.-15), RELATIVE TO APPROPRIATION BY NEW PLYMOUTH HARBOUR BOARD OF £18,000 TO CONSTRUCTION OF A RAILWAY.

*Reports brought up on 4th and 5th September, and ordered to be printed.*

### ORDERS OF REFERENCE.

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

MONDAY, THE 3RD DAY OF SEPTEMBER, 1883.

*Ordered*, "That the letter of the Controller and Auditor-General, laid on the table of the House on the 3rd September, be referred to the Public Accounts Committee, to report thereon forthwith."—(*Hon. Major Atkinson.*)

WEDNESDAY, THE 5TH DAY OF SEPTEMBER, 1883.

*Ordered*, "That the report of this day of the Public Accounts Committee on the letter of the Controller and Auditor-General, presented to the House this day, be referred back to the Committee for reconsideration, and that the Committee be directed to meet at five of the clock this day."—(*Hon. Major Atkinson.*)

### REPORTS.

THE Public Accounts Committee, to whom was referred the letter of the Controller and Auditor-General, laid on the table of the House on the 3rd September, have the honour to report,—

That the Controller seems to have acted with proper motives in sending the memorandum to the House.

That, in the opinion of the Committee, there was nothing in the minutes from the Controller and Auditor-General (which are attached, as is also the letter from the Chairman of the Harbour Board, intimating that he has lodged a sum to the credit of the Minister for Public Works at the Bank of New Zealand at New Plymouth) to make it apparent to the Treasury that a direction from the Treasurer to transfer the deposit to an account to be named was a matter of urgency.

That the Controller did not verbally inform the Secretary to the Treasury that, in his opinion, such a direction was a matter of urgency until yesterday morning.

That the Secretary had no opportunity of informing the Treasurer of this until 1 o'clock yesterday, when the Treasurer directed him to ascertain from the Controller what should be done under the circumstances.

That the Secretary thereupon asked the Controller and Auditor-General how, in his opinion, the money should properly be dealt with, and that the Controller and Auditor-General declined to give an opinion on the subject.

That it appears that, had the Controller and Auditor-General understood that the Secretary to the Treasury asked the question by direction of the Treasurer, in order that the Treasurer might give effect to the Controller's minute, the memorandum by the Controller and Auditor-General to the House would not have been sent.

That the money deposited is public money, but that no further action need be taken by the House, as it is the intention of the Minister for Public Works to immediately repay it to the Harbour Board, in accordance with the expressed wish of the House.

F. J. Moss,  
Chairman.

4th September, 1883.

## INTERIM REPORT No. 7.

THE Committee, having considered the reference dated the 5th September, 1883, have the honour to report,—

That they have considered the interim report of this day referred back to them by the House.

That the Committee have confirmed the report of the 4th September, laid on the table of the House on Tuesday, which was arrived at by a full meeting of the Committee, and have expunged from their proceedings the report of this day, which was referred back to them, it not being supported by the evidence.

5th September, 1883.

F. J. Moss,  
Chairman.

---



---

 MINUTES OF PROCEEDINGS.
 

---

TUESDAY, 4TH SEPTEMBER, 1883.

*Present*: Mr. Moss (Chairman), Hon. Major Atkinson, Mr. Barron, Mr. Dargaville, Hon. Mr. Dick, Hon. Mr. Johnston, Mr. Peacock, Mr. Wright.

The following order of reference was read, dated the 3rd September, 1883: *Ordered*, That the letter of the Controller and Auditor-General, laid on the table of the House on the 3rd September, be referred to the Public Accounts Committee to report thereon forthwith.—(*Hon. Major Atkinson.*)

On motion of Mr. Peacock, *Resolved*, That Mr. FitzGerald, the Controller and Auditor-General, be examined.

Mr. FitzGerald, Mr. Reid, and Mr. Gavin were examined.

The Hon. Major Atkinson and the Hon. Mr. Johnston made a statement to the Committee.

Motion made, (1) That, in the opinion of the Committee, the Controller-General did rightly, in the circumstances, in reporting the matter in question to Parliament. (2) That the money is public money within the meaning of "The Public Revenues Act, 1878."—(*Mr. Dargaville.*)

Adjourned till 2.45 p.m.

The Committee reassembled at 2.45 p.m.

*Present*: Mr. Moss (Chairman), Hon. Major Atkinson, Mr. Barron, Mr. Dargaville, Hon. Mr. Dick, Sir G. Grey, Hon. Mr. Johnston, Mr. Montgomery, Mr. Peacock, Mr. Wilson, Mr. Wright.

The Chairman informed the Committee that he had received permission of the House for the Committee to meet while the House was sitting.

Motion made and question put, That the Committee adjourn till after the report of the Allegations of Member for Auckland West Committee is brought up to the House.

The Committee divided.

*Ayes*, 3.—Mr. Barron, Sir G. Grey, Mr. Montgomery.

*Noes*, 5.—Hon. Mr. Dick, Hon. Mr. Johnston, Mr. Peacock, Mr. Wilson, Mr. Wright.

Motion negatived.

Motion made, That, in the opinion of the Committee, the Controller-General did rightly, in the circumstances, in reporting the matter in question to Parliament. That the money is public money within the meaning of "The Public Revenues Act, 1878."—(*Mr. Dargaville.*)

Amendment proposed, That all words after "That" be omitted, in order to insert "the Controller seems to have acted with proper motives in sending the memorandum to the House. That, in the opinion of the Committee, there was nothing in the minutes from the Controller and Auditor-General (which are attached, as is also the letter from the Chairman of the Harbour Board, intimating that he has lodged a sum to the credit of the Minister for Public Works at the Bank of New Zealand at New Plymouth) to make it apparent to the Treasury that a direction from the Treasurer to transfer the deposit to an account to be named was a matter of urgency. That the Controller did not verbally inform the Secretary to the Treasury that, in his opinion, such a direction was a matter of urgency until yesterday morning. That the Secretary had no opportunity of informing the Treasurer of this until 1 o'clock yesterday, when the Treasurer directed him to ascertain from the Controller what should be done under the circumstances. That the Secretary thereupon asked the Controller and Auditor-General how, in his opinion, the money should properly be dealt with, and that the Controller and Auditor-General declined to give an opinion on the subject. That it appears that, had the Controller and Auditor-General understood that the Secretary to the Treasury asked the question by direction of the Treasurer, in order that the Treasurer might give effect to the Controller's minute, the memorandum by the Controller and Auditor-General to the House would not have been sent. That the money deposited is public money; but that no further action need be taken by the House, as it is the intention of the Minister for Public Works to immediately repay it to the Harbour Board, in accordance with the expressed wish of the House."—(*Hon. Mr. Johnston.*)

Question put, That the words proposed to be left out stand part of the question.

The Committee divided.

*Ayes*, 4.—Mr. Barron, Mr. Dargaville, Sir G. Grey, Mr. Montgomery.

*Noes*, 6.—Hon. Major Atkinson, Hon. Mr. Dick, Hon. Mr. Johnston, Mr. Peacock, Mr. Wilson, Mr. Wright.

Resolved in the negative.

Question put, That the words of the amendment be inserted instead thereof.

The Committee divided.

*Ayes*, 6.—Hon. Major Atkinson, Hon. Mr. Dick, Hon. Mr. Johnston, Mr. Peacock, Mr. Wilson, Mr. Wright.

*Noes*, 4.—Mr. Barron, Mr. Dargaville, Sir G. Grey, Mr. Montgomery.

Resolved in the affirmative.

Question as amended put and carried.

On the motion of Mr. Peacock, *Resolved*, That the report be brought up to the House as soon as it can be got ready.

Adjourned till Wednesday next, at 11 o'clock.

WEDNESDAY, 5TH SEPTEMBER, 1883.

*Present*: Mr. Moss (Chairman), Hon. Major Atkinson, Mr. Barron, Mr. Dargaville, Hon. Mr. Dick, Sir G. Grey, Hon. Mr. Johnston, Mr. Montgomery, Mr. Wilson, Mr. Wright.

Motion made and question proposed, That the report referred back by the House to this Committee be expunged from the proceedings and minutes of the Committee, as this report was arrived at without previous notice being given, and, by a vote of two, rescinding the report on this subject made by the whole Committee on the day before, and which had been laid on the table of the House.—(*Mr. Wilson.*)

Amendment proposed, That all the words after the words "Committee be" be omitted, in order to insert "on reconsideration confirmed."—(*Mr. Barron.*)

Question put, That the words proposed to be left out stand part of the question.

The Committee divided.

*Ayes*, 5.—Hon. Major Atkinson, Hon. Mr. Dick, Hon. Mr. Johnston, Mr. Wright, Mr. Wilson.

*Noes*, 4.—Mr. Barron, Mr. Dargaville, Sir G. Grey, Mr. Montgomery.

Amendment negatived.

Amendment proposed, To add the following words: "but that a copy of the report referred back by the House to the Committee, and of the minutes connected therewith, be laid before the House at the same time that the Committee makes its report."—(*Sir G. Grey.*)

Amendment put, and the Committee divided.

*Ayes*, 4.—Mr. Barron, Mr. Dargaville, Sir G. Grey, Mr. Montgomery.

*Noes*, 5.—Hon. Major Atkinson, Hon. Mr. Dick, Hon. Mr. Johnston, Mr. Wilson, Mr. Wright.

Amendment negatived.

Amendment proposed, To add the following words: "but that effect be not given to this resolution until the House has adopted the report of the Committee."—(*Sir G. Grey.*)

Amendment put, and the Committee divided.

*Ayes*, 4.—Mr. Barron, Mr. Dargaville, Sir G. Grey, Mr. Montgomery.

*Noes*, 5.—Hon. Major Atkinson, Hon. Mr. Dick, Hon. Mr. Johnston, Mr. Wilson, Mr. Wright.

Amendment negatived.

Original question put.

The Committee divided.

*Ayes*, 5.—Hon. Major Atkinson, Hon. Mr. Dick, Hon. Mr. Johnston, Mr. Wilson, Mr. Wright.

*Noes*, 4.—Mr. Barron, Mr. Dargaville, Sir G. Grey, Mr. Montgomery.

Motion carried.

Motion made and question put, That the following be the report to the House: The Committee have to report that they have considered the interim report of this day referred back to them by the House. That the Committee have confirmed the report of the 4th September, laid on the table of the House on Tuesday, which was arrived at by a full meeting of the Committee, and have expunged the report of this day, which was referred back to them, from their proceedings, it not being supported by the evidence.—(*Mr. Wilson.*)

Amendment proposed, To insert after the words "arrived at by a" the following words: "majority of six against four, at a meeting at which three Ministers were present, voting with the majority."

Amendment put, and the Committee divided:—

*Ayes*, 4.—Mr. Barron, Mr. Dargaville, Sir G. Grey, Mr. Montgomery.

*Noes*, 5.—Hon. Major Atkinson, Hon. Mr. Dick, Hon. Mr. Johnston, Mr. Wilson, Mr. Wright.

Amendment negatived.

Question put, That the report be adopted.

The Committee divided.

*Ayes*, 5.—Hon. Major Atkinson, Hon. Mr. Dick, Hon. Mr. Johnston, Mr. Wilson, Mr. Wright.

*Noes*, 4.—Mr. Barron, Mr. Dargaville, Sir G. Grey, Mr. Montgomery.

Motion carried.

Motion made and question put, That the Committee adjourn to this day month.—(*Major Atkinson.*)

Amendment proposed, That the Committee adjourn till to-morrow.—(*Sir G. Grey.*)

Amendment put and negatived.

Original question put and carried.

## 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

would have become a receiver under the Act, and would have had to account to the Audit like an ordinary receiver.

22. If I had written to that effect you say it would have been sufficient under the 7th section?—It would have been sufficient under the law; but I should have considered it a great straining of the Act, and a great impropriety that a Minister should personally be the custodian of public money. My opinion is that the whole bearing of the Act is that public money should be in the custody of the proper officials and not Ministers of the Crown.

23. Then, your opinion is that it would have been outside the Act?—Exactly. It would have been a perfectly novel and unknown transaction to make a Minister a responsible accountant to the Audit Office.

24. Is he a responsible accountant as the money now stands?—No; he is in the position of holding public moneys to a private account, of which I know nothing except by hearsay.

25. Then, what have you to do with it?—Because I called on him, under the law, to pay it into the Public Account.

26. How do you know it is public money if you know it is held in his private account?—I hold it is public money, because it is money paid as a deposit to a Minister to be expended in the public service.

27. How is it you can apply at all in the matter? If the Minister is not at the present time an officer in the public service, what have you to do with him at all if he does not come under the 7th section? If he is not that, what have you to do with him?—I do not quite understand the question.

28. You have said it is highly wrong for a Minister to have any public money standing to his private account?—Allow me to explain. I do not mean by "private account" an ordinary private account; I mean an official Government account, but in his own name and in his sole control.

29. I understand you to say that, under the 7th section, money which you conceive to be public money has been paid to a person in the public service?—Yes; the fact of any one, public or private, receiving public money constitutes him a receiver under the Act.

30. Then, kindly tell us what public money is. Supposing the Board had paid over this £18,000 to Mr. Kelly, what would have happened?—I should have nothing to do with it.

31. It would not have been public money?—No.

32. What makes this public money now?—Because it is paid to a Minister for expenditure. It is most likely the whole expenditure in connection with the railway would have been paid out of ordinary votes for railways, which would have been re-credited out of this deposit.

33. I am trying to get the absolute fact, not probabilities. I want to know why you consider this public money?—I am certain the public would have been responsible if anything went wrong with it. The country would have to pay the money back if in any way it had been lost or misspent.

34. You give that as your opinion, not the law?—Certainly. I consider it was paid in trust to the Minister for Public Works.

35. Then it was paid to a public officer?—Yes.

36. Then, if you say it was paid to a public officer, I want you to say why I could not have directed it to remain in that deposit account?—I do not say you could not. I say it would have been a very irregular and, in my humble opinion, an improper transaction that money should remain in the personal account of a Minister.

37. That is your opinion?—That is so far my opinion that I thought it a question Parliament ought to decide. I know it has been so considered by other Ministers on somewhat similar occasions. I know there have been remonstrances from the Audit Office for simply issuing imprests to Ministers for their travelling expenses. The late Ministry agreed that it was improper and indecent that the Audit Office should be brought into personal collision with a Minister, and so since then imprests for Ministers' travelling expenses have been issued to their Secretaries.

38. When it came to your knowledge that the Board had paid this money to the credit of the Minister for Public Works, making a special agreement with the bank with regard to interest, your desire then was that it should be transferred by the Treasurer, under the 7th section, to some other officer. Was that your object?—All that we should have been informed was that it was held by the Minister for Public Works, under the law, as receiver, and then he would have had to account accordingly.

39. You would have been quite content to have the Minister for Public Works as receiver?—By law; although I still consider it would have been an improper transaction.

40. Supposing I had written across this, "Let this remain to the deposit account of the Minister for Public Works," would that have satisfied you?—Yes. Then he would have been an accountant.

41. Is he an accountant now?—I cannot say until the question is settled whether this is public money.

42. If this is public money is he an accountant?—Certainly.

43. Then, is there any doubt in your mind that it is public money?—None in my mind.

44. I suppose you will call upon him as being a public accountant?—Certainly.

45. With regard to payments on deposit account, and repayments to the depositor, is any authority of Parliament necessary? Take this case. Could the Minister for Public Works now pay back this money to the Harbour Board by cheque?—Of course he could.

46. But supposing this to have been public money?—Then he would have been an accountant.

47. Then, I understand in either case this money should have been returned by Mr. Johnston's cheque to the depositors?—Yes; but in that case the Audit Office would have the opportunity of reviewing what had been done with the money.

48. But he is an accountant both ways?—If it is established that this is public money he would have to do it.

49. Your whole action was taken on your conviction that this was public money?—Yes.

50. Assuming it is public money, Mr. Johnston is now an accountant to the Audit?—Yes.

51. If I had written across this, "This money is to remain in the deposit account of the Minister for Public Works," he would have to do exactly the same in both cases?—Yes.

52. I find that on the 24th you addressed a memorandum. On the 27th Mr. Johnston replied to it and sent it back. On the 27th you wrote a second minute which went to Mr. Johnston. You asked for information. You took no action then; you did not know the position?—Yes.

53. On the 27th Mr. Johnston referred the papers to you for your information?—Yes.

54. On the 27th you wrote to Mr. Johnston that the money ought to be a deposit. You did not seem to have made up your mind absolutely. You say it is apparently a deposit within the terms of the Act; and then you go on to say, "and can only be paid into such account as the Treasury directs, being (see section 2, Act 1882) an official account in the name of the officer holding it. Please to forward the Colonial Treasurer's authority for its custody. Deposit accounts will have to be furnished as required by the regulations." Then, when you wrote to Parliament to say your memorandum remained unanswered, you mean this minute?—No; but in the meantime I had a conversation with you, and you practically informed me that no answer was to be given. I understood that you did not really regard it as public money at all. I then said to you it is a question that Parliament should decide.

55. So the memorandum comes to this note, in which you have expressed a doubt, and request the Treasurer to remove it?—Yes.

56. And upon that you think you were justified in saying that your memorandum remained unanswered?—Most certainly.

57. No other memorandum was written?—No.

58. Did you meet me in the street by accident?—Yes.

59. Whom was I with? You remember I was with Judge Richmond?—Yes.

60. After shaking hands, and so on, you immediately said, "What about this £18,000?"—Yes.

61. And I remarked to you it was very doubtful whether it was public money?—I think you denied it altogether.

62. I expressed my opinion as to what it was?—Yes.

63. And you then told me you should have to write to Parliament; and I replied, "Write away anything you like"?—Yes.

64. And you then went to your office?—Yes.

65. Did the Secretary of the Treasury come to you there?—Not before I had written the memorandum to Parliament.

66. He did come before you sent the memorandum to Parliament?—Yes.

67. And what did he say to you?—We had a conversation. I do not recollect anything definite of what he said.

68. Did he ask you whether the money could be paid by Mr. Johnston?—I do not recollect him asking me. It was a very desultory conversation. I do not recollect that question.

69. You were not aware that Mr. Gavin had been sent by me to you to ascertain what should be done?—No; I did not think so.

70. Did you tell Mr. Gavin that you would not give an opinion on the subject because you wanted to write to Parliament?—I stated to him that I had written, and to the best of my recollection read what I had written.

71. You declined to give an opinion?—I do not think any opinion was asked for.

72. Then, your whole reason for writing this was because I had met you for a moment hurrying up to the House, and expressed the opinion I have stated?—Because I thought the Government were satisfied with the position of affairs as they were, and did not intend to alter the position.

73. But what ground had you except that casual conversation?—Mainly that the position had not been altered. I looked on the thing as a very grave impropriety.

74. Do you think this memorandum conveys the idea in any way that a grave impropriety has been committed? Will you read the memorandum?—The memorandum is as follows: "The Audit is informed that a sum of £18,000 has been paid to the Government by the New Plymouth Harbour Board which has not been paid into the Public Account. It is requested that the papers on the subject may be submitted to the Audit, with information as to where the money in question is lying."

75. And you think that was sufficient for the Treasurer to think a grave impropriety was committed: that it was such a minute as the Treasurer, on reading it, could have supposed the Audit to mean that there was a most irregular transaction going on which required immediate attention?—I think he would have seen that, in my view, a large sum of money was not in proper custody at law.

76. It is not in proper custody at law, according to your own account: you have already told us that Mr. Johnston is a public accountant, and would have to account?—It was a very grave impropriety.

77. Did you report that to the Treasurer?—I should have done so if Parliament had not been in session, and further correspondence had gone on. I should have represented to the Treasurer the view I took.

78. And why did you not represent to the Treasurer that a grave irregularity had been committed, and you would have to report to Parliament?—Because Parliament was shortly to break up, and I preferred that Parliament should settle the question.

79. Is there anything in this minute which would have led the Secretary to the Treasury or the Treasurer himself, if he had read it, to think it a matter of great urgency?—I saw the Secretary in the morning, and expressed my own opinion that it was of a very urgent character. I begged him to see you on the subject.

80. He did see me, and I sent him to you to see what should be done. Do you think that is the sort of minute the Audit should write to the Government on a matter that requires immediate attention?—It is quite a matter of opinion.

81. *Hon. Mr. Dick.*] Is that minute of such an urgent character as the one you wrote in reference to the drawing out of the £192,000 on the 31st May?—I do not exactly remember what minute that was.

82. The one you laid before Parliament?—I thought this minute would have sufficiently suggested to the mind of the Treasurer the whole objection to the transaction, which I had expressed very freely to the Under-Secretary.

83. *Hon. Major Atkinson.*] When was it you expressed your opinion to the Under-Secretary?—On Friday or Saturday—Friday probably.

84. Not yesterday?—No.

85. *Hon. Mr. Dick.*] But, comparing this minute with the other, would you think this pointed out the urgency of the matter to the same extent as that one did?—Perhaps I had not in that minute expressed my opinion as to the impropriety of Ministers personally holding public money at all. I merely suggested the way in which the money should be placed under the operation of the Act. What I should earnestly desire Parliament to decide would be whether it is right that a Minister should hold public money at all, should be accountable to the Audit, and should be liable to be fined £20 if he did not account in the right way. I think the proper course would have been that the money should have been at once paid into the Public Account or the Receiver-General's Deposit Account, and dealt with in the ordinary course of law.

86. *Mr. Barron.*] I understood you to say that if this money had been paid to Mr. Kelly, member for the district, it would not have been public money; but as it has been paid to Mr. Johnston, as Minister for Public Works, it is public money, because the colony would have been responsible?—Yes.

87. And what the Minister for Public Works does is done under the responsibility of the country?—I understand the money is paid to his account as Minister. If the money was a deposit paid to the Government for public purposes it is made by the Act public moneys. It is a deposit for public purposes. The words of the Act are: "Moneys received by way of deposit on account of Customs Duties or of Land Fund, moneys paid into Court in virtue of any statute, rule, or authority whatever, and all moneys deposited with any person in the public service pending the completion of a transaction whereby the same may become payable to the Government or repayable to the depositor or other person, shall be deemed to be public moneys within the meaning of this Act." This money was, so far as I was informed, paid to the Government, and it would be either repayable to the depositor or used by the Government for public purposes. It comes under that definition. It was undoubtedly in my opinion a deposit of public money for public purposes.

88. But the point is, that had it been paid to a member of the House itself it could not have been construed as being public money?—No.

89. But, being paid to a member of the House, because he was a Minister, it becomes public money?—If it was paid for public purposes, and not for private purposes.

90. *Mr. Dargaville.*] This minute is dated the 28th August; it remained for two weeks unanswered, as I understood it—the minute to the Minister for Public Works. It was sent to the Treasurer on the 28th, and it remained for about a week unanswered?—It was not answered at all.

91. Prior to the time of your conversation with the Treasurer?—Yes.

92. At that conversation you gathered that it was not the intention of the Treasurer to interfere in the matter, but to rest content with the situation as it was?—Certainly.

93. Then, I presume you felt it your duty to ask Parliament to review the circumstances, and to decide whether or not this was public money, and should be dealt with accordingly?—Yes; and, more than that, I was very anxious that Parliament should decide the question of whether it is a right thing that Ministers in their ministerial capacity should hold public moneys at all.

94. *Mr. Peacock.*] I understood you to say that the money should have been paid into the Public Account at once. Do you mean by the Chairman of the Board?—By any one into whose hands it came.

95. But the Chairman of the Board in placing this money to the Minister for Public Works' account—do you mean that he should have placed it at once to the Public Account?—Yes, or into some deposit account.

96. The Chairman or the Minister?—Either one or the other.

97. But if the Chairman of the Board is ignorant of the manner in which the money should be deposited, and the Minister was ignorant in not placing it to the credit of the Public Account, that is reason why it should not be done?—No doubt.

98. I understand you to say that it was not really illegal for the money to be deposited to the account of the Minister for Public Works: it was not illegal, only improper?—Yes.

99. And he would still have to account to you?—Yes.

100. If you had understood when the Secretary of the Treasury called on you that he asked you what you wished done in the matter you would have withheld the memorandum. I understood you to say, in answer to the Treasurer, that you could not recollect what the nature of the conversation was which took place between the Secretary and yourself when he waited upon you on this matter?—I should probably have told him that the matter should be placed in a legal position. All I thought was that it was a very improper thing for a Minister to be personally holding money at all. I thought the money ought to have been placed to the credit of the Public Account, and dealt with in the usual way.

101. If you had understood from the Secretary of the Treasury when he called on you that he wished to know what was to be done with a view to having it done, would you have withheld your memorandum?—I think I should not have addressed the House then.

102. Then you did not understand the Secretary of the Treasury to put such a question to you?—No. I may say that what the Secretary said to me may have been modified by the fact that I had already written and read to him the memorandum I had written to the House.

103. But I presume your wish was not so much to bring the matter before Parliament as to see the thing put in such a state as you considered regular?—Certainly; I would have withheld my memorandum if there had been any such intimation given to me.

104. *Mr. Wright.*] Would you have taken the same objection to dealing with this £18,000 had it been paid to Mr. Walter Johnston as a private individual, he still using his power as Minister for Public Works to expend the money?—Yes. I think it would have been a very highly improper transaction altogether. I should have felt it my duty to report it to the House.

105. Did you call the attention of the Treasurer to this irregularity before writing the minute in your letter to the House?—No. As I said before, I understood the Minister had decided that the matter should remain as it was, and was not open to further discussion. My memorandum to the House was written under that clear impression.

106. *Hon. Major Atkinson.*] And was entirely founded on a conversation of two minutes with me in the street as I was hurrying to the House?—If it had been only a single word it would have been sufficient. It was a question of Yes or No. I beg to be allowed to say that there was no hurry on my part. It was simply a question of fact as to what the Government intended to do, and what position they intended this money to be in. Properly the Audit ought to have been informed in the first instance on such a matter, unless the Government took it to be entirely private money. No such information was afforded to the Audit at all. I waited for a whole week until I received the assurance from the Treasurer I have stated; and upon that I said that my opinion was that the matter ought to be reported to the House for the House to decide.

107. *The Chairman.*] If the Minister for Public Works repays this money, must the cheque by which it is drawn be signed or countersigned by you?—Not as the matter stands. I have no official knowledge of the matter at all at present. As a depositor he would send in his account showing on one side the money received, and on the other side the money paid; and then if we took objection to what had been done with the money we should deal with it under the Act.

108. But had the authority been received from the Treasurer to pay it into a particular account it would then have come under your revision as a matter of course?—Yes; we should have called upon him to account. Practically the question comes to this: in the expenditure of this money, if he is a depositor, he has to furnish accounts. If he furnishes accounts showing how he spends this money, then, if it has been spent in a manner which is illegal, our duty would be to see the money repaid into the Public Account; and, if not, we should sue him for it.

109. As the account now stands have you that power?—No, certainly not; and what I wish to know is whether it is right that the Minister should stand in such a position to the Audit, or rather if the Audit should stand in such a position to the Minister. This is the only case in which it has been attempted, and I thought it should be decided at once.

110. *Hon. Major Atkinson.*] I should like to ask one other question. I have apparently misread Mr. FitzGerald's memorandum. I understand that the one question that he wanted Parliament to decide was whether Ministers were to be in the position of imprestees. I fail to find that in the memorandum. Would he therefore be kind enough to point out where he brings out this important question?—It is the gist of the whole question.

111. No; the only question is whether this £18,000 is not improperly in the hands of the Minister for Public Works, but should be in the hands of some one else. It would have been in the hands of the Engineer of the New Plymouth Harbour Board, and then the memorandum would have been just as logical as it is now?—Would it?

112. As far as I can read it?—If you can ask a definite question I will answer it.

113. I understand you to say that the great question you wanted Parliament to decide, and which was the reason for your writing this memorandum, was to know whether Ministers were to be allowed to be imprestees?—Parliament is now informed of the fact by this memorandum.

114. And you left them to infer that from the memorandum?—The memorandum conveys that.

115. Will you show me the passage on which you rely in saying that that was the question which you wanted Parliament to decide?—I think the whole memorandum raises that question.

Mr. WALTER SCOTT REID, Solicitor-General, examined.

116. *Mr. Barron.*] Have you read the memorandum of the Controller and Auditor-General, submitted to the House; and, if so, do you think the moneys therein referred to are public moneys under the Public Revenues Act?—Yes; I have read the memorandum. I read it last night, and I came to the conclusion, upon the facts that were represented to me, that they were public moneys.

117. Being public moneys they are subject entirely to the provisions of the Act relating to public moneys?—Clearly.

118. *Mr. Wright.*] Being public moneys, do you think it is competent now for the Minister for Public Works to withdraw those funds by cheque without the concurrence of the Auditor-General?—Upon the facts that have been represented to me I think it is. I should say the money has been paid simply to an official or deposit account.

Mr. J. C. GAVIN, Secretary to the Colonial Treasurer, examined.

119. *Hon. Major Atkinson.*] Yesterday, Mr. Gavin, I think you met me at my door with this paper?—About 1 o'clock; you were just going to lunch.

120. And, I think, I asked you to go and see what was really necessary in the matter?—Yes.

121. Did you, during the afternoon, see the Controller-General?—Yes.

122. What did you say to him?—I asked him whether this money could be withdrawn by the cheque of the Minister for Public Works, and he declined to give any opinion.



123. Why?—I do not know.

124. He did not give you any reason?—No.

125. Did he say that he was going to write to the House?—Yes; he was then doing so.

126. And he refused positively to give you any opinion?—He did.

127. Did he read to you the letter that he was writing to the House?—No.

128. *Hon. Mr. Dick.*] When you first went to Mr. FitzGerald, did he tell you, before asking him any questions, that he was engaged in writing to the House?—I cannot remember. He sent for the papers, and I took them in my hand to him. It is quite likely he said he was writing to the House, but whether before or after I put my question I do not recollect.

129. You are quite sure that you asked him the question?—Yes.

130. You have no impression that when he read this memorandum to you——?—He did not read it to me. I have no knowledge of the contents of the memorandum except what I have seen in the newspapers.

131. Then you have no impression that he then declined to answer the question?—I asked the question, and he said he declined to give an opinion.

132. Nothing stopped you from asking the question?—No; it was one of the first things I said to him.

133. *Mr. Dargaville.*] How do you know he was engaged in writing a memorandum to the House?—I think he was. He sent an urgent message for the papers, which I took to him myself. I presumed he required them for the purpose of writing his memorandum.

134. Do you mean to say that, in his conversation with you, he made no representation to the effect that he had decided to address the House on the subject?—It is exceedingly likely that he did make such a representation. We spoke for some little time on the subject. I cannot remember the exact words he used, but he previously told me his intention to report the matter to Parliament.

135. *Hon. Major Atkinson.*] You have not brought this under my notice before yesterday, because, from pressure of business, you have not been able to get at me?—Yes; and I did not think the matter was so very urgent.

136. You would not understand, from this minute from the Audit Department, that the matter was so urgent that if it was not attended to forthwith it would be reported to Parliament?—No; but he came to my office, and said if it was not attended to by 4 o'clock it would be reported to the House that day.

137. Can Mr. FitzGerald write memoranda that would make it clear that the matter is urgent?—He is certainly quite capable of doing so.

138. *Mr. Peacock.*] Was that the only business which led you to make the visit to the Controller?—It was.

139. Then you do not think he could have had any doubt as to the object of your visit?—He could not know what the object of my visit was except from my questions; he might have inferred what the object was.

140. But the object of your visit was to ask that question?—It was.

141. And you did ask it?—I did.

142. And do you know of anything likely to prevent his understanding distinctly what you wanted?—No; I think nothing could prevent his understanding the question I put to him.

143. That is to say, there was no other business to distract his attention from the point?—No.

144. You had no other business?—No. I have no doubt that his mind was fully occupied by the subject he had in hand, and it is possible that, when he declined to answer my question, he might have been too busy to consider the matter.

145. Did you make it clear that you had been sent by the Treasurer with a view of asking his opinion as to what was to be done with this money?—No.

146. You did not. You relied on your official position as Secretary to the Treasury to let him understand that?—Yes.

147. But you have no doubt whatever as to the plainness of the questions put?—No doubt whatever. Mr. Batkin was also present at the time.

148. *Mr. Wright.*] Is it usual to allow six days to elapse before bringing important memoranda under the notice of the Colonial Treasurer, coming into your hands?—No; I always bring important memoranda before the Colonial Treasurer's notice as early as I can. Six days is an unusual length of time.

149. Then, how is it you allowed six days to elapse?—Because the Colonial Treasurer happened to be so busy that I could not get access to him.

150. Then, I understand, you were sent to Mr. FitzGerald expressly by the Colonial Treasurer to ascertain his views?—I was sent to make inquiry to see what could be done in the matter.

151. By the Treasurer?—Yes.

152. Would it not have been well if you had intimated to Mr. FitzGerald that you were expressly sent?—Perhaps it might. I do not know what effect it would have had upon him. I do not believe, however, it would have made any difference in the reply that I received.

153. Had Mr. FitzGerald understood that you were expressly sent by the Treasurer, do you not think he would possibly have withheld the letter?—He might if I had made it clear to him that I had come direct from the Treasurer.

154. *Hon. Mr. Johnston.*] Are you aware whether or not the memorandum from the Controller, asking that the Treasurer should give a direction in respect of this money, is based on a misstatement of facts?—Well, I take the first sentence: I think that is a misstatement. It reads thus: "There does not appear anything in these papers to say where the money is placed, or to whose credit." I pointed out to him myself that the money had been placed on the 31st July to the credit of the Minister for Public Works. It seemed to have escaped his notice. Do you wish me to go through the Controller's minute any further than that?

155. I was about to say, would not an application that the Treasury should do something, the application being based on a statement which the Treasurer perceives to be incorrect—would not such a case be considered less urgent than it otherwise would be?—Yes; I think so.

156. *The Chairman.*] The Minister for Public Works has an account at the bank, has he not?—This is the only account he has that I know of: the one to the credit of which this money was placed.

157. Has the Audit Office any control over the custody or expenditure of money in connection with that account?—No control.

158. Over the expenditure or custody?—No control over either.

159. Then money could be issued from that account without coming under the Auditor's review?—Yes; without his previous sanction.

160. *Hon. Major Atkinson.*] As in the case of other depositors' accounts?—Yes.

161. *The Chairman.*] Do I understand, then, that this is a deposit account?—I take it to be a deposit account.

162. And all other deposit accounts are subject to the same condition?—Yes; they can be drawn upon without the authority of the Controller being previously obtained. The only case in which his authority is first obtained is in the case of refunds of contractors' deposits. These are all paid into the Receiver-General's account, and payments are submitted to him before cheques are drawn. He has nothing whatever to do with payments out of other accounts until after payment.

163. Do those deposit accounts generally consist of large sums?—Sometimes there are large sums paid in, as in the case of the Law Trust Accounts. I have known a sum as large as £7,000 or £8,000 paid to such account.

164. *Mr. Barron.*] When the money is paid back to the New Plymouth Harbour Board, will it be paid back with the interest it has earned while in the custody of the Minister?—I am not able to answer that question. There was an arrangement made, I believe, that the Board should get interest on the daily balance of the account, and I presume that, under that arrangement, the Board would get any interest which has accrued up to the date of repayment.

165. Has the rate of interest been greater than it would have been had the money been paid into the Public Account or any other account contemplated by the Public Revenues Act?—The rate of interest, I think, is mentioned in this letter [produced].

166. Would it have earned any more than what it has done?—I do not know what it has earned. This letter does not state. I have an impression that it is 5 per cent. If the money had been paid into the Public Account it would have been earning 3 per cent; but whether the Board would have got that money, or whether it would have gone to the credit of revenue, I am unable to say.

167. But the money has been earning 5 per cent., and had it been used in accordance with the course indicated by the Controller it would have been only 3 per cent.?—It would have been earning 3 per cent. if it had been transferred to the Receiver-General's Deposit Account. But if this arrangement had not been made by the bank with the Harbour Board the money would not have been earning interest at all where it is lying at present.

168. Then, do you know, when the money was handed over to the Harbour Board by the Government, whether there was any arrangement made as to the rate of interest?—No. I have no acquaintance with the facts of the case beyond what appears in these papers.

169. *Hon. Major Atkinson.*] There is one question which arises out of the subject of the delay in submitting this to me. I want to ask you quite distinctly again whether, from this minute or any of these papers, you considered, irrespective of any communication, they were of such an urgent nature that it would be your duty to seek me out at any cost, and get my opinion upon it?—No; I did not think it was so urgent as to necessitate my troubling you during your business in the House.

170. *Mr. Barron.*] Had you any verbal communication with the Controller and Auditor-General as to the urgency of the matter?—Yes; yesterday morning, when he came to my office and pointed out that he had not had a reply to his memorandum, and that if he did not get it by 4 o'clock he would report the matter to Parliament.

171. *Hon. Major Atkinson.*] And then you saw me?—Yes.

172. And I told you to go and see about the matter?—Yes.

173. *Mr. Barron.*] And that was the first time that the urgency of the matter was brought before your notice?—Yes; I had a conversation with him some three days before, and there was nothing said about urgency.

174. *Hon. Major Atkinson.*] So that the first you knew of the urgency of the matter was yesterday morning?—Yes.

175. *Mr. Barron.*] But in previous conversations did not he lead you to believe that there was a serious irregularity going on, and that it would be necessary at once to put it right?—No.

Hon. the COLONIAL TREASURER, examined.

*Hon. Major Atkinson:* I wish to say that the first that I knew anything about this money—except, generally, that Mr. Johnston had had communication with the Harbour Board—was yesterday, about 12 o'clock, when the supplementary estimates were being considered by the Cabinet; that is, of course, irrespective of the discussion which occurred in the House on Saturday afternoon. When the estimates came up in Cabinet I raised the question as to whether it was necessary that a vote should be taken. The vote appeared on the estimates by the direction of Mr. Johnston. I raised the question whether the money was public money in the sense of the Act, and whether it was necessary to take a vote of Parliament about it; and the Cabinet left it with me to find out whether a vote of Parliament ought to be taken or not. After the Cabinet was over,

I went down to my office about 1 o'clock, transacted two or three urgent matters of business, and then Mr. Gavin presented me with this memorandum. I told him, having gone through the supplementary estimates with him, that I would not take any further action in the matter until I had ascertained what it was necessary to do, and I instructed him to go and ascertain what was proper to be done. I then left for lunch, and as I came back from lunch I saw Mr. FitzGerald. I was then walking with Judge Richmond. Mr. FitzGerald came up to me in his ordinary way, and said, "What about that £18,000?" I said, "What about it?" "Well," he said, "it is public money." I said, "There is great doubt whether it is public money. I don't know whether it is public money; but I have directed the matter to be seen to." I said, "It seems to me that if money paid in in this way without any agreement, or if money that is not public money before it is paid in, becomes public money by the mere payment to an officer of the Government, there would be great difficulty in any of us keeping private banking accounts." He said, "I shall have to write to Parliament about it." I said, "By all means; write what you like;" and then I walked away, saying, "I have no time for more." I understood he was simply joking. I had no more idea that he was going on what I then said as the conclusive opinion of the Treasurer than I had of flying. That is all I knew about the question until the matter came up in the House on the Controller and Auditor-General's memorandum.

176. *Mr. Peacock.*] Do I understand you to say that it was only when your Secretary called your attention to it later in the day that you became aware that the Controller really regarded it as urgent?—Yes; or that the Controller was dealing with it at all. I did not know until 1 o'clock yesterday that he was dealing with it at all.

177. Did you give explicit instructions to the Secretary when going to the Controller to indicate that he had been sent specially by you?—No; I never do. When I say to Mr. Gavin, "Go and ascertain what is the position of affairs," he goes away to the Controller or Solicitor-General to find out what is the position and report to me.

178. *Mr. Barron.*] I presume, as representing the district, you did take some little interest in this particular matter apart from the interest you would take in an ordinary matter coming under your notice as Colonial Treasurer?—I took interest in it to this extent: that I wanted the railway made; but I had not been seen by the deputation that came down here, nor had I anything to do with the arrangement in any shape or form.

179. But you knew that the money had been lodged?—I think Mr. Johnston mentioned that the money had been paid in; that he said he could do nothing in the way of making arrangements until the money was paid in, and I believe he mentioned one day in Cabinet that the money had been paid.

180. You did not take any interest in seeing whether the money was in the meantime earning as much as it could legitimately earn for the New Plymouth Harbour Board?—No; I had not looked at the papers until last night, after Mr. FitzGerald's letter had been received. I think on Monday I was under the impression that the money was in the Public Account. I did not know of the arrangements. That is why I agreed at once to Mr. Montgomery's proposal on Saturday to put a vote on the estimates, as the Committee will recollect.

Hon. W. W. JOHNSTON, examined.

181. *Mr. Wright.*] There is one question which I should like to ask the Minister for Public Works, and it is this: Were you aware, Mr. Johnston, that this money was in a position that you could operate upon it by cheque without the concurrence of the Controller-General?—No. I was under the impression that, it having been paid in to the credit of the Minister for Public Works, I should have to get authority from Parliament to construct the line in question on behalf of the Harbour Board, or else put it on the supplementary estimates, to be voted by the House, to enable me to return it to the Board.

## APPENDIX.

Mr. T. KING to the Hon. the MINISTER for PUBLIC WORKS.

SIR,—

Harbour Board Office, New Plymouth, 31st July, 1883.

I have the honour to advise you that I have this day placed to your credit with the Bank of New Zealand here the sum of £18,000, to be employed in the construction for the Board of the Foxton and New Plymouth Railway extension to and along the Board's breakwater at Moturoa. The interest arising on the said sum to be paid by the bank to the Board from time to time as it accrues, and any surplus remaining of the £18,000, after the completion of the work, to be returned to the Board.

In constructing this extension the Government is authorized by the Board to pass through and over all freehold and leasehold property belonging to the Board.

The Board to have control over the traffic and tariff of the extension, and the Government to charge the Board for its services in running trains on the said extension at its current tariff rate.

I have, &c.,

T. KING,

Chairman.

The Hon. the Minister for Public Works.

Mr. J. E. FITZGERALD to the Hon. the MINISTER for PUBLIC WORKS.

The Hon. the Minister for Public Works.

THE Audit is informed that a sum of £18,000 has been paid to the Government by the New Plymouth Harbour Board, which has not been paid into the Public Account.

It is requested that the papers on the subject may be submitted to the Audit, with information as to where the money in question is lying.

JAMES EDWARD FITZGERALD,  
Controller and Auditor-General.—24th August, 1883.

Controller and Auditor-General.—Papers herewith.—W. W. J.—27th August, 1883.

There does not appear anything in these papers to show where the money is placed, or to whose credit held. It is apparently a "deposit" within the terms of the 7th section of "The Public Revenues Act, 1878," and can only be paid into such account as the Treasury directs, being (see section 2, Act, 1882) an official account in the name of the office holding it. Please to forward the Colonial Treasurer's authority for its custody. Deposit accounts will have to be furnished as required by the regulations.—J. E. FITZGERALD.—27th August, 1883.

The Hon. the Colonial Treasurer.—W. W. J.—28th August, 1883.