

not specific in the sense referred to, but applies to all stamp duty paid on estates of deceased members of the contingents during the year; and that consequently remission may be made, and the expenditure in respect thereof be lawfully charged to the said Vote 48, notwithstanding that the amount of the said item is thereby exceeded.

Given under the hand of His Excellency the Governor at Wellington, this twenty-seventh day of March, one thousand nine hundred and two.

C. H. MILLS.

The Audit Office.
To note His Excellency's determination.

No. 15.

JAS. B. HEYWOOD.
2nd April, 1902.

No. 16.

The Hon. the Colonial Treasurer.

Audit Office, 3rd April, 1902.

THE Governor having determined, under section 9 of "The Public Revenues Acts Amendment Act, 1900," that item 25 of Vote 48, "Remission of duty on estates of deceased members of contingents, £100," in the appropriations for the year ending the 31st March, 1902, applies to the refund proposed to be made of the sum of £566 18s. 3d. paid for duty on the estate in question, and that consequently remission of such sum may be made as a charge to Vote 48 notwithstanding that the amount of the said item is thereby exceeded, the Controller and Auditor-General has passed the relative voucher, and will in ordinary course lay before Parliament, in accordance with the provisions of the Public Revenues Act, a copy of the correspondence on the subject.

The item on the estimates was intended to provide for remission, by payment out of the Consolidated Fund, of stamp duty which was required by statute to be paid out of particular estates—that is, for remission to private persons of revenue legally payable by them which there is no statutory authority to remit, except as a charge to the Unauthorised Expenditure Account of money expended in excess of the appropriation of Parliament; and such an item is obviously not an appropriation for the service of a Department.

Passing over the question whether an appropriation for remission of duty would apply to the present claim, "to refund of duty paid on the above estate," the item for remission of duty was either specific or not specific. If it was specific, it authorised no more than its amount of expenditure for the remission. If it was not specific, it authorised no remission whatever of revenue required by statute to be paid by private persons or estates. For if an item to relieve classes of persons or estates from liability to pay duty is quite general in terms, and has no specific reference to any particular case, the provision of the statute that such persons or estates shall be liable is paramount, except in a case under section 3 of the Public Revenues Amendment Act of 1900, where the payments must in no case exceed the amount of the item.

Such was accordingly the judgment of the Audit Office, and such, consequently, the law; and in none of the Audit Office minutes on the question is there anything that can reasonably be read even as implying a suggestion that the question whether the item is specific must be determined by its amount.

The remark that the Solicitor-General's "opinion, indeed, is understood by the Audit Office to lead to the conclusion that it would be sufficient for an item to be passed on the estimates of £1 for any class of revenue to justify the Administration in refunding such revenue to the amount of the available balance of the vote and of the appropriation for unauthorised expenditure" was a remark made by the Controller and Auditor-General by way of submitting that the opinion which led to such a conclusion was open to conclusive objection.

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

No. 17.

The Solicitor-General.

Premier's Office, Wellington, 7th April, 1902.

THE further remarks of the Audit Office, dated the 3rd instant, are submitted for any comment you may care to make.

I think these memoranda, after the Governor's Warrant has been obtained, are very objectionable, inasmuch as such correspondence might be continued indefinitely, and altogether new arguments and matter introduced.

In the cases of difference of opinion between the Audit Office and the Treasury the opinion of the Solicitor-General is obtained, and such opinion is forwarded to the Audit Office for their information. If the Audit Office does not accept such opinion, they should at this stage exhaust all the objections they may have to the course which the Solicitor-General advises the Government may be pursued in the matter, and the correspondence should close with the determination of the Governor, leaving merely to the Audit Office the task of transmitting a copy of the papers to be laid before Parliament.

It will probably be necessary to amend the Public Revenues Act in this direction.

R. J. SEDDON.

No. 18.

The Right Hon. the Colonial Treasurer.

I HAVE no comment to make, except to say that I do not take the Audit Office to now hold that the case is governed by section 3 of "The Public Revenues Acts Amendment Act, 1900." In its