

Treasury would have been bound to have waited until the statement of his account came to hand before they could have allocated the money?—In that case we trust to the officer applying his money in the manner authorised by law. But if Major Pilcher had received a sum of money for expenditure chargeable to a vote he would probably have telegraphed, as the Auditor telegraphed, to inquire whether he could spend it for another purpose.

78. Do the imprestees in this colony telegraph in every case where there is a doubt, or do they wait until they see?—I have known a case or two where an imprestee has asked.

79. But it is the exception?—Yes, it is very rare.

80. *Mr. Palmer.*] You said, Mr. Warburton, in answer to Sir Joseph Ward, with reference to your statement on page 12 of your previous evidence, that these payments were illegal, that you did not question the action of the Governor, and I also understood you to say that when you give an opinion on a question before you it makes it the law until the Governor makes the payment legal under section 9 of the Public Revenues Act?—If you refer to section 44 of the Public Revenues Act—

81. I am going to ask you to refer to another section of the Act in reference to the position that you take up. You say that if an item was passed to-day that you disapproved of and said was illegal, and the Governor was to issue an authority authorising that payment, and a similar item came up again on another day, you would adopt the same course again; and that a Governor's authorisation applies only to the one item—in other words, you decide the law, or your decision makes the law, like a Supreme Court judgment; is that so?—The Audit Office has to be satisfied. The Audit Office regards the decision of the Governor under section 9 of the Public Revenues Act of 1900 as settling the question of the particular expenditure or receipt to which the Governor's order applies. If a further expenditure were proposed to be charged as the Audit Office was not satisfied it ought to be charged, a further order would be necessary. The Solicitor-General has already supported the Audit Office in that contention.

82. Section 9 of the Act of 1900 says, "In case any difference of opinion arises between the Audit Office and the Treasury as to the vote, appropriation, fund, account, or other authority to which any expenditure ought to be charged, or as to the proper head of revenue, fund, or account to which any receipt should be 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"—the Treasurer has to determine the question: "Provided that if in the opinion of the Audit Office the question involves matter of law, then it shall be determined by the Governor." Does not the Governor determine the law?—I do not think so.

83. But here is the provision: "Provided that if in the opinion of the Audit Office"—that is, yourself—"the question involves matter of law, then it shall be determined by the Governor"—that is, the law shall be determined by the Governor?—No.

84. The dispute is one of law, and the Governor determines it; is that not so?—The Audit Office is not satisfied that it is.

85. I will read the provision to you again: "Provided that if in the opinion of the Audit Office the question involves matter of law"—if it is a matter of law—and we will take it that the dispute between you and the Treasury is a matter of law—"then it shall be determined by the Governor." He determines that dispute, which is a matter of law. He determines the law, does he not?—No. But this section applies to any expenditure or receipt. The word "receipt" seems to me to indicate that it is a particular receipt or expenditure. It is not expenditure or revenue generally.

86. "In case any difference of opinion arises between the Audit Office and the Treasury as to the vote, appropriation, fund, account, or other authority to which any expenditure ought to be charged, or as to the proper head of revenue, fund, or account to which any receipt should be credited." There are the two things; one is as to the receipt, and the other is as to the appropriation, fund, vote, account, or other authority to which any expenditure ought to be charged. It is a matter of law, then, and that matter of law is determined by the Governor, is it not?—I should think not. The Governor merely signs an order prepared for him by the Administration.

87. You said just now that the Governor had exceeded his authority. Is not this very full? Does it not make the Governor the man who decides the matter?—I am not satisfied that it does.

88. Whether you are satisfied or not, if this is the law, is it not the Governor who finally decides the law, by which you are bound?—I am speaking conscientiously. I am not satisfied that he does under this section.

89. It is the question on which everything hinges?—The Governor has the order prepared for him, and is advised by the Administration to make it; and is it reasonable, I would ask, to regard that order as settling the interpretation of the law in the Act.

90. Probably the Governor is just as capable in deciding the law as the Auditor-General?—As a general rule, a judicial decision is given with the parties at dispute before the Judge. This is given at the request of one party to the dispute that the Governor shall, without reference to the other party, sign an order settling the matter. The Audit Office is satisfied that the settlement of the matter is only the matter of charging the particular expenditure or receipt in question.

91. But the Governor knows the question involved when he comes to his decision. Now, I want to deal with the question itself. I will put it in this way: You have a dispute with the Treasury—say, with the Treasurer—as to what is law on a particular point; this Act says that that question shall be determined by the Governor—that is, the question of what is the law—is that not so?—No.

92. You say that a payment is brought forward, and the question is whether it is lawful or unlawful to pay it. Then a question of law is involved. The Treasury says it is lawful, and you say it is unlawful. Then the Act provides that when a question of law comes up the Governor is to decide it?—No.