

1902.  
NEW ZEALAND.

“THE PUBLIC REVENUES ACT, 1891”:

CORRESPONDENCE IN CASE WHERE AUDIT OFFICE DECLINED TO PASS INCREASED  
APPROPRIATION FOR WORKING RAILWAYS.

*Laid on the Table in pursuance of Section 53 of “The Public Revenues Act, 1891.”*

The CONTROLLER AND AUDITOR-GENERAL to the Hon. the SPEAKER of the House of  
Representatives.

Audit Office, 3rd July, 1902.

THE Controller and Auditor-General has the honour respectfully to submit to the House of Representatives, in accordance with section 53 of “The Public Revenues Act, 1891,” a copy of the correspondence in a case where, the Audit Office having declined to pass £36,859 12s. 2d. as the sum by which the appropriation for working railways could, under section 6 of “The Public Revenues Acts Amendment Act, 1900,” be deemed to have been increased for an expired portion of the year, on the ground that the computation was not made on the revenue in the Public Account according to the Public Revenues Act, the Governor in Council determined the matter in dispute by deciding that the excess of the actual over the estimated revenue from railways for such expired portion of the year was, as shown by the computation, £36,859 12s. 2d.

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

The Hon. the Speaker of the House of Representatives.

No. 1.

New Zealand Railways, Accountant's Office, 1st February, 1902.

*Memorandum for the Paymaster-General.*

I EXPECT to have telegraph returns of the “C. threes” for week ending to-day made up and transmitted to you on Monday. When received and entered up in your books, please let me know the total receipts from the 1st April to that date according to your figures, so that a claim on account of the surplus revenue for the portion of the financial year now expired may be applied for, to supplement Vote 66 (see section 5 of “The Public Revenues Act Amendment Act, 1898”). Kindly attend to this so that I may be provided with the necessary information to get our waning vote recruited. I hope you will have all transfer vouchers, &c., dealt with by that time, so that the full credit the Railway is entitled to may be got. Please jot hereon.

A. C. FIFE.

The Accountant.—For action.—J. B. H., 1st February.

No. 2.

Figures attached.—R. J. COLLINS, 4/2/02.

|  | £          | s. | d. |
|--|------------|----|----|
| Railway revenue to 3rd February, 1902 ... .. | 1,618,100  | 14 | 1  |
| Less refunds ... ..                          | 100,912    | 6  | 7  |
| Net Railway revenue ... ..                   | £1,517,188 | 7  | 6  |

No. 3.

The Controller and Auditor-General.

THE above is the Railway receipts according to Treasury to the 1st February, but entered by that Department on the 3rd February (see minute on attached), viz. ... .. £1,517,188 7 6

Less  $\frac{307}{885}$  of £1,760,000, amount of Railway revenue estimated for year  
1900-1 ... .. 1,480,328 15 4

Surplus to be carried to vote ... .. £36,859 12 2

Please note, and register extension to Vote 66 accordingly.

A. C. FIFE.

4/2/1902.

## No. 4.

The Railway Department.

THE actual revenue to the 3rd February, 1902, in the Receiver-General's Account is the amount of £1,517,188 7s. 6d., and it is by the excess of such actual revenue over the estimated revenue, for such period of the year as expires on the 3rd February, that the appropriation is increased.

The increase will accordingly be £27,215 12s. 6d., shown thus :—

|   |     |     |     |     |     |           |    |    |
|---|-----|-----|-----|-----|-----|-----------|----|----|
| Actual revenue  | ... | ... | ... | ... | ... | £         | s. | d. |
|   |     |     |     |     |     | 1,517,188 | 7  | 6  |
| Less $\frac{3}{8}\frac{0}{8}\frac{0}{8}$ of the estimated revenue | ... | ... | ... | ... | ... | 1,489,972 | 15 | 0  |
| Increase of appropriation   | ... | ... | ... | ... | ... | £27,215   | 12 | 6  |

J. K. WARBURTON,  
Controller and Auditor-General.  
5th February, 1902.

## No. 5.

New Zealand Railways, Accountant's Office, Wellington, 5th February, 1902.

*Memorandum for the Paymaster-General.*

THE Controller and Auditor-General in reckoning the addition to be made to the Railway vote from the excess of revenue over the estimate for period 1st April to 1st February had taken the date you transcribed the figures into the Treasury books instead of the date the money was actually paid into the Public Account, thus depriving Vote 66 of the aid of £9,643 19s. 8d. from this source. This sum, with the transfer vouchers to the credit of Railway revenue and vote, amounting to £18,838 5s. 7d., held over in your office, curtails the revised appropriation of the Department by no less a sum than £28,482 5s. 3d., augmenting the call which will have to be made on "Unauthorised" later on to that extent.

Audit Office papers herewith, extending vote by £27,215 12s. 6d.

A. C. FIFE.

## No. 6.

The Audit Office.

THE Act provides for the computation to be made between the *actual* and the estimated revenue at any period which may be determined on to make such computation. In the present instance the actual revenue on the 1st instant has been ascertained, and these figures, compared with the estimated revenue on the same date, should certainly be accepted if they are found to be correct. The mere departmental action of getting the figures into the Treasury and Audit Office books cannot make any difference to the ascertained fact of the amount of the revenue received up to a certain date, and any delay arising from book-keeping necessities should not be allowed to deprive the Railway Department of the real or actual surplus at the date quoted.

I hope the Audit Office will allow the figures to stand which have been submitted in the memorandum of the Railway Accountant dated the 4th instant.

JAS. B. HEYWOOD.  
7th February, 1902.

## No. 7.

(No. 19.)

The Hon. the Colonial Treasurer.

*Increased Expenditure on Railways, and Treasury Minute of 7th February, 1902.*

IN the provisions of the Public Revenues Act for increased expenditure on railways the expression "Actual revenue from railways" has already been decided by the Audit Office to mean revenue as defined by that Act.

It was made clear by the Audit Office correspondence in February, 1900, with the Railway Department and Treasury that the only actual revenue which the provisions authorise to be considered is the revenue from railways entered in the Receiver-General's daily cash accounts prepared under section 23 of the Public Revenues Act, and that *such portion of the year as has expired* is the portion ending with the day to which the last such Revenue Account relates.

The appropriations for working railways have hitherto been increased accordingly.

J. K. WARBURTON, C. and A.G.,  
8/2/1902.

## No. 8.

The Solicitor-General.

"ACTUAL" revenue can only have one meaning when used for the purpose of comparison with the "estimated" revenue. It can only mean that the comparison must be made upon the same date, otherwise there could be no sense in making up the computation. The Audit Office contend they should compare the actual receipts of the *first* with the estimated receipts of the *third*. Is this contention justified, in your opinion, by the true reading of the law?

(Urgent.)

JAS. B. HEYWOOD.  
10th February, 1902.

## No. 9.

THE object of section 6 of the Act of 1900 is to increase the appropriation for working railways, and thereby avoid the necessity of resorting to "Unauthorised."

To this end the section provides that the amount actually appropriated for working railways in any year shall be deemed to be increased by "a sum equal to the excess of the actual over the estimated revenue from railways for the year, or, as the case may be, for such portion of the year as has expired." And giving it, to quote the Interpretation Act, "such fair, large, and liberal construction as will best insure the attainment of its object according to its true intent, meaning, and

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.

RANFURLY, Governor.

ORDER IN COUNCIL.

At the Government Buildings, at Wellington, this fourth day of March, 1902.

Present: The Right Hon. R. J. SEDDON presiding in Council.

WHEREAS by section fifty-three of "The Public Revenues Act, 1891," it is provided that if the Audit Office declines to pass any credit requisition on the ground that the credit therein is 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 thereon: And whereas the Audit Office has declined to pass a computation for the credit of the vote for working railways made in accordance with the provisions of section six of "The Public Revenues Act, 1900," on the ground that the actual revenue must be considered to be the revenue entered in the Receiver-General's daily cash accounts for any given date, whereas the Treasury affirms that for purpose of comparison between the actual and the estimated revenues of the Railway Department the date of the receipt into the Public Account of revenue by that Department should be taken as the true date for computation of the actual revenue: And whereas, by reason of the premises and on the ground aforesaid, a difference of opinion has arisen as to the amount of the surplus revenue to first instant:

Now, therefore, I, Uchter John Mark, Earl of Ranfurly, Governor of the Colony of New Zealand, in exercise of the hereinbefore-recited powers, and having before me the opinion of the Solicitor-General thereon, and acting by and with the advice and consent of the Executive Council of the said colony, do hereby determine the said matter in dispute and difference of opinion by deciding that the sum of thirty-six thousand eight hundred and fifty-nine pounds twelve shillings and twopence as shown by the said computation is the excess of the actual over the estimated revenue from railways for the portion of the year expired on the 1st ultimo, by which the amount appropriated out of the Consolidated Fund for railway working and maintenance shall be deemed to be increased in accordance with clause six of "The Public Revenues Acts Amendment Act, 1900."

J. F. ANDREWS,

Acting Clerk of the Executive Council.

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No. 14.

The Audit Office.

To note that His Excellency the Governor has determined that £36,859 12s. 2d. shall be the amount to be added to the appropriation for Vote 66, Working Railways.

JAS. B. HEYWOOD.

10th March, 1902.

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No. 15.

The Hon. the Colonial Treasurer.

Audit Office, 12th March, 1902.

*Appropriation for Working Railways increased by Excess of Actual over Estimated Revenue.*

THE Governor having, by Order in Council, determined that of the actual over the estimated revenue from railways for such portion of the present financial year as expired on the 1st February last £36,859 12s. 2d. is the excess by which the amount appropriated out of the Consolidated Fund for railway working and maintenance shall be deemed to be increased in accordance with section 6 of "The Public Revenues Acts Amendment Act, 1900," the Audit Office will treat such appropriation as so increased, and the Controller and Auditor-General 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 only point that appears to have been omitted in the Audit Office minutes on the question is that the Treasury regulations made by the Governor in Council under section 5 of "The Public Revenues Act, 1891," and having the force of law, provide in section 3 that "in the Public Accounts the revenue of any financial year is the money received into the Public Account at the Bank at Wellington within the year." The Railway revenue *not received into the Public Account at the Bank at Wellington on the 1st February, 1902*, was accordingly considered by the Audit Office not to be, in the Public Accounts, the Railway revenue of the financial year for the expired portion of which the 1st February, 1902, was the last day. Now, the Treasury computation is based on Railway revenue for such expired portion of the year to an amount that was not all received into the Public Account at the Bank at Wellington by the 1st February.

J. K. WARBURTON,

Controller and Auditor-General.

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