

spirit," I think that the "actual revenue" for any specified period means the revenue actually received and paid into the Public Account at the close of that period, whether then recorded in the Revenue Account or not. That account is made up from day to day, but of necessity the moneys to which any day's account relates have been actually paid into the Public Account before that day. Moneys are paid into the Public Account daily all over the colony, but they cannot be included in the Revenue Account until vouchers, &c., are received and checked in Wellington. Hence the Revenue Account for any specified day cannot possibly show the "actual revenue" for that day.

In speaking of revenue as being defined by the Act, the Audit Office, I understand, refers to section 23 of the Act of ninety-one. That section, however, defines not "revenue," but "Revenue Account"; and, as I have shown, the account has, in respect of dates, no relation at all to the actual revenue.

The Audit Office states that its present view is in accordance with the practice of the past. This, however, does not affect the true legal position on which I am now for the first time called upon to express an opinion.

FRED. FITCHETT, Solicitor-General.

11/2/1902.

No. 10.

The Audit Office.

THE opinion of the Solicitor-General, I apprehend, bears out the contention that the dates for comparing the actual with the estimated revenue must correspond. The computation of the Railway Department should therefore be adopted.

JAS. B. HEYWOOD.

13th February, 1902.

No. 11.

The Hon. the Colonial Treasurer.

Audit Office, 15th February, 1902.

*Treasury Minute of 13th February, 1902, forwarding the Solicitor-General's Opinion on the Provision of the Public Revenues Act for increasing the Appropriation for Railways.*

It is respectfully submitted that the Controller and Auditor-General cannot adopt any but the computation which accords with the judgment of the Audit Office, and that the Solicitor-General's opinion does not override that judgment.

That the appropriations for working railways have hitherto been increased under the statutory provision for that purpose in accordance with the Audit Office decision was mentioned by the Controller and Auditor-General with the object not of explaining the legal position, but only of indicating what was the Audit Office decision; and he regrets that he should be unable to alter it.

The Colonial Treasurer invariably uses the expressions "actual revenue" and "actual expenditure" to mean the revenue and expenditure according to the "Abstract of the Revenue and Expenditure of the Public Account," under section 4 of "The Public Revenues Acts Amendment Act, 1896." The revenue, according to that abstract, from railways and other sources is the revenue received for the days to which relate the daily Revenue Account under section 23 of "The Public Revenues Act, 1891"; and the repeated use of the expression "actual revenue" in the Financial Statements of the Minister to mean the revenue received according to the abstract and the daily revenue accounts under the Public Revenues Act may reasonably be considered to have satisfied Parliament that such would be the meaning of the same expression in the Public Revenues Act in the absence of anything to the contrary in that Act.

It is to be borne in mind, too, that on the 4th February, when the increase to the appropriation for the year was for the expired portion of such year submitted for the concurrence of the Audit Office, the expired portion then included the 3rd February, and that *the expired portion of the year at the present time ends with yesterday, the 14th February.* The actual revenue from railways for this period is the revenue according to the Revenue Account and requisitions received in the Audit Office to the close of business on the 14th; for, of course, every day's delay in applying to the expired portion of the year the provisions for increasing the appropriations for such year adds a day to the expired portion.

The Treasury reference to the Solicitor-General misrepresents the Audit Office. Its decision is that the actual revenue during the expired portion of the year is the revenue according to the Public Revenues Act, and the estimated revenue compared is, of course, the estimate for the same period.

J. K. WARBURTON,

Controller and Auditor-General.

No. 12.

The Hon. the Colonial Treasurer.

THE Audit Office having come to a decision which is contrary to law, it only remains now to obtain a warrant from His Excellency the Governor in order that the computation of the Railways Department may be adopted.

JAS. B. HEYWOOD.

Prepare Warrant.—C. H. M., 19/2/02.

18th February, 1902.

No. 13.

IN EXECUTIVE COUNCIL.

HIS Excellency the Governor is recommended to sign the attached Order in Council under section 53 of "The Public Revenues Act, 1891," determining a matter in dispute between the Audit Office and the Treasury as to the actual revenue of the Railway Department for the period ended 1st February, 1902, of the financial year 1901-2.

R. J. SEDDON.

Approved in Council.

R. J. S., 4/3/1902.

J. F. ANDREWS,

Acting Clerk of Executive Council.