

credited, the question shall be determined by the Treasurer, and his determination shall be laid before Parliament as provided by section fifty-three of the principal Act: Provided that if in the opinion of the Audit Office the question involves matter of law, then it shall be determined by the Governor, having before him the opinion of the Attorney-General thereon; and in such case the objection of the Audit Office, the opinion of the Attorney-General, and the determination of the Governor shall be laid before Parliament as provided by section fifty-three of the principal Act."

60. Did you give your opinion to the Secretary to the Treasury that this was not according to law?—I do not think so.

61. You will see that that section provides that the determination of the Governor shall be laid before Parliament as provided by section 53 of the principal Act. Now, section 53 of "The Public Revenues Act, 1891," provides, "If the Audit Office declines to pass any issue or credit requisition on the ground that the charges therein are not according to law, the matter in dispute shall be determined by the Governor in Council, having before him the opinion of the Attorney-General; but the objections of the Audit Office shall, together with the opinion of the Attorney-General, be forthwith laid before Parliament, if Parliament be then in session, and, if not, then within ten days after the commencement of the then next session." In the face of that statutory enactment, you are not to lay before Parliament anything but your statement and the opinion of the Solicitor-General: how, then, do you come to lay all these other memoranda and correspondence which appear in these papers before Parliament?—I consider it was my duty to lay all the facts before Parliament.

62. Is there any other statutory enactment to which you can refer us which states that you can set out all these other facts?—That section does not limit my power in reporting the objections of the Audit Office to Parliament.

63. I will read the section again. [Section read.] Does not that limit the objections you have to report?—Those are not merely the objections given before the application to the Governor, but any objections the Audit Office may have to raise.

64. Is it not the objections on which the Solicitor-General has given his opinion?—The Act does not say so.

65. Can you refer us to any other enactment, except this section 53 of "The Public Revenues Act, 1891," which shows what you are to lay before Parliament?—I should be wanting in my duty to Parliament if I were not to lay before it all the facts connected with the matter.

66. I do not say you did not do very right, but I want to know what enactment entitles you to give an opinion after the Governor has determined?—I should be a useless officer of Parliament if I were not to furnish it with all the information in my possession in regard to any matter which I had to lay before Parliament.

67. *The Chairman.*] I heard you say this many times this morning—I have written it out: You hold that the Audit Office is the interpreter of the law, and, the interpretation of the law by the Audit Office having been given, the Auditor-General will yield to no other authority. Then you go on to say that, if the law does not give effect to what the Government desires and Parliament has granted, the law must be altered?—I did not say that. I said that Parliament should consider the necessity for an alteration of the law. I said the judgment of the Audit Office determined the law for itself.

68. But you said you would not yield to any other authority?—I did not say that, because Parliament might alter the law. I think abstract questions of this kind should be submitted in writing, so that I might have an opportunity of considering them.

TUESDAY 19TH AUGUST, 1902.

Evidence of Mr. J. K. WARBURTON continued. (No. 2.)

*Mr. Warburton:* I should like to explain the position of the Audit Office with respect to the complaint against it of making a statement of the case after the Governor's order has been made. The provision of the Public Revenues Act is that the objections of the Audit Office shall, together with the opinion of the Attorney-General, be forthwith laid before Parliament. Now, in the judgment of the Audit Office the objections mentioned in that section are those made in respect of the intention of the Government to apply for the Governor's order, and the Audit Office expects that it may be informed of such a proceeding, and that the opinion of the Attorney-General, with an intimation of an intention to proceed for the Governor's order, may, before the Governor's order is obtained, be submitted to the Audit Office for its objections. The opinion of the Solicitor-General is a sort of challenge to the position taken up by the Audit Office, and the Audit Office claims the common right of a defendant to know what the proceeding is to be and what the counsel for the Crown may have said in support of it. That is the position we take up, that we ought to know what the proceeding is and what the opinion of the counsel for the Crown is, and that then we should be afforded the privilege of a defendant in answering a charge. I am referring to case 4 as an example, because it was a case dealt with by Sir Joseph Ward, who can bear me out in what I say. In that case the Solicitor-General's opinion was not submitted to the Audit Office till after the Governor's order had been obtained, and I had good reason to believe that the order was not to be applied for. All that we ask is that we may in every way have an opportunity of meeting the charge.

1. *Mr. Palmer.*] When you say "charge" do you mean it in a personal way?—Oh no. It is simply an opinion objecting to our judgment.

2. *Hon. Sir J. G. Ward.*] You were of the opinion that after your memorandum of the 25th March—namely, "Audit Office, 25th March, 1901.—The Hon. the Colonial Treasurer.—Advances to Colonel Penton and Major Owen.—The vouchers, which now have been sent in for credit of the