

1898.

NEW ZEALAND.

“THE PUBLIC REVENUES ACT, 1891”

(CORRESPONDENCE RELATIVE TO REFUSAL OF AUDIT OFFICE TO PASS THREE REQUISITIONS UNDER SECTION 53 OF).

Laid on the Table by the Hon. the Speaker.

Audit Office, 5th July, 1898.

The Hon. the Speaker of the House of Representatives.

THE Controller and Auditor-General has the honour, in compliance with the direction contained in section 53 of “The Public Revenues Act, 1891,” respectfully to submit to the House of Representatives a copy of the correspondence which has just taken place between the Audit Office and the Treasury, in a case where, the Audit Office having declined to pass three requisitions of the Paymaster-General on the ground that the charges therein were not according to law, the matter in dispute was determined by the Governor in Council.

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

No. 1.

Paymaster-General's Requisition of 28th June, 1898, for issue of £82,444 12s. 3d.

The Treasury.

ARE the imprest moneys in this requisition, and especially the imprest moneys for the Treasury Cashier, to be used for any payments after the 30th June?

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

28th June, 1898.

No. 2.

The Audit Office.

I SHOULD say that the bulk of the money would not be used until after the 30th instant, but nevertheless it is essential that the amounts should be in the hands of imprestees before that date, and that we may be in a position to send away cheques to claimants as soon as possible.

28th June, 1898.

J. B. HEYWOOD.

No. 3.

The Treasury.

I AM doubtful whether in that case I can pass the [Paymaster-General's] requisition. But before I come to a conclusion in the matter, I would ask now, in view of the large aggregate amount of the imprest advances required by the Treasury Cashier, and of the expiring appropriations, whether such use is contemplated of the advances as would make the requisitions contravene the provisions of section 50 of the Public Revenues Act.

28th June, 1898.

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

No. 4.

The Treasury, Wellington, 29th June, 1898.

MEMORANDUM for the CONTROLLER and AUDITOR-GENERAL.

So far as it is possible to judge at this moment, the requirements of section 50 of “The Public Revenues Act, 1891,” are fully met in the preparation of the vouchers and [Paymaster-General's] requisition herewith.

The Treasury has no desire to mislead the Audit Department in this matter. It must be apparent that, owing to the multifarious payments made for all departments of the service by the Treasury Cashier, it is impossible to say how much of each imprest will be used for the services to which the voucher is charged; and at the same time it should be understood that it is the desire of the Treasury that, so far as is possible, the smallest amount of friction and inconvenience shall be given to the public in an endeavour to meet the claims upon the Government for services rendered, or for goods supplied. Especially is this the case with the wages-earning portion of the community, a large number of whose claims are at the present moment held by the Treasury.

In conclusion, I am directed by the Colonial Treasurer to state that he hopes the Controller and Auditor-General will very carefully consider his action if he contemplates refusing to allow these and similar imprests to be issued. The whole responsibility of a dislocation of Treasury payments must rest with the Audit Office, and the Colonial Treasurer trusts this will, if possible, be avoided.

JAS. B. HEYWOOD, Secretary.

No. 5.

Imprest Requisitions for Moneys to be used for Payments after the 30th June.

The Treasury.

Audit Office, 29th June, 1898.

THE Audit Office is disposed to be as considerate in the circumstances as the law will allow. The question is entirely one of the law. The Audit Office does not understand the law to provide for the proposals of the Treasury, and is without authority to exercise any discretion.

As to "the whole responsibility of a dislocation of Treasury payments" resting with the Audit Office, it has already been observed to the Controller and Auditor-General, and with his assent, before a parliamentary inquiry respecting a similar case, that "Of course, it is no business of yours to take into consideration public convenience. Your business is to see that the law is observed and complied with; and as to public convenience, that is a question for the Government."

Before there is appropriation for payments after the 30th June, it would, in the judgment of the Audit Office, not only be unlawful to issue the money required for such payments, but also unlawful for any imprestee to make them. The amount of the requisition should therefore be reduced by so much as is not required for the payments to be made before the close of June, and to be charged to the extended appropriations for the services for which the imprests are requested.

Money required by way of imprest must be charged against the vote for the service for which the imprest is required. The service for which the imprest is required must be the payment out of the imprest money of charges against a vote. The payments after the 30th June are not chargeable to the extended appropriations for the services to that date; and there are no appropriations yet for the services after that date.

It follows that the imprest requisitions, in respect to so much of the moneys required as it is not proposed to use before the close of June, could not yet be charged to any votes for the services for which the imprests are required. There are no such votes yet; and as the payments after the 30th June, before there is appropriation for such payments, must be accounted for as expenditure after that date in the Public Accounts of the colony, the expenditure could only be without appropriation.

On the ground that it would be unlawful, before there is appropriation for payments after the 30th June, to make such payments, and also unlawful to issue the money required for such payments, the Audit Office cannot pass any requisition for the issue of the money as for an authorised expenditure before the appropriation. The Audit Office is not satisfied, under section 46 of the Public Revenues Act, that the issue is within the amount authorised by Parliament; for the payments for which it is acknowledged that the issue is required are not authorised at all.

It may here be well to point out that the Colonial Treasurer is expressly prohibited, by section 3 of "The Public Revenues Act, 1896," from paying any claims after the 30th June, unless authorised by an Act granting and appropriating money for the services of the financial year, and that this prohibition cannot but extend to all imprestees, and especially to an imprestee who is virtually the Treasury itself. The payments made by an imprestee are payments made by him on behalf, or as the agent, of the Treasury. The powers of the agent do not exceed those of the principal; and it does not appear to the Audit Office that it can consistently be claimed that payments which it would be unlawful for the Colonial Treasurer to make could lawfully be made by any of his imprestees.

The Treasury arrangements are doubtless sufficient to prevent imprestees from making any payments after the 30th June for services of the financial year for which there is no appropriation. A safe course of prevention would be to require that the imprest balances of the 30th June should, if there be then no appropriation, be repaid to the Public Account.

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

No. 6.

The Solicitor-General.

I AM directed by the Colonial Treasurer to ask your consideration of the points raised by the Audit Office, and he would be glad to receive your opinion of the same at the earliest possible moment.

30th June, 1898.

JAS. B. HEYWOOD, Secretary.

No. 7.

SEE opinion herewith.—W. S. REID. 30th June, 1898.

Hon. the Premier.

I HAVE carefully considered the points arising out of the papers submitted to me. The question turns on the true construction of section 3 of "The Public Revenues Act Amendment Act, 1896." It appears to me that that section, which re-enacts, and, as far as affects the present matter, without any alteration, section 39 of the Act of 1891, should be read with sections 44 to 46 of the latter Act. The purpose and effect of section 3 are merely to extend until 30th June the power

which, apart from that section, the Colonial Treasurer could not exercise after 31st March. What are those powers? Among others, to authorise, under section 45, a requisition to be sent to the Audit Office in the form as set out in the Fourth Schedule. The requisition is signed by the Colonial Treasurer, and requires the specified sums to be "issued and paid out of the Public Account." Section 3 empowers the Colonial Treasurer to "issue and pay moneys" during the three months—*i.e.*, issue and pay out of the Public Account—*i.e.*, require the sum to be issued and paid out of the Public Account—*i.e.*, make requisition to the Audit Office under section 45. As soon as the Audit Office issues the order to the bank under section 46, and the Colonial Treasurer signs it, his functions cease. To hold that section 3 prohibits an imprestee from paying after 30th June moneys which have been issued to him out of the Public Account prior to that date would involve consequences that are both inconvenient and absurd. Thus, it would prohibit the Treasury Cashier or any other imprestee from delivering his cheque on the 1st July, although it may have been lying in his cash-box for weeks before, merely waiting for the payee to call for it. The doctrine of principal and agent does not in my opinion apply to the Colonial Treasurer and the imprestee. The latter is not the servant or agent of the former. Both are servants of the Crown; and though the imprestee is in certain respects under the directions of the Colonial Treasurer, yet the functions of both in respect of public moneys are defined by statute and the regulations thereunder, and the imprestee is accountable to the Audit Office. I am therefore of opinion that if, before the close of 30th June, sections 44 and 45 are duly complied with by the Treasury, section 46 is mandatory, and requires the Audit Office to forthwith issue the order on the bank if satisfied on the points mentioned in that section.

It also appears to me that in satisfying itself whether "the issue is within the amount authorised by Parliament" the Audit Office is not concerned with anything except the question of figures—*viz.*, whether the proposed issue would exceed the amount authorised by Parliament. The question whether the services to which the requisition relates are prior or subsequent to 30th June is immaterial. Section 3 of the Act of 1896 contains no such limitation, but refers generally to the services for the year, and merely provides that "no payments shall be made for any services other than those for which provision was made in the respective Appropriation Acts and estimates of the preceding year, or in excess of the scale therein set forth."

Crown Law Offices, 30th June, 1898.

W. S. REID.

No. 8.

The Controller and Auditor-General.

PLEASE see the opinion of the Solicitor-General on the points you have raised. I am directed by the Colonial Treasurer to ask you to give the matter your very early attention, and he feels sure with such a clear expression of opinion before you there will be no further delay in passing the requisition and issuing the bank order, so that the public business may be facilitated.

30th June, 1898.

JAS. B. HEYWOOD.

No. 9.

The Treasury.

Audit Office, 30th June, 1898.

IF the votes and the ways and means would stand it, the Government could, according to the proposals of the Treasury, obtain by means of imprest requisitions before the expiration of the votes public money enough to carry on for months, through the agency of imprestees, the public services for which there is no appropriation. The question is one of payment as well as issue; and the Audit Office is not satisfied "that the expenditure is charged upon the voucher against the proper vote and fund provided by Parliament for the same."

The expenditure is the amount of the [imprest] requisition, and that amount is avowedly required for the purpose mostly of payments after the 30th June.

The [imprest] requisition, being charged to a vote and fund provided by Parliament for payments to the 30th June, and no longer, is not charged to "the proper vote and fund provided by Parliament for the" payments after the 30th June.

The amount of the [Paymaster-General's] requisition should, therefore, be reduced as already required.

By way of an example of what may be the misconception of the requirements of the Public Revenues Act in respect to imprest requisitions, I attach a copy of correspondence with the Mines Department on the subject of an imprest requisition for an advance of £1,000 to the Treasury Cashier.

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

The Under-Secretary for Mines.

IN view of what payments by the Treasury Cashier, on account of expenditure chargeable to Mines, Miscellaneous, is it proposed that this advance of £1,000 should be made? and are the payments to be made after the 30th June in every case?

28th June, 1898.

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

The Controller.

THE money is required to meet claims of the Mines Department, some of which are now before the Treasury and some of which may be sent in after the 30th June.

28th June, 1898.

H. J. H. ELLIOTT.

The Department of Mines.

Audit Office, 29th June, 1898.

BEFORE there is appropriation for payments after the 30th June it would not only be unlawful to issue the money required for such payments, but also unlawful for any imprestee to make them. The amount of the [imprest] requisition should therefore be reduced by so much as is not required for the payments to be made before the close of June, and to be charged to the extended appropriation for Mines, Miscellaneous.

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

The Controller.

I DO not see how I can reduce the [imprest] requisition so as to state the exact sum that will be required to meet vouchers for payment before the 30th instant. At the present moment there are vouchers in the Treasury amounting to nearly the amount stated in the [imprest] requisition, and vouchers are being sent forward daily.

29th June, 1898.

H. J. H. ELLIOTT.

The Under-Secretary for Mines.

I CANNOT but think that there is some misconception. Would you obtain from the Treasury, and let me see, the vouchers there now for payments to be made before the 30th June and charged to the extended appropriation for Mines, Miscellaneous?

29th June, 1898.

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

The Accountant to the Treasury.

CAN you let the Controller and Auditor-General have the vouchers which are now in the Treasury?

29th June, 1898.

H. J. H. ELLIOTT.

VOUCHERS attached.—R. J. COLLINS, 29th June, 1898.

The Controller.

FIVE vouchers herewith, all of which are chargeable to the Public Works Fund.

29th June, 1898.

H. J. H. ELLIOTT.

The Under-Secretary for Mines.

Audit Office, 30th June, 1898.

IF this imprest requisition for £1,000 charged against the extended appropriation for Mines, Miscellaneous, is made for the purpose of paying claims on the Public Works Fund—the claims represented by the five vouchers which are submitted—the requisition does not comply with the requirements of section 50 of the Public Revenues Act. The moneys required to be issued by way of imprest are not charged in the [imprest] requisition against the vote for the service for which the imprest is required. An explanation is requested.

An imprest requisition for the issue of money to be used for payments out of the Consolidated Fund is not made in accordance with law when the intention is that the money shall not be applied exclusively to payments chargeable to the vote to which the [imprest] requisition is charged. But it would be a very much more serious irregularity to make, for the purpose of obtaining money for payments chargeable on the Public Works Fund, a requisition which should be charged on the Consolidated Fund, and thus purport to be for payments out of the Consolidated Fund.

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

No. 10.

The Audit Office.

ORDER in Council under "The Public Revenues Act, 1891," transmitted herewith.

30th June, 1898.

R. J. COLLINS,
For Secretary to the Treasury.

No. 11.

THE EXECUTIVE COUNCIL.

HIS Excellency the Administrator of the Government is recommended to sign the attached Order in Council under "The Public Revenues Act, 1891," declaring that the issue requisitions specified in the Schedule thereto, and the charges in such requisitions, are according to law.

W. C. WALKER,
For Colonial Treasurer.

APPROVED in Council.—R., 30th June, 1898.

SIGNED.—J. F. ANDREWS, Acting Clerk of the Council.

No. 12.

RANFURLY, Governor.

ORDER IN COUNCIL.

At the Government House, at Wellington, the 30th day of June, 1898.

Present: His Excellency the Governor in Council.

WHEREAS the Audit Office has declined to pass the issue requisitions specified in the Schedule hereto, on the ground that the charges therein are not according to law:

Now, therefore, in exercise of the powers in this behalf conferred upon him by "The Public Revenues Act, 1891," His Excellency the Governor of the Colony of New Zealand, acting by and with the consent of the Executive Council of the said colony, and having before him the opinion of the Solicitor-General (the office of the Attorney-General being vacant), doth hereby determine the matter in dispute by declaring that the said issue requisitions and the charges therein are according to law.

SCHEDULE.

28th June ...	...	...	...	...	Issue for £82,444 12s. 3d.
29th June ...	...	...	...	...	" £5,584 6s. 3d.
29th June ...	...	...	...	...	" £8,500 0s. 0d.

J. F. ANDREWS,
Acting Clerk of the Executive Council.

No. 13.

The Treasury.

Audit Office, 30th June, 1898.

THE Audit Office, having received the Order made by the Governor in Council to-day declaring to be according to law the three following requisitions—28th June, issue for £82,444 12s. 3d.; 29th June, issue for £5,584 6s. 3d.; 29th June, issue for £8,500—has passed the requisitions under the authority of such Order, and will now, with as little delay as possible, have copies prepared of all the correspondence relating to the dispute, and lay the correspondence before Parliament, in compliance with the provisions of section 53 of the Public Revenues Act.

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

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