

the Act of 1894, and hence the section in question was re-enacted. The Consolidation Act of 1900, however, is a permanent one. Moreover, so many fresh items of expenditure had been authorised by the various amendments of the Act of 1894 that to recapitulate them all in a single section would have been exceedingly cumbersome and inconvenient. Hence the section was dropped altogether, and in lieu of it section 46 was adapted from section 14 of the Aid to Public Works and Land Settlement Act of same year.

I venture to surmise that, if the Act of 1894 had contained section 46 of the new Act instead of this unhappy section 29, the Audit Office would have found ample authority for road-making in the provisions referred to in my former minute, and the present difficulty would not have arisen.

Crown Law Office, 19th April, 1900.

FRED. FITCHETT, Solicitor-General.

No. 15.

The Controller and Auditor-General.

Audit Office, 22nd April, 1901.

I HAVE read the opinion of the Solicitor-General and reread the Act of 1900, and I have come to the conclusion that section 71 is either superfluous or that it merely renders indisputable the several appropriations to be found in other sections of the Act. I take, by way of illustration, the cost of surveying land acquired, and of laying off roads. In section 65, subsection (1), it is enacted that "the Minister . . . shall . . . cause it to be surveyed . . . and may lay off . . . roads"; and in subsection (4) it is enacted that "all moneys expended by the Minister under this section shall be paid out of the Land for Settlements Account." It would therefore seem that to make section 71 operative as regards road-making there must be as clear and direct authority to expend moneys in making roads on the land as there is to survey it and lay off roads on it.

It may be inferred from section 51, subsection (2), that the Act contemplates road-making. The same inference may be drawn with regard to surveying, mentioned in the same place; yet there is specific power given to survey the land and lay off roads, and pay the cost out of the Land for Settlements Account, and no such power is given to make roads and pay for them, except roads on lands containing mineral deposits, &c.; and, for all that may be gathered from the Act to the contrary, it may have been intended that the cost of the contemplated road-making should be met out of the Public Works Fund.

For the reasons above given, the Audit Office, I submit, would not be justified in considering that expenditure on road-making comes within the meaning of the words "moneys payable under this Act," occurring in section 71, referred to in the first paragraph of this memorandum.

In conclusion, I would remark that it is of the utmost importance that in a matter of this kind—involving the expenditure of large sums of money not coming under the annual review and vote of Parliament—the appropriation shall be so clear that "all who run may read."

J. C. GAVIN,

Assistant Controller and Auditor.

No. 16.

I AGREE. The appropriation by the Act is for all moneys payable under the Act, and, as the Act makes no express provision for the expenditure of moneys in road-making on the lands in question, the clear appropriation necessary to such expenditure is wanting.

22nd April, 1901.

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

No. 17.

FORWARDED to the Lands and Survey Department.
22nd April, 1901.

J. C. GAVIN,
Assistant Controller and Auditor.

No. 18.

Department of Lands and Survey, Wellington, 30th April, 1901.

Urgent.—To the Secretary to the Treasury.

THE Auditor and Controller-General has declined to allow vouchers to be charged against the Land for Settlements Account in which the service is for road-construction, except in connection with such settlements as contain mineral deposits (*vide* sections 65 and 66 of "The Land for Settlements Consolidation Act, 1900"). The Solicitor-General holds that such works can as legally be undertaken under this Consolidation Act as they were under the preceding Acts.

I shall be glad to have your opinion on the matter, and if you disagree with the Auditor-General's contentions I shall be glad if you will have the matter submitted to His Excellency the Governor, as provided by section 9 of "The Public Revenues Acts Amendment Act, 1900." If you should agree with the Auditor-General's ruling, there appears to be no option but to charge to Unauthorised Account.

T. Y. DUNCAN,

Minister of Lands.

No. 19.

Hon. Colonial Treasurer.

It seems to me that the Act of 1900 contemplates the "cost of roading" (which includes the construction of roads), because such cost is mentioned in section 51 of the Act. Further, as section 71 of the same Act provides that "all moneys payable under this Act shall be paid out of the Land for Settlements Account without further appropriation than this Act," I consider that expenditure upon the construction of roads may properly be charged against the moneys at credit