

1898.
NEW ZEALAND.

AUDIT OFFICE AND MINES DEPARTMENT:
CORRESPONDENCE RELATIVE TO STAMPING VOUCHERS.

Laid on the Table of the House of Representatives by Leave, 12th August, 1898.

*SUBVOUCHER No. 2 requires a stamp, which may be affixed only in accordance with section 125, "Stamp Act, 1882." Credit disallowed.
29th June, 1897. J. C. GAVIN, Assistant Controller and Auditor.

Noted.—TREASURY, 30th June, 1897.

Stamp affixed subvoucher No. 2.—T. PERHAM, 6th July, 1897.

[First receipt.]

£2 15s.

[Subvoucher No. 2.]

Mines Department.

Received from T. Perham the sum of two pounds fifteen shillings for two passages, coach-fares, from Clyde to Lawrence *via* Roxburgh, this 9th day of June, 1897.

£2 15s.

H. CRAIG AND CO.

Witness—

[NOTE.—This is a copy of the unstamped receipt first sent to the Audit, to which a penny stamp was subsequently affixed.]

By section 61, subsection (2), "Stamp Act, 1882," an instrument is not to be deemed duly stamped with an adhesive stamp unless the person required by law to cancel such adhesive stamp cancels the same at the time of the execution of the instrument by him. Receipt No. 2, not having been duly stamped, cannot be accepted as a valid acquittance.

12th July, 1897.

J. C. GAVIN, Assistant Controller and Auditor.

The Under-Secretary, Mines Department.

MR. PERHAM will have to obtain a new receipt, properly stamped.
13th July, 1897.

JAS. B. HEYWOOD.

New receipt herewith.—H. J. H. ELLIOTT, 21st July, 1897.

[Second receipt.]

Mines Department, 9th June, 1897.

Received from T. Perham the sum of two pounds fifteen shillings for two passages, coach, from Clyde to Lawrence *via* Roxburgh.

£2 15s.

9/6/97.

H. CRAIG AND CO.

J. W.

(1d. stamp.)

For audit.—TREASURY, 22nd July, 1897.

The Controller and Auditor-General.

I WOULD fail in my duty were I not to bring this matter specially under your notice. I draw your attention first to the method out of the difficulty suggested by the Treasury, upon which I make no comment; then to the "new receipt" which purports to have been executed on the 9th June, but the minutes on the voucher go to show that in all probability (I might say show absolutely) it was executed some time after the 13th July. The new receipt is therefore as invalid as the other.

26th July, 1897.

J. C. GAVIN, Assistant Controller and Auditor.

See my minute of the 27th instant attached.—J. K. W., 27th July, 1897.

* This minute was on the original voucher sent forward for credit.

MR. GAVIN,—

Audit Office, 27th July, 1897.

I concur with you in regarding the matter as one which should not be passed over without being made the subject of such exception as you have taken. The Stamp Act, section 61, prescribes how and with what date the adhesive stamp is to be cancelled.

It appears to me that the courses occasionally, if not generally, followed by the administration in dealing with cases involving a liability to a fine or penalty under the Stamp Act are in some respects incapable of being justified. A case happened recently in which even the Stamp Department, after having passed an account against itself which had been paid on an unstamped receipt, arranged to obtain a second receipt, and, on the ground that it was the duty of the paying agent, a Post Office official, not to accept an unstamped receipt, and that there was no intention to evade payment of the duty, resolved not to proceed for the penalty; as if the Act provided that the duty of the official or the intention of the giver of the receipt should affect the penalty.

If, as is possible, however, the whole question should come under the consideration of the Legislature, an explanation may then be required of the position as it appears in the eyes of the Audit Office. I am thinking, therefore, of reviewing the question in such a manner as to convey that explanation as clearly and fully as I can.

J. K. WARBURTON, Controller and Auditor-General.

The Under-Secretary, Mines Department.

THE Audit Office is not satisfied that the receipt for £2 15s. has been duly stamped as required by law, and is therefore unable to pass the voucher for credit of the imprestee concerned.

28th July, 1897.

J. C. GAVIN, Assistant Controller and Auditor.

MR. PERHAM must certainly procure a fresh receipt, properly stamped and completed at the time such fresh receipt is given. If I thought for one moment that there had been an attempt to evade the law in the first instance I would at once ask the Government to proceed for a penalty, but as I do not believe there has been any bad intention, and as the Audit Office now decline to allow a stamp to be affixed to the original receipt, the only course open is to obtain a fresh receipt, properly stamped and completed, and the revenue is a gainer by 100 per cent.

29th July, 1897.

JAS. B. HEYWOOD.

MR. CRAIG,—

* Even this will not satisfy the Audit Department. The mistake made is dating and obliterating the stamp on the date the money was received. You have rendered yourself liable to a fine of £5 for giving a receipt unstamped, if the Government choose to take proceedings. Meantime I cannot get my accounts passed. Please send me by return post one of your bills stamped and dated with day of stamping, and then I think we shall not hear any more about it.

T. PERHAM.

DEAR SIR,—

Lawrence, 2nd August, 1897.

Enclosed please find account receipted, which we hope is in accordance with your wishes. The voucher you sent for signature appears to us to be what is required—name and date across the stamp. We did not understand you required an account in addition.

Yours, &c.,

T. Perham, Esq., Wellington.

H. CRAIG AND Co.

[ENCLOSURE.]

[Bill-head.]

Lawrence, 9th June, 1897.

MR. PERHAM, Dr. to H. CRAIG AND Co., Coach-proprietors, &c., Lawrence, Hyde, and Queenstown.
Dunedin Agents: New Zealand Express Company.

Buggies and Saddle-horses always on Hire; also Vehicles suitable for Travellers carrying Samples.

June 9. To coach-fares, Clyde—Lawrence £2 15 0

H. Craig & Co.
9/6/97.

(1d. stamp.)

By cash, H. Craig and Co., 9th June, 1897.

Mr. Elliott.

MR. CRAIG does not seem to understand, for he has not complied with my request to date the stamp on day of stamping. I trust, however, under the circumstances, the voucher will be accepted.

5th August, 1898.

T. PERHAM.

For the Audit.

Is it worth while pursuing this matter any further? There are now three stamped receipts for the sum of £2 15s., and it is evident that Craig and Co. did not understand the instructions which Mr. Perham sent to them as to cancelling the stamp affixed to the last receipts.

5th August, 1898.

H. J. H. ELLIOTT.

THE voucher cannot be passed until the receipt is stamped as required by law.

9th August, 1897.

J. K. WARBURTON, Controller and Auditor-General.

The Under-Secretary, Mines Department.—TREASURY, 12th August, 1897.

MEMORANDUM for the Consideration of CABINET.

To send these receipts back again to Craig can only cause adverse comment from the public generally.

Every one is aware of the strong feeling existing in the minds of the public on the subject of what is termed "red-tape."

I would suggest that, if possible, the matter be allowed to drop, otherwise I fear the action of the Audit Department will tend to impair its own usefulness if it persists in worrying at such infinitesimal matters as this.

A. J. CADMAN.

In Cabinet, 21st August, 1897.—Payment approved.—A. WILLIS, Secretary.

Forwarded to the Treasury in reply to minute of 12th August, 1897.—H. J. H. ELIOTT, 23rd August, 1897.

The Secretary for Mines.

THE action of Cabinet will not get over the difficulty—in fact, I am afraid that, in the opinion of the Audit Office, it accentuates the offence against the law, and it would not be the slightest use my sending the papers up to the Audit. You should strike the £2 15s. out of the voucher (£9 2s. 6d.) and alter schedule (£11 4s. 6d.). Mr. Perham should then pay the £2 15s. into the Public Account or to his Imprest Account, and the matter will then be settled so far as the Treasury is concerned.

25th August, 1897.

JAS. B. HEYWOOD, Paymaster-General.

See memorandum of 26th August attached.—H. J. H. ELIOTT, 26th August, 1897.

The Secretary to the Treasury.

YOUR suggested method of getting over the difficulty, while satisfactory to the Treasury, is unfair to the imprestee, Mr. Perham, who cannot be made liable for the accidental omission on the part of Craig and Co. to stamp the first receipt for £2 15s.

There can be no doubt that the duty of affixing an adhesive stamp is imposed upon Craig and Co. by section 123 of "The Stamp Act, 1882," and why should Mr. Perham be made responsible for their omission?

I may point out that the Stamp Act does not directly impose any penalties for not stamping receipts. Section 124 merely provides that where a person refuses to give a stamped receipt or divides the amount of a receipt with intent to evade the duty he shall be liable to a penalty of £10. In this case there has been no intent to evade the duty, neither has Craig and Co. refused to give a stamped receipt, as already there have been three stamps affixed to three separate receipts for the one payment of £2 15s., and any further post-dated receipt that may be required from Craig and Co. would not be correct, as it would not be signed and completed on the day on which the payment was actually made. Further, any one of the three receipts already given are good for the amount stated, unless Craig and Co. should attempt to recover payment a second time, which they are not at all likely to do. Should, however, any such attempt be made, any one of the three receipts already signed and stamped could be validated in manner provided by the Stamp Act.

Under the circumstances, I think the Imprest Account should be again forwarded to the Audit Department, together with the Cabinet minute of the 21st instant, and that it should be left to that department either to credit the imprestee with the £2 15s. which has been challenged, or for such further action as the Controller and Auditor-General may decide to take in the matter.

H. J. H. ELIOTT.

Mines Department, Wellington, 26th August, 1897.

The Audit Office.

I AGAIN refer this matter to you as requested. I do not see, however, that the Cabinet minute has helped.

27th August, 1897.

JAS. B. HEYWOOD.

The Treasury.

Audit Office, 28th August, 1897.

THE Cabinet minute expresses the decision of the Government to be no more than "payment approved"; and I do not for a moment suppose that the Government, by this approval, would have the Audit Office so far betray its trust as to pass the payment without a lawfully stamped receipt. The Government, indeed, would be the last to express any such intention.

There is nothing in the law to justify the Audit Office in passing a payment which an imprestee makes out of the imprest advance, and for which the necessary receipt is liable to stamp duty, until the receipt is lawfully stamped; and the imprestee who makes such a payment out of the imprest advance without being able to account for the money by a duly stamped receipt must make good the amount. The imprestee, in short, who fails in his duty of obtaining for his payments lawfully stamped receipts must take the consequences.

The Under-Secretary for Mines would appear, by his memorandum of the 26th instant, to be so entirely under a misapprehension as to the duties of the officer, and as to the provisions of the Stamp Act, that the memorandum may well and profitably be regarded as answering itself. The course which I think that it ought, in a just administration of the Stamp Act, to be the general rule of the Stamp Department to take in all cases like this, of a person signing a receipt liable to stamp duty without the same being duly stamped, is to proceed for the penalty when the fine and the duty are not paid. The penalty in the present case is not made subject to any consideration whether there was any intention in the giver of the receipt to evade the law or not.

The question is really not so much one of duly affixing a duty-stamp of a penny as of a compliance with the law, which has been enacted in the interests of the revenue. One bad precedent

begets another, and soon the penalties of the Act may become a dead-letter, with the obvious result that the stamp duties, of which the payment is induced by a fear of the penalties, may cease to be paid, and that these duties may not yield the revenue that they are expected and ought to yield. And, so far as the colony must raise by taxation from other sources than stamps a revenue in addition to the stamp revenue, every such sacrifice of stamp revenue as the want of a faithful and vigorous administration of the Stamp Act may entail can only be at the expense of other taxpayers—of those who pay the land-tax, the income-tax, the Customs duties, &c. This surely is anything but a trumpery matter.

J. K. WARBURTON, Controller and Auditor-General.

The Under-Secretary, Mines Department.

I do not share the hopeful view which the Audit Office has taken of the intention of the Government in this particular instance. However, it is clear the Audit Office will not allow the imprestee credit as matters now stand, so I hope you will see that my suggestion is carried out at once, and the imprestee can take steps to recover his money afterwards.

31st August, 1897.

JAS. B. HEYWOOD.

DEAR SIR,—

Mines Department, Wellington, 31st August, 1897.

Through an unfortunate misunderstanding on your part, the last received account you sent me for the £2 15s., coach-fare for W. McKegg and myself from Roxburgh to Lawrence, has been returned to me, and I am requested to pay into the Treasury the amount in full, which will not be released until I obtain a proper receipt from you. Under these circumstances, will you kindly forward me another one on receiving this? Make out a bill for the amount, and date it, stamp it, and obliterate the stamp on the day and date you make it out—not on the 9th June as you did before.

The whole thing is exceedingly vexatious, and a piece of childish red-tape; but as I shall be deprived of the £2 15s. until you comply with the Audit regulations I hope you will comply with my request.

There are now no less than three penny stamps affixed to the voucher, but what they want is the stamp gummed on and obliterated not on the day the money was paid, but now on your receiving this.

Mr. Craig, Lawrence.

Yours, &c.,
T. PERHAM.

WE really do not know what is required. If you will write out the form of receipt you require, will sign it. Perhaps if you indicate in pencil. Kindly return the old receipts marked where wrong.

H. CRAIG AND Co.

Under-Secretary, Mines.

MR. CRAIG evidently does not understand what the Audit Department requires even now. I forward the letter for your information and action.

6th September, 1897.

T. PERHAM.

For Cabinet.—This appears now to be getting farcical.—A. J. CADMAN, 9th September, 1897.

In Cabinet, 10th September, 1897.—Referred to Premier.—A. WILLIS, Secretary.

Mr. Heywood.

THE sum of £11 4s. 6d. is outstanding on Mr. T. Perham's imprest for the 19th June last. The vouchers in support of the expenditure have been five times submitted to Audit, lastly on the 30th August last, and each time queried over the provisions of "The Stamp Act, 1882," not being properly complied with. I understand that the question raised by the Audit has been submitted for the Right Hon. the Premier's decision.

4th November, 1897.

C. MEACHAM.

Hon. the Colonial Treasurer.

THIS matter should be cleared off our books. It is now over five months since the expenditure was incurred by Mr. Perham. If Mr. Perham cannot furnish a voucher which the Audit Office will pass for his credit, the only alternative is for the amount to be paid into the Public Account by the imprestee.

22nd November, 1897.

JAS. B. HEYWOOD.

The Solicitor-General.

KINDLY look through these papers and advise.

23rd November, 1897.

R. J. S.

I HAVE read these papers, and find that a receipt for £2 15s. was originally taken without being stamped. On this being pointed out a stamp was put on the document, and it was cancelled as of the date of the original receipt. This was erroneous in point of law; and, in my opinion, the Audit has been right in the view it has taken as to the proper mode of cancelling receipt-stamps under the Stamp Acts. Subsequently receipts were then obtained, but instead of the stamps being cancelled as of the date of actual cancellation they have been all cancelled as of the date of original payment. The law on the subject is correctly stated by the Assistant Controller and Auditor-General on the back of the original voucher. In strict law there is only one way of making the present position legal—viz., to submit one of these receipts to a Deputy Commissioner, who could then stamp the same, under section 125 of the Act of 1882, on payment of a fine of £10; but I would advise that another bill be made out by Craig and Co., showing the original date when the coach-fare was

earned, then a receipt to be given in the usual way, and stamped with a penny stamp, and duly cancelled as of the day of actual cancellation. Probably this will be accepted by the Audit, and close the matter.

26th November, 1897.

W. S. REID.

Hon. the Colonial Treasurer.

It is to be regretted you should have been troubled about this matter. It is the duty of an imprestee to furnish vouchers "properly receipted," and if this is not done and credit given the imprestee is a debtor to the Crown, and can be called upon to make good the amount in default. Mr. Perham must furnish the properly receipted voucher the law requires.

27th November, 1897.

JAS. B. HEYWOOD.

LET Solicitor's opinion be given to Mr. Perham, so that he will know what to do.

27th December, 1897.

R. J. S.

Under-Secretary, Mines.

I HAVE again asked Mr. Craig to give me the receipt required by the Audit, and sent him a copy of the Solicitor's opinion on the matter. It is to be hoped it will have the desired effect. There is no doubt that Mr. Craig or his people are confused with the official *régime*, and I think may now be reasonably excused.

31st December, 1897.

T. PERHAM.

Under-Secretary, Mines.

FURTHER receipt dated the 9th June, 1897, with stamp cancelled on the 7th January, 1898, by Craig and Co., herewith.

£2 15s.

10th January, 1898.

T. PERHAM.

[Third receipt.]

Mines Department, 9th June, 1897.

Received from F. Perham the sum of two pounds fifteen shillings for two passages, coach, from Clyde to Lawrence *vid* Roxburgh.

£2 15s.

H. Craig & Co.
7/1/98.

(1d. stamp.)

The Paymaster-General.

MR. PERHAM's imprest account for £11 4s. 6d. is forwarded herewith for credit.

8th January, 1898.

H. J. H. ELIOTT.

For the Audit Office.—R. J. COLLINS, 13th January, 1898.

Allow the credit now, but let me have the papers afterwards for the purpose of a communication to the Government in review of them.—J. K. W., 17th January, 1898.

Voucher passed accordingly.—J. W., 18th January, 1898.

Audit Office, 19th March, 1898.

OF the refusal of the Audit Office to pass a receipt liable to stamp duty before it is duly stamped according to law a more complete vindication than is afforded by these papers could not well be desired, and if the merit of that refusal were the only question the officers would, without further remark, leave the papers to speak for themselves.

It might, however, appear that a temporary employé has been countenanced in holding up the Audit Office to the contempt of a member of the public, and in speaking lightly of such requirements of an Act of the Legislature as are to be observed on pain of severe penalties. For this temporary employé, who would naturally not be disposed to incur the disapproval of the department that he was serving, has made to the person who has incurred one of the penalties a communication that, as regards the failure to duly stamp a receipt, "the whole thing is exceedingly vexatious, and a piece of childish red-tape"; this communication has passed without censure under the eyes of the Government.

The apprehension by Craig and Co. of the requirements of the Act would have been most effectually quickened if the regular course had at once been taken of calling upon them to have the original receipt stamped by the Commissioner, with the duty and the fine, or, that demand failing, of proceeding for the penalty. By this course, moreover, an example would at the same time have been afforded by the case—a deterrent example, such as no doubt the law contemplates, of what may be the consequence of such a breach of the Stamp Act.

The absence of a direct check on the payment of the stamp duties makes the due receipt of this branch of the public revenue depend largely upon the statutory penalties, and accordingly the interests of the revenue appear to require that these penalties should be kept actively in force, and that there should be a greater fear of them than the correspondence with Craig and Co. is calculated to impress.

J. K. WARBURTON, Controller and Auditor-General.

The Hon. the Minister of Mines.

Audit Office, 25th June, 1898.

THOUGH it may appear late for me now to submit for your consideration the attached memorandum, which was written on the 19th March last, but which has since been delayed, because the papers were taken away at the time by your department, and were returned to me but a day or two ago, I am moved respectfully to do so by a sense of how important it is to the interests of the public service that the Government should repress in its employés any disposition to make their official communications to the public the channel for expressions of impatience at such Audit Office requirements as that receipts for payments of public money should be stamped in accordance with law.

J. K. WARBURTON, Controller and Auditor-General.

The Hon. the Minister of Mines.

I do not see that any good purpose can be gained by pursuing this correspondence any further. Recommended that the papers be filed.

27th June, 1898.

H. J. H. ELLIOTT.

Hon. Mr. Cadman.—R. J. S.

I understand Premier has seen Controller and Auditor-General on the matter.—A. J. CADMAN, 18th July, 1898.

File.—H. J. H. E., 19th July, 1898.

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