

No. 4.

Hon. Colonial Treasurer.

THE contention of the Audit Office is surprising. I think reference to the Solicitor-General should be made.

12th March, 1901.

JAS. B. HEYWOOD.

Referred accordingly.—W. C. W.—14/3/01.

No. 5.

Crown Law Office, 26th March, 1901.

THE Amendment Act repeals the provisions as to waiver of forfeiture, and, in lieu of them, empowers the Colonial Treasurer to extend the period within which the instalments may be paid. If the power of extension is duly exercised the payment is properly chargeable to the permanent appropriation under the Act. The power is given in general terms, and may therefore be exercised in such manner as the Colonial Treasurer thinks fit. Thus his approval of a payment, or authority to make a payment, would, I think, be a valid exercise of the power, without his specifying a definite period of time.

The Audit Office holds, however, that the power must be exercised before the payment is actually made. The point is not free from doubt, but, on the whole, I am of opinion that his power is not thus limited.

The question can only arise in cases where, by inadvertency or otherwise, a local Postmaster pays an instalment more than a month after its statutory due date without the previous authority of the Colonial Treasurer. It may be that the Postmaster does this by mistake, or because, having regard to the age or health of the pensioner, or other special circumstances of the case, he feels satisfied that the Colonial Treasurer would give the authority if applied to, and therefore makes the payment at his own risk. To hold that the conduct of the Postmaster in making the payment in such case would deprive the Colonial Treasurer of the power given him by the Act seems to me to be unreasonable, especially as the effect would be that the payment could not be charged to the permanent appropriation. If the payment is made, but the Colonial Treasurer declines to approve it, then the question of surcharging the Postmaster arises.

If this view of the position be correct, then the vote for forfeited instalments will, as indicated by the Audit Office, be confined to forfeitures occurring prior to the passing of the Amendment Act, and I understand from the department that, as a matter of fact, it was put on the estimates for that purpose.

FRED. FITCHETT, Solicitor-General.

No. 6.

The Audit Office.

SOLICITOR-GENERAL'S opinion for your information.

28th March, 1901.

JAS. B. HEYWOOD.

No. 7.

Appropriations to which Old-age Pension Instalments are chargeable.

THE Controller and Auditor-General regrets that the opinion expressed by the Solicitor-General does not afford to the Audit Office a satisfactory ground for altering its judgment in this matter. The instalments in question are not paid by local Postmasters without a special authority and direction to pay from the Registrar of Old-age Pensions.

29th March, 1901.

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

No. 8.

The Registrar, Old-age Pensions.

IT is evident the Audit Office does not understand the position, which is to be regretted in view of the very clear opinion and exposition of the meaning of the law made by the Solicitor-General.

As it is now necessary to proceed under the provisions of section 9 of the Public Revenues Act of 1900, I shall be glad if you will at once prepare a schedule of the amounts chargeable to the Act in accordance with the ruling of the Solicitor-General, and return schedule and vouchers to me. Payments under section 5 of the Act should be separated and also scheduled and sent to me.

1st April, 1901.

JAS. B. HEYWOOD.

THE Solicitor-General does not rule in these matters.—J. K. WARBURTON.

No. 9.

The Secretary to the Treasury.

THE schedule attached hereto is of instalments paid after the expiration of the prescribed period, approval to pay which has been given by a Minister in accordance with the provisions of section 6 of the Amendment Act, 1900. The amounts now stand as a charge to the Act, but such charge is stated by the Audit to be incorrect. A minute on this matter by the Solicitor-General is attached.

23rd May, 1901.

T. M. SMYTH, Deputy Registrar.