

1902.
NEW ZEALAND.

PUBLIC ACCOUNTS COMMITTEE

(REPORT OF) ON PAPER B.-19B—"THE PUBLIC REVENUES ACT, 1900": CORRESPONDENCE AS TO DIFFERENCE OF OPINION BETWEEN AUDIT OFFICE AND TREASURY AS TO PAYMENT OF DRAFT IN RESPECT OF A CORONATION CONTINGENT.

Report brought up 30th September, 1902, together with Minutes of Evidence, and ordered to be printed.

ORDERS OF REFERENCE.

Extracts from the Journals of the House of Representatives,

TUESDAY, THE 8TH DAY OF JULY, 1902.

Ordered, "That a Committee, consisting of ten members, be appointed to examine into and report upon such questions relating to the Public Accounts as they may think desirable, or that may be referred to them by the House or by the Government, and also into all matters relating to the finances of the colony which the Government may refer to them; five to be a quorum: the Committee to consist of Mr. J. Allen, Mr. Colvin, Mr. Fisher, Mr. Flatman, Mr. W. Fraser, Mr. Graham, Mr. Guinness, Mr. Palmer, Sir William Russell, and the mover.—(Hon. Sir J. G. WARD.)

FRIDAY, THE 4TH DAY OF JULY, 1902.

Ordered, "That Paper No. 67 (Correspondence between the Audit Office and the Treasury Department relative to expenditure of £3,000 in respect of the Coronation Contingent) be referred to the Public Accounts Committee."—(Hon. Sir J. G. WARD.)

REPORT.

PAPER B.-19B—"THE PUBLIC REVENUES ACT, 1900": CORRESPONDENCE AS TO DIFFERENCE OF OPINION BETWEEN AUDIT OFFICE AND TREASURY AS TO PAYMENT OF DRAFT IN RESPECT OF A CORONATION CONTINGENT.

THE Public Accounts Committee, to whom was referred the abovementioned Paper, has the honour to report that it has considered the same, and taken evidence thereon, and is of opinion: "That the charging of the £3,000 to the Imprest Account was in accordance with the practice followed by the Treasury for years, but that, in order to remove the contentions between the Controller and Auditor-General and the Treasury, an amendment of the Public Revenues Act is necessary."

G. FISHER, Chairman.

Tuesday, 30th September, 1902.

MINUTES OF EVIDENCE.

TUESDAY, 19TH AUGUST, 1902.

J. K. WARBURTON, Controller and Auditor-General, in attendance and examined. (No. 1.)

1. *The Chairman.*] We will deal with B.—19B now, in reference to the payment of a draft with respect to the Coronation Contingent. Have you anything to say in reference to that, Mr. Warburton?—No, sir.

2. *Mr. W. Fraser.*] Will Mr. Warburton tell us what is the pith of the thing?—A telegram was received by the Audit Office from the Audit Officer in London that instructions had been received to honour a draft for Coronation Contingent, Cape Town—viz., “Instructions received from the colony honour Pilcher’s draft £3,000 expenses Coronation Contingent, Cape Town. Instruct whether may charge General Imprest.—PALLISER.” That is paper No. 1. That telegram was referred to the Hon. the Colonial Treasurer in the next letter—viz., “The Hon. the Colonial Treasurer.—With reference to attached telegram from London, the amount of the draft for £3,000 for expenses of the Coronation Contingent has no doubt been received and expended by Mr. Pilcher, and if the Agent-General pays the draft the Audit Office presumes that he will do so by way of an imprest to be accounted for by Mr. Pilcher. In any case the expenditure is unauthorised, and it is therefore suggested that the Treasury should provide forthwith for the payment by bank order.—J. K. WARBURTON, C. and A.-G.—13th June, 1902.” The Audit Office there suggests that the Treasury should provide for the payment. There was no vote or appropriation for the expenses of the Coronation Contingent, and the provision would have had to be a provision of £3,000 charged to the Unauthorised Expenditure Account. The Treasury contended that moneys issued under general imprest to the Foreign Imprest Account in London were applicable to any payments of the Government, whether authorised or unauthorised. That I understand to be the contention of the Treasury, and the Audit Office judgment was that a vote under the Public Revenues Act does not comprise the provision for unauthorised expenditure, and that a general imprest is applicable only to expenditure sanctioned by Parliament. The Solicitor-General gave a long opinion to the contrary, that unauthorised expenditure was virtually a vote. That opinion was the foundation of an application to the Governor for an order, under section 9 of the Public Revenues Act, and was not seen by the Audit Office until after the Governor’s order was obtained. The Audit Office then explained the meaning of the Public Revenues Act with regard to the points in letter No. 17—viz., “Audit Office, 25th June, 1902.—The Hon. the Colonial Treasurer.—The Governor having determined, under section 9 of ‘The Public Revenues Acts Amendment Act, 1900,’ that the draft for £3,000 shall be charged to General Imprest, a telegram was yesterday despatched to the Audit Officer informing him so, 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. As, however, the Solicitor-General advises it to be according to law that the Treasury should treat the statutory provision for unauthorised expenditure as a vote under the Public Revenues Act, and appears to be of opinion that the payments authorised by requisition to be made by cheque on the Foreign Imprest Account out of moneys issued by way of General Imprest include payments not authorised by any other requisition, of moneys to be expended in excess of or without the appropriation of Parliament, and as such advice and opinion are considered by the Audit Office to indicate that the requirements of the Act relating to unauthorised expenditure and to the issues of moneys by way of general imprest call for more explanation, the Controller and Auditor-General begs leave respectfully to offer it. Section 63 of the Act provides that ‘All sums transferred to the Foreign Imprest Account shall be charged so far as possible against the votes, but moneys may be issued by way of general imprest of which the balance unaccounted-for shall not at any time exceed £60,000.’ According to the definition in section 3 of the terms of the Act, ‘vote’ means any sum of money appropriated to the public service by the annual Appropriation Act or any other Act sanctioning the expenditure of public money. Section 78 provides for the case of ‘moneys expended as unauthorised expenditure under the provisions of this Act if not sanctioned by Parliament in the session in which the account of the same is required to be rendered.’ From these provisions it is clear that the word ‘vote,’ as defined by the Act, must exclude the statutory provision for the unauthorised expenditure. And, indeed, section 48, in providing that orders shall be issued for such expenditure, describes it expressly as ‘the payment of vouchers in excess of or without appropriation of Parliament.’ There is accordingly nothing in the Act to warrant the provisions of section 63—‘Moneys may be issued by way of general imprest’—being interpreted as a provision for any but expenditure chargeable to votes, and nothing consequently to warrant the provision for unauthorised expenditure being construed or treated as a vote. The moneys, though they are not charged to votes, are regarded as issued for expenditure on services which Parliament has sanctioned by votes. The votes by which Parliament sanctions its expenditure may lawfully be exceeded, while the moneys expended under the provision for unauthorised expenditure must not exceed the limit of £150,000 in any one year. There may be expended, on service payments defined by the votes, moneys in excess of the appropriation, moneys for which the provision for unauthorised expenditure is made. The unauthorised expenditure cannot exceed the statutory limit if the statutory requirements are observed. It was known to the Minister for

the service of whose Department payment of the draft in question was to be made that the expenditure was necessary to the public service; and section 47 of the Act requires that whenever it appears to him thus to be necessary he 'shall make a statement in writing setting forth the reasons rendering such expenditure necessary, and shall submit the same to the Treasury, and the Treasury, if it approves the same, shall send it, together with a requisition, to the Audit Office'; and the next section, 48, provides that 'The Audit Office shall, upon such requisitions and statements, from time to time issue orders for the payment of vouchers in excess of or without the appropriation of Parliament, &c. Thus do the two sections 47 and 48 prescribe the conditions necessary to the issue of the orders without which no payment can lawfully be made of vouchers for unauthorised expenditure, and make it the duty of the Audit Office to issue such orders only when those conditions have been observed; and when it is considered that the Administration has to obtain for its expenditure under the provision for unauthorised expenditure the subsequent sanction of Parliament, the Minister's statement in writing setting forth the reasons rendering such expenditure necessary, and the Treasury approval of such statement, cannot but be regarded as reasonable statutory precautions to be taken by the Administration as soon as the expenditure appears necessary and before it is authorised to be paid. The requirements of the section are reasonable and complete; and it is obvious that compliance with them is all that is necessary to keep within the statutory limit moneys expended in excess of or without the appropriation of Parliament. When the conditions of the provision for unauthorised expenditure are explained, and the difference between such provision and a vote is clearly understood, the requirements of the Act need little interpretation. Except the charges of the public debt, the claims upon the Government in London are paid out of the Foreign Imprest Account; and section 64 of the Act provides that 'No money shall be drawn from the Foreign Imprest Account except by cheque of the Agent-General, countersigned by an officer of the Audit Department, who . . . shall not countersign such cheque except for payments authorised by a requisition as aforesaid.' The Audit Officer accordingly, before he countersigns a cheque, must, of course, pass or audit the relative voucher—that is, he must in every case satisfy himself that the proposed payment is authorised by a requisition; and he could not have been held blameless by the Audit Office if, without being satisfied that the payments authorised by a requisition for the issue of moneys by way of general imprest included the payment of vouchers for unauthorised expenditure, he had passed the voucher and countersigned the Agent-General's cheque for the draft merely on the Treasury direction to the Agent-General to make the payment as a charge to General Imprest. From the foregoing explanation the statutory requirements will be seen to be such that before the Governor's determination that the draft was to be charged to General Imprest, the Audit Office would not have been justified in replying to its officer's inquiry that the expenditure could lawfully have been so charged, and the cheque could not lawfully have been countersigned. The position of the draft would consequently have not been altered if the Treasury had allowed the Audit Office reply to its officer to be forwarded. The draft would have been unpaid in any case pending the Governor's determination or the issue of a requisition that would authorise the payment. The Controller and Auditor-General ventures, however, to ask for the Minister's assurance that such telegrams to places beyond the colony as may henceforth be forwarded by the Audit Office for transmission through the Treasury will not be arrested, for they are generally so forwarded merely in order that expense may be saved by the use of the Treasury Code.—J. K. WARBURTON, Controller and Auditor-General."

3. *Hon. Sir J. G. Ward.*] Has the Audit Officer in London, Mr. Warburton, been in the habit of cabling out for directions in connection with payments on behalf of the colony in London?—I do not think that he has been in the habit of doing it. In this case he would know, as an old Audit Officer, that it was unauthorised expenditure, and it was his duty in that case to ask.

4. Has any alteration and instruction with regard to anything been recently given by you to the Audit Officer in London?—Yes; we are instructing every mail or so.

5. I mean it is not usual for him to cable out here as to how he is to act in connection with a payment which might involve the credit of the colony. Why has he done it in that particular case?—The credit of the colony must not depend on the exercise by him of a discretion which the law does not authorise him to exercise. There have been no instructions sent out with regard to a transaction like this. He has acted upon his own judgment as to the application of the general imprest. If he had paid the money and a clerk had brought the transaction under my notice I should have pointed out that it was an illegal payment in London.

6. I look upon the matter as a very important one from the point of view of the colony's credit. The Audit Officer cabled to you direct asking how he was to act in connection with unauthorised payment made in good faith by the Treasury on behalf of the colony to meet exceptional circumstances in South Africa, the directions being to the officer in South Africa, Major Pilcher, to draw upon the Agent-General at three days' sight. When the Audit Officer in London received the intimation of that, instead of making the provision there for its payment he adopted, I think, the extraordinary course of cabling out here to you for instructions. In the meantime that draft might have been dishonoured?—That was unauthorised expenditure which it was illegal for him to pass a voucher for. He therefore, long before the draft became due, cabled out for instructions to me. The draft was not paid before the 30th June in London. On the 13th June I sent that telegram on to the Treasurer, suggesting that the legal course should be adopted of providing for the payment.

7. Was that only after all the correspondence had passed?—It was not until the 23rd June that all the correspondence had passed.

8. That was before the draft was paid?—After all this correspondence I ultimately sent a telegram that the Governor had ordered the payment under section 9 of the Public Revenues Act.

9. If your intimation to the Auditor had been carried out that the £3,000 payment should have been made by the bank order, it would have meant the cancellation and the withdrawal of that draft, and the different mode would have been substituted?—No. The Treasurer might have sent a bank-order telegram to provide for the payment of a draft that had become due. The proper course was to provide by a requisition and bank order charging the amount to the Unauthorised Expenditure Account. The draft would have taken the course which it took undisturbed. It would have been paid and charged as under the Unauthorised Expenditure Account in the accounts for June quarter.

10. Your cable of the 23rd June—viz., “Auditor, care Agent-General for New Zealand, London.—Governor, under section 9 of ‘The Public Revenues Acts Amendment Act, 1900,’ determined Pilcher’s draft £3,000 Coronation expenses shall be charged to General Imprest, and such determination must be obeyed and cheque countersigned.—WARBURTON.” That was only after the Governor had signed it?—Yes.

11. This is the point I wish to mention: Supposing the Governor had not determined prior to the date of the payment of that draft?—Then the Treasury would have been responsible for delaying to issue the bank order providing for the payment by bank order from the 13th June until the 23rd June.

12. They would have been responsible only because there was a difference of opinion as to whether that should have been charged against the General Imprest or the Unauthorised?—The Audit Office is not authorised to pass a charge of unauthorised expenditure to anything but the Unauthorised Expenditure Account. When the first telegram came that £3,000 was to be drawn by Pilcher, then the Treasury should have provided by requisition and bank order for the payment of the draft in London instead of leaving it to be charged to General Imprest.

13. The point is, the Treasury were of opinion that they were right in ordering that draft to be drawn upon the Agent-General to be paid out of Foreign Imprest Account, and in return to be accounted for here in the legal way; but you have a different opinion?—Yes.

14. Is the Auditor in London not free to exercise his independent judgment without waiting for instructions from the colony itself in a matter of dispute between you and the Treasury before a payment is made?—He does exercise his judgment. He telegraphs to me; I immediately refer the matter to the Treasurer, and the Treasurer should, if the credit of the colony is concerned, say—if there is a difference—the credit of the colony is concerned, and do as the Audit Office suggests and the law requires.

15. Then, you are of the opinion that in the matter of a payment authorised by the Treasurer, rightly or wrongly, that the Audit Officer in London should not act until he has communicated with you and until the dispute has been settled here?—I do not say that. If he is in doubt he can telegraph. If he could not telegraph he would no doubt act on his own judgment, but knowing it was unauthorised expenditure, and having the telegraph at his command, he asked for instructions. The provisions for unauthorised expenditure are special. It is expenditure for which the Administration of the day have to obtain the sanction of Parliament, and sections 47 and 48 of the Public Revenues Act provide a special course to be taken before unauthorised expenditure is paid. Section 47, “Whenever it appears necessary for the public service that money should be expended in excess of or without the appropriation of Parliament, the Minister for the service of whose Department such expenditure is required shall make a statement in writing setting forth the reasons rendering such expenditure necessary, and shall submit the same to the Treasury, and the Treasury, if it approves the same, shall send it, together with a requisition, to the Audit Office.” Then section 48 says, “The Audit Office shall, upon such requisitions and statements, from time to time issue orders for the payment of vouchers in excess of or without the appropriation of Parliament to an amount not exceeding in the whole £150,000 in each financial year.”

16. You refer to the letter signed by Mr. Carroll on the 14th June, 1902, and addressed to the Audit Office—viz., “The Treasury is not aware whether Major Pilcher has absolutely drawn upon the Agent-General, nor of the amount of the draft he has so drawn. Under these circumstances the Treasury is not in a position to issue a bank order as suggested. The Treasury intimated to the Agent-General that if a draft for £3,000 (meaning not exceeding £3,000) drawn by Major Pilcher was presented it should be honoured and the amount charged to General Imprest, in which account there was an ample balance to provide for the amount of the draft in terms of section 63 of ‘The Public Revenues Act, 1891’”?—It was £3,000, and in the body of the draft are these words: “Requested by cablegram on the 22nd May, 1902, from Paymaster-General, New Zealand.”

17. Does it not strike you that, where the Treasury has given a general order for a payment, that amount may not be fully used up by a man like Major Pilcher in South Africa, who was meeting all sorts of charges? Where the Treasury is not in the position of knowing exactly the amount they must pay away for the official requiring the payment, they may not know exactly the amount of the draft itself?—They had plenty of time. This draft was sighted on the 23rd June in London and paid on the 30th. It was payable on three days’ sight, and in three days they could have telegraphed to New Zealand and received a reply back again, and obtained a bank order and report.

18. This is after-knowledge. The fact of the draft’s delivery in London on the 23rd, and that it was not paid until the 30th, was not known at the time?—I do not know that it was not known at the time. It is peculiar that all this correspondence should be about the £3,000 draft, and that it turns out to be for £3,000; and it contains in the body of it the words “as authorised by the Paymaster-General” some time in May. It matters nothing whether the amount is precisely known or not. If it is unauthorised expenditure, whether the amount is £3,000 or not, it is not payable as money provided by a vote.

19. With a recognition of the serious responsibility that devolves upon the colony, I want to ask you this question: Is the Auditor in London, under instructions from you, compelled to cable out here as to what course he is to take regarding the unauthorised expenditure by the Govern-

ment of the colony before that payment is made?—Before I said anything to him he was of the idea that my instructions referred to payments which were authorised or unauthorised, but I have written to correct him since then. This is the letter I wrote: "Audit Office, Wellington, New Zealand, 23rd July, 1902.—The Auditor Officer in London.—SIR,—In my letter, No. 27, of the 15th May, from which you in your letter, No. 134, of the 21st June clearly understand 'that it is intended that all payments, irrespective of amounts, and not authorised by requisition,' may be paid out of General Imprest, I should have explained, instead of leaving it to be understood, that such payments should be none but those of expenditure which Parliament has sanctioned by its votes. Unauthorised expenditure is not so sanctioned and is not payable out of the moneys issued by way of general imprest, and the payments by the Agent-General of such expenditure are illegal unless they are expressly authorised by a requisition charging them to the Unauthorised Expenditure Account. But you cannot, as a general rule, know whether a payment proposed or directed by the Administration is a payment of unauthorised expenditure or not; and, not knowing, you would assume that the Administration in proposing or directing the payment is doing no wrong, is doing so in strict accordance with the Public Revenues Act, which makes the observance of sections 47 and 48 necessary to the payments of unauthorised expenditure. You were quite right to send me the telegram inquiring whether Pilcher's draft for £3,000 was chargeable to General Imprest. It was not. The Treasury acted illegally in directing its payment to be so charged; and if you are again asked to countersign a cheque which you have reason to think is to make a payment of unauthorised expenditure not expressly authorised by a requisition you should not countersign such cheque before you have satisfied yourself, by telegraphic inquiry if necessary, that the payment is not one of unauthorised expenditure. I concur with you in the remark which you make in the concluding paragraph of your letter, that if the available moneys issued by way of general imprest are very shortly exhausted it is not your concern, but the concern of the Treasury. And if the Treasury observes the law according to section 63 of the Public Revenues Act, and charges so far as possible against the vote all sums transferred to the Foreign Imprest Account, there should be none but very exceptional or small payments of authorised expenditure to be charged to General Imprest. Trusting that I have made the matter clear, I am, sir, your obedient servant, J. K. WARBURTON, Controller and Auditor-General." General imprest is, according to the Audit Office judgment, a provision of money not charged to the votes, for payments chargeable to the votes.

20. Have you Mr. Palliser's letter where he says he was under the impression that all payments were to be charged in a particular way?—Yes. Here it is: "Westminster Chambers, 13, Victoria Street, London, S.W., 21st June, 1902.—SIR,—I have the honour to acknowledge the receipt of your letter, No. 27, of the 15th May on the subject of the treatment of 'General Imprest' payments, and note your remarks thereon. I clearly understand now that it is intended that all payments, irrespective of amounts and not authorised under requisitions, shall be paid by me out of 'General Imprest' funds as long as I have funds under that head available. Not being aware of that intention, I cabled to you on the 12th instant, copy of which I attach hereto, applying for authority to pay £3,000 for Coronation Contingent expenses out of 'General Imprest' moneys. I shall accordingly in future issue out of 'General Imprest' all charges not covered specifically under requisition. This will, in so far as 'General Imprest' funds go, simplify matters; but I am of the opinion that it will very shortly exhaust available funds under that head, and which could legitimately be covered by being placed in requisition. That, however, is no concern of mine, and rests with the Treasury.—I have, &c., F. W. PALLISER.—The Controller and Auditor-General, Wellington." This was on the 21st June, before the draft was paid, but he telegraphed to me on the 12th June as follows: "Instructions received from the colony honour Pilcher's draft £3,000 expenses Coronation Contingent; instruct whether may charge General Imprest.—PALLISER." Well, the above letter was dated the 21st June, while the correspondence was going on. Then I explained to him, what I had left him to understand, that I was speaking only of authorised expenditure.

21. But, judging from that letter of Mr. Palliser's of the 21st June, it is to be inferred from that that he did not regard the £3,000 as unauthorised expenditure. There is his own statement in that letter?—Oh, yes, he did. He regarded my instructions as applying to all expenditure, whether authorised or unauthorised, you see.

22. I think the clear inference is that he did not regard that £3,000 as unauthorised expenditure, because he goes on to say there that he will act upon your instructions?—Yes; he did take my letter to be unrestricted as to the nature of the expenditure.

23. In which the £3,000 came under the unrestricted amount. So that it is quite clear he regarded that £3,000 as unrestricted expenditure and charged against the General Imprest, of which he says he had an amount available to meet it?—Yes; after he got my letter. When he sent the telegram he sent it to ask whether he could charge £3,000, which was unauthorised, to General Imprest.

24. But his letter of the 21st June says that he was clearly of opinion that he could charge it to Unauthorised Expenditure, because he says there he considered it was to be charged to the unrestricted amount?—He was wrong in that assumption.

25. How did he know it was authorised?—Oh, he knows as an old Audit Officer. He would see from the estimates.

26. He had not been advised from here?—No; and if it had been brought to me after it came up I should then have taken exception to it. There was the further payment of £1,500 for Coronation Contingent expenses, to which I have drawn your attention.

27. Do you not consider it is a dangerous course—that it would in practice be a very dangerous course for the colony to be put in the position of payment being held over on account of the uncertainty of the Audit Officer in London, and the instructions to him to cable to you for definite instructions from this end before he acts?—Oh, I do not think so. This telegram was

referred to the Treasury. The question is whether you are to allow the Audit Officer to exercise a discretion which the law does not authorise him to exercise now.

28. No; the question is whether the Audit Officer in London is sufficiently trusted by the Audit Department here to carry out the work of the colony and to report to you after he has actually acted?—I think Mr. Palliser is one of the ablest officers we ever had.

29. But if he is restricted by instructions from here?—I do not think he is subject to any instructions. He has a statutory position under the Act.

30. Then, why did he consider it necessary to cable here in that particular case?—Well, the Treasury might have arranged in some way to charge the Unauthorised Expenditure Account. If the Treasury had said, "We will charge the Unauthorised Expenditure Account," it is quite possible the payment could have gone through. But the accounts for last quarter did not charge this amount to the Unauthorised Expenditure Account. The amount ought to have been the subject of an application by the Minister and approved of by the Treasury under section 47 of the Public Revenues Act, and the issue of an order under section 48.

THURSDAY, 18TH SEPTEMBER, 1902.

Examination of J. K. WARBURTON, Controller and Auditor-General, continued. (No. 1.)

The Chairman: Mr. Warburton was under examination when we postponed consideration of this matter.

1. *Mr. W. Fraser.]* Yes, and it was my turn to examine him. I had prepared a list of questions to ask Mr. Warburton, but have not got it here now. I am therefore at a disadvantage, but I will ask Mr. Warburton a few questions that I have here now. You held, Mr. Warburton, that the £3,000 referred to in Mr. Pilcher's draft should be paid out of "Unauthorised," did you not?—Yes; if paid at all, it should be paid out of "Unauthorised." It should be a payment charged to the Unauthorised Expenditure Account.

2. The Treasury held the contrary opinion?—They regarded it as a vote to which general imprest would apply—the moneys issued by way of general imprest to the Agent-General through the Foreign Imprest Account.

3. Why did you consider this £3,000 should be paid out of "Unauthorised"?—Because there was no appropriation for it. The expenditure was not sanctioned by Parliament.

4. Do you hold that all payments which are not sanctioned by Parliament should be made out of "Unauthorised"?—Yes; all payments that are not sanctioned by Parliament are payments chargeable to Unauthorised Expenditure Account.

5. I asked the question whether they should be paid out of the Unauthorised Account?—That means the same thing, yes.

6. You received a telegram from the Auditor in London asking you as to what he should do in regard to this £3,000, did you not?—Yes; he asked me whether he should charge General Imprest with the payment.

7. What was the date of that telegram?—It was received at Wellington on the 13th June. It would probably be dated the 12th. I think it was.

8. Did you reply to that telegram?—I sent a reply to the Treasury a day or two afterwards, but I first asked them to provide for the payment in the ordinary course by bank draft, or, rather, I suggested that.

9. Would you mind answering my question? You will clear the matter up better if you will. Did you reply to that telegram?—It is impossible to say "Yes" or "No." I sent a message to the Treasury, to be transmitted in reply to that telegram.

10. You sent a reply to that telegram to the Treasury, to be transmitted to your officer in London?—Yes, I did.

11. Did that reply of yours ever reach that officer?—I think not. I believe not.

12. You do not know?—I have only the information from the Treasury. I have no acknowledgment of or reference to it in any correspondence from my officer.

13. When was the draft due in London?—It was due at three days' sight.

14. Do you know the date?—Apparently it was drawn in Cape Town on the 3rd June, 1902. I have a copy of the draft here.

15. Would you mind stating when it was due in London—you can get the date?—It would be due in London three days after sight.

16. What date would that be?—I do not know when it was sighted. I see that the Audit officer, Mr. Palliser, indorses it to this effect: "Accepted this 23rd day of June, 1902"—I presume it was received on the 23rd June, 1902—"payable at the office of the Bank of New Zealand, 1, Queen Victoria Street, on the 28th June, 1902." That is signed "F. W. Palliser, for Agent-General."

17. Have you not stated in your evidence that this draft would be due on the 30th June?—I gave it in evidence, I think, that the draft had been paid. It is stamped as paid on the 30th June.

18. Did you know, when you received the telegram from your officer in London, when this money was due in London?—No; I knew nothing more than that telegram conveyed to me.

19. Could there be any danger of this draft being dishonoured through delay on your part from any action which you took?—I do not think so. I do not see how there could have been any delay from any action that I took.

20. When was the Governor's Warrant issued?—The Governor's Warrant was issued on the 21st June.

21. Is it not the 23rd?—No, the 21st. It was forwarded to the Audit Office on the 23rd June.

22. What I want to get from you is this: If it is alleged that your action imperilled the credit of the colony, is there any substantial ground for such a statement?—I think not; none whatever, I should say.

23. You hold, then, that the Treasury, in desiring to pay the money out of Foreign Imprest, desired to do what was illegal; is that your opinion?—Out of General Imprest, you mean. That is my opinion.

24. If the Treasury, then, is indorsing what you consider an illegal payment, with whom is the responsibility—with you, or the Treasury?—With the Treasury; for this reason: When that telegram was received by me on the 13th June, 1902, I referred it on that very day to the Treasury, as you will see from paper No. 2 in the correspondence. I said, "In any case, the expenditure is unauthorised, and it is therefore suggested that the Treasury should provide forthwith for the payment by bank order."

25. Can you account for the Treasury declining to pay, upon your suggestion, out of "Unauthorised"? Was there any reason for it?—I do not know of any reason. It may perhaps have been that the unauthorised expenditure at the time was high. But I presume their reason was their understanding of the law, on the advice of the Solicitor-General. He advised the Treasury, as I understand him, that the provision for unauthorised expenditure was a vote, and could be treated as a vote; whereas the Audit Office contends that sections 47 and 48 of the Public Revenues Act must first be observed before any unauthorised expenditure can take place.

26. You know of no reason why the money could not have been paid out of "Unauthorised"—I mean to say, the limit of "Unauthorised" had not been reached at that period?—I think not, at that period.

27. It could have been paid?—So far as I recollect, the limit of "Unauthorised" would have allowed of its being paid at that period. There has always been a desire at the end of a year or a June quarter to husband the "Unauthorised."

28. *Mr. J. Allen.*] Following the question that Mr. Fraser asked with regard to the unauthorised expenditure: You referred to sections 47 and 48 of the Public Revenues Act of 1891—would you explain what those two sections are?—Section 47 reads as follows: "Whenever it appears necessary for the public service that money should be expended in excess of or without the appropriation of Parliament, the Minister for the service of whose Department such expenditure is required shall make a statement in writing setting forth the reasons rendering such expenditure necessary, and shall submit the same to the Treasury, and the Treasury, if it approves the same, shall send it, together with the requisition, to the Audit Office." Then section 48 reads: "The Audit Office shall, upon such requisitions and statements, from time to time issue orders for the payment of vouchers in excess of or without the appropriation of Parliament, to an amount not exceeding in the whole one hundred thousand pounds in each financial year."

29. The amount is now £150,000, by an amendment since made?—Yes; by the Act of 1900.

30. Do you know whether that amount was reached at that time?—I do not think it was quite reached at that time.

31. Then, there was no reason, on account of that amount being exceeded, to get behind the provisions of "unauthorised expenditure"?—The Audit Office could not say so.

32. Were the reasons as set forth in section 47 reported in writing by the Minister?—They were not to my knowledge.

33. Was there any vote of the House for such a service?—No.

34. Was there any authorisation in any special Act for such service?—No.

35. Was there no authorisation by Parliament at all for any such service?—No.

36. Would you explain to us what this General Imprest Account is?—Sections 62 and 63 of "The Public Revenues Act, 1891," explain the position, I think. Section 62 provides "For payment of all other claims upon the Government"—that is, except charges of the public debt of New Zealand—"in the United Kingdom, the order on the bank shall be in the form in the Ninth Schedule, and the bank shall transfer the amount named therein from the New Zealand Public Account to a separate branch of the same, called the 'Foreign Imprest Account'; and all sums so transferred shall be deemed to be imprested to the Agent-General." Section 63 reads, "All sums transferred to the Foreign Imprest Account shall be charged so far as possible against the votes, but moneys may be issued by way of general imprest of which the balance unaccounted-for shall not at any time exceed sixty thousand pounds."

37. Will you explain that—I mean in reference to this payment?—The objection of the Audit Office is that the moneys issued by way of general imprest under section 63 are moneys applicable only to the payment of expenditure chargeable to votes, but which votes the money so issued may not be charged to.

38. What about the £60,000?—The £60,000 is money applicable to the payment of votes, though not charged to the votes.

39. I do not quite understand that?—Perhaps I had better put it in another way. A "vote" is defined in the interpretation clause of the Public Revenues Act as follows: "'Vote' means any sum of money appropriated to the public service by the annual Appropriation Act or any other Act sanctioning the expenditure of public money."

40. Yes, that is a vote?—Now, by reference to section 78, it will be seen that unauthorised expenditure does not come within the meaning of a vote. The second clause of that section provides that "Moneys expended as unauthorised expenditure under the provisions of this Act, if not sanctioned by Parliament in the session in which the account of the same is required to be rendered." That section makes it clear that unauthorised expenditure is not expenditure sanctioned by a vote.

41. Yes; now, what about the £60,000?—The general imprest of £60,000 is money which, in the opinion of the Audit Office, is provided for payments chargeable to votes, but which it is not possible to charge to votes when the money is issued.

42. *Hon. Sir J. G. Ward.*] Does the Act say “in the judgment of the Audit Office”?—No; that is our opinion.

43. *Mr. J. Allen.*] What did you say just now?—A sum of money is issued by way of general imprest—that is to say, for general purposes—but such money is for authorised purposes.

44. *Hon. Sir J. G. Ward.*] It is a pretty fine distinction?—If you read that in connection with sections 47 and 48 it is impossible to comply with the law and to make a payment of unauthorised expenditure out of General Imprest, or except on a requisition issued under section 48, which section I read just now.

45. *Mr. J. Allen.*] With regard to this £60,000 of General Imprest: could not an unauthorised account be paid in London?—Not legally.

46. So there was no means, according to your judgment, to pay this amount of £3,000, except by a special bank order?—There was no means except by compliance with sections 47 and 48.

47. That is to say, out of unauthorised expenditure?—Yes.

48. How could you pay an unauthorised vote in London?—By providing a sum of money charged to Unauthorised Expenditure.

49. How would you provide that sum of money; there is no money in London to meet it, is there?—There is money in the Public Account in London.

50. There is no money that you could use to pay an unauthorised vote in London?—No; but the Treasury prepares a requisition, charging a sum of money to Unauthorised Expenditure Account, and sends with that requisition a bank order.

51. In your evidence the other day you said that this £3,000 is not the whole of the money that has been expended on account of the Coronation Contingent?—No; I stated there was a further payment.

52. A further payment of £1,500; has that gone through the same course as this £3,000?—The Audit Office is objecting to that now—is pointing out that that £1,500 is open to the same objection.

53. Was that paid in the same way—by order upon the Agent-General?—It was paid out of General Imprest.

54. Are those amounts all, or are there any other sums?—I do not know. The Audit Office has received up to the present an account for the £3,000, one for the £1,500, and one for a further sum of £1,000 paid on the 2nd July.

55. For the same purpose—the Coronation Contingent?—The £1,000 paid on the 2nd July would come under Imprest Supply. An imprest supply is in anticipation of appropriation.

56. Yes; but is it on account of the Coronation Contingent?—It is on the same account.

57. How much is there altogether, then?—That would be £5,500, so far as I have seen the accounts.

58. *Hon. Sir J. G. Ward.*] There will be more, of course?—I should say so.

59. *Mr. J. Allen.*] Would you mind reading the original draft—the whole of it?—I am not sure that I have every mark on this copy of it.

60. Read what you have got?—This is a copy that I made myself:—“Cape Town, 3rd June, 1902.—Exchange, £3,000.—At three days’ sight of, pay this first of exchange (second of the same terms and date not paid) to the order of the Standard Bank of South Africa (Limited) the sum of £3,000 sterling, value received, as authorised by cable on the 22nd May, 1902, from Paymaster-General, New Zealand.—New Zealand Government Agency (HERBERT PILCHER, Agent).—The Agent-General for New Zealand, Westminster Chambers, No. 13, Victoria Street, S.W., London.” “Accepted this 23rd day of June, 1902. Payable at the office of the Bank of New Zealand, 1, Queen Victoria Street, E.C., on the 28th June, 1902.—F. W. PALLISER, for Agent-General for New Zealand.” It is stamped “Paid, 30th June, 1902;” and then it bears a mark at the top “29th June.”

61. Will you raise the same objection with respect to the other amount?—No.

62. Why?—Because there is no need of unauthorised expenditure after the 30th June, until the Appropriation Act is passed.

63. Because of the imprest supply?—Yes.

64. You assume there will be an authorisation presently?—Yes. The Audit Office is not responsible for payments chargeable to Imprest Supply.

TUESDAY, 23RD SEPTEMBER, 1902.

Examination of J. K. WARBURTON, Controller and Auditor-General, continued. (No. 1.)

1. *Hon. Sir J. G. Ward.*] In the course of your evidence regarding Imprest Account, Mr. Warburton, I understood you to say that in the colony the Treasury prepares the requisition?—With regard to the general imprest.

2. A comparison was being made between the treatment of an imprest in London and New Zealand, and you made the distinction that in the colony the Treasury prepares the requisition?—The requisition is prepared by the Treasury—the Paymaster-General’s requisition.

3. Is it not a fact that the requisition is prepared by the Treasury after the details of the pay-

ment under the Imprest Account come to hand?—They prepare first of all a requisition, in which the issue of the money to the imprestee is authorised. Then the expenditure accounted for is put in Credit Requisition and is transferred from Imprest; the effect of the Treasury operations is a transfer of the expenditure from Imprest.

4. Assuming that an officer was away from Wellington, and made payments under his imprest for an account that was not authorised, could either the Treasury or the Audit Department ascertain that he had made a payment unauthorised until the details of his Imprest Account were to hand?—If he were to make use of his imprest for purposes other than those for which the imprest was obtained—

5. That is not the point. I ask you, if an officer who was away from Wellington made payments for an account that was unauthorised, which payments could not be checked until the return of his account to the Treasury, could either the Treasury or the Audit Department have previously known that he was making a payment out of Unauthorised Expenditure?—Not if he made it illegally; not if he used his imprest moneys for a purpose to which they were not lawfully applicable.

6. Is it not a fact that, in the administration of the affairs of the colony, upon many occasions items that properly should be paid by an imprestee are afterwards found to be chargeable to Unauthorised Expenditure when the statement of his account comes to hand?—It is so found occasionally.

7. Is it not a fact that that has occurred right through the administration of the financial working of the Departments of the colony for, well, probably the last twenty years or more?—Probably so, for the last twenty years or more; but no such payment is legally made.

8. That is not the point. I will show you what I am getting at presently. Is it a fact, Mr. Warburton, that in the colony an imprestee may make payments—rightly so far as the payments are concerned—which are found to be chargeable to Unauthorised Expenditure after the statement of the account of the imprestee is received by the Treasury?—I understand you to ask whether the payments made by imprestees in the colony occasionally include payments which, if charged at all after they are made, can only be charged to the Unauthorised Expenditure Account.

9. That is so?—Then my answer is, Yes.

10. Then, how do you draw a distinction between the position of an imprestee in the colony and an imprestee in London, who has the control of his Imprest Account until the details of his expenditure come to the Treasury for the purpose of being checked and passed on to the Audit Department for the purpose of supervision? How do you draw a distinction between them in the case of the London payment against General Imprest Account and the case of the ordinary imprestees throughout the colony, who exercise their undeniable right to utilise their Imprest Accounts subject to supervision afterwards? How do you draw a distinction—in one case you interpose before the details are to hand, and in the other you wait for the maturing of the Imprest Account?—Take the present case, for instance. I do not draw any distinction whatever. If the Administration directs an imprestee to use his moneys for a purpose for which they were not obtained—that is to say, if moneys obtained by an imprestee for the purpose of paying expenditure chargeable to votes are used by that imprestee, by the direction of the Government, for expenditure chargeable to the Unauthorised Expenditure Account—then I say there is no distinction. It is equally illegal for an imprestee in the colony and for the Agent-General.

11. But is it not a fact that, in the case of the imprestee in the colony, the payments are made quite irrespective of any direction from the Government?—Not always; they may be.

12. Would it be possible for the Government to follow the different imprests in the hands of responsible officers throughout the colony in order to direct those officers as to what payments they should make?—No, it would not be possible; and therefore I say that if an imprestee, who obtains an imprest for the purpose of expenditure under a vote, makes a payment chargeable to the Unauthorised Expenditure Account, the Government must either charge him with it or adopt it and charge it to the Unauthorised Expenditure Account.

13. Yes; but is it not the case that before the Government could possibly know anything about it the imprestee would make payments, the actual vote to which they should go being known only when the Imprest Account reached the Treasury?—There are many payments of that character made—made by imprestees out of moneys advanced to them for other purposes than those for which the payments are made.

14. And which the Government, of course, could not direct?—The Government do not direct, but the Act directs.

15. The point is that under the Imprest Account of the colony imprestees do make payments which are afterwards found to be chargeable to Unauthorised when the details come to the Treasury, where the Government have not interfered with the payments by the imprestees at all—payments that have been made out of Imprest Account are found to be chargeable to Unauthorised?—Yes; but where the Government make, as they did, for example, in a case given in these papers—I refer to an advance made to Colonel Penton—an advance out of moneys not charged to the Unauthorised Expenditure Account, and claim the right to direct the imprestee to make the payment out of such moneys, then the Audit Office takes exception.

16. The Audit Office reserves to itself the right in some cases to interpose, before the account of the imprest is received to undergo the necessary examination by the Treasury in the first instance, and the supervision by the Audit Department in the second instance, and say that it must not be charged to Unauthorised, while in the general case of imprests it allows the accounts to go to the Treasury in the usual way for examination?—When that expenditure is made by imprestees without being directed by the Government to make it, in such a case we pass the expenditure as a charge to the Unauthorised Expenditure Account after the vouchers come in from the imprestee.

17. If an imprest for £3,000 had been sent to the officer commanding the Auckland Volunteer District, would the Audit Department have attempted to follow the disposition of that £3,000 until the detailed expenditure under the imprest was sent by the officer in question to the Treasury?—Not if the Treasury had refrained from directing him to make a payment out of that money chargeable to the Unauthorised Expenditure Account.

18. But it is a fact that if the Treasury had authorised a payment of £3,000 to the officer commanding the Auckland Provincial District, and if that had been paid out of Imprest, the Audit Department would have waited until the details were sent by the officer to the Treasury and forwarded on to the Audit Department in the ordinary way?—Not if it had been previously aware that the Treasury had directed him to use for an unauthorised purpose money which had been advanced for an authorised purpose.

19. Does the Audit Department ask the Treasury, whenever it makes an issue of money to an officer in any part of the colony, to indicate the nature of the expenditure before the issue is made?—The Treasury indicates it in the application for requisition. Section 50 of the Act says, "Moneys required to be issued by way of imprest for the public service shall be charged in the voucher and requisition against the vote for the service for which such imprest is required."

20. If there is no imprest, until the details come to hand you cannot ascertain whether it is chargeable to a vote—that is, within the colony—or whether it should go to Unauthorised Expenditure?—No; the Department charges the money which an officer requires to the vote for the services for which the money is required, and we trust to the officer to keep to the law.

21. Now, I want to ask you a question about this date of the payment of the draft in London: I understand that the date of the acceptance of the draft in London was, I think, the 23rd June?—I think it was.

22. I understood you to say that there could have been no risk to the colony in consequence of the course taken by the Audit Department in New Zealand in cabling to the Audit Officer in London?—None whatever. The Audit Officer in London telegraphed to the Audit Office for instructions. He telegraphed to know whether a payment chargeable to the Unauthorised Expenditure Account was payable out of General Imprest.

23. Did you know at the date of the receipt of that cable the due date for the payment of the draft in London?—I knew nothing whatever about it.

24. I presume that in making the statement that there could have been no risk to the colony, you made it after the receipt of the correspondence disclosing the date of the arrival of the draft in London and the whole position there?—No; I made it on the basis of the law, that the Audit Officer is not authorised to exercise any discretion whatever.

25. I understood you to give the dates in your evidence; that the draft arrived in London on a certain date, that it was sighted on a certain date, and matured for payment six days afterwards?—I do not know about that. It was paid, according to the stamp on it, on the 30th June.

26. Quite so. That information, of course, you have obtained subsequent to the whole transaction being completed?—Yes.

27. Would you be surprised to learn that the draft which the trouble has arisen over left Cape Town a week after the advices reached London?—I would not be surprised to learn it; and that makes it appear to me a case in which it was all the more easy for the Government to provide by bank order in the usual course.

28. How could the Government ascertain the position of that draft at the moment? How were we to know? It is the easiest thing in the world to look at the correspondence after the whole transaction is complete, and to say that certain things could have been done, but we were twelve thousand miles away from London?—Money is provided very frequently by the Treasury to meet these claims against the Government in London—very frequently provided by cable bank order.

29. That is, where the amount is known?—Well, where the amount is known or not known, where it is a payment by an imprestee, the Government can cable enough to meet it.

30. That is the point—by the imprestee—because if we were to cable a specific amount we would require to know what the whole expenditure was. We did not know that the whole expenditure was to be £3,000. That is all known now, after the documents and the information have come to hand?—But I sent the telegram to the Treasury on the 13th June—the date on which I received it—with this remark: "In any case, the expenditure is unauthorised, and it is therefore suggested that the Treasury should provide forthwith for the payment by bank order."

31. Is it not a fact that all that was some considerable time after the Treasury had sent their advices Home?—The only advice that I know the Treasury to have sent Home was the advice which this telegram from Mr. Palliser gave, and which the draft itself conveyed.

32. That was on the 13th June. Well, that clearly implies exactly what I have said—that the advices of the Treasury were sent Home a considerable time before the arrival of the draft, otherwise that query from the Audit Department—?—Just so. That is one of the points of the objection that I raised—that the Treasury directed this payment to be made out of General Imprest, knowing it to be unauthorised.

33. The difference between the Treasury and yourself on the point is that the Treasury hold that the course followed here was exactly similar to that which is followed regarding imprest, to which no exception has been taken at any time in the carrying-on of the financial affairs of the colony?—In these papers I have quoted a case. It is referred to on page 4, "Advances to Colonel Penton and Major Owen." This was a case in which the vouchers were first sent to the Audit Office before they were paid. Some exception being taken by the Audit Office, the advances were made to Colonel Penton and Major Owen out of the Treasury imprest. In No. 11, on page 4, I say: "The vouchers which now have been sent in for credit of the imprestee, and according to which the payments are charged to the Unauthorised Expenditure Account, are passed subject to

the objection, already raised by the Audit Office, that it was contrary to law for the imprestee to use, in making such payments, money which had not been issued to him by way of imprest for the purpose of being expended under section 47 of the Public Revenues Act, without the appropriation of Parliament; and as the Treasury is understood to contend that it was not contrary to law for the imprestee to do so, the Audit Office proposes, in the circumstances, to take exception to the payments in question having been made by the imprestee out of money of which the issue to him by way of imprest had been charged to votes for authorised services."

34. Then, you hold that in the administration of the Treasury in connection with financial matters in London it is necessary, quite irrespective of the expediency or otherwise of it, for the Home Audit Officer to consult the Audit Department out here before he acts?—Certainly, if it is necessary to satisfy him in case of doubt whether a payment is authorised or not authorised.

35. As a matter of general administration?—I think it is as a matter of law.

36. That the Audit Department in Wellington controls the actions of the Audit Officer in London in the ordinary carrying-on of his duties, then?—No; the Public Revenues Act does. He must be satisfied; if he is not satisfied he asks me. I think it is his duty to. He can only be satisfied by reference to me.

37. Has that always been the case?—I should think it always has. He does not often telegraph to me. Occasionally he does, but it is very seldom.

38. Have you issued instructions to the Audit Officer in London different from those that were issued by your predecessor?—I merely required him, where I saw that he was not keeping in accordance with the Act, to observe it. I should not say "required him"; I pointed out to him what the Act requires, and what, I may say, the Solicitor-General himself has said the Act requires.

39. There are, of course, regular law officers of the colony in London?—I think so.

40. Whom the Audit Officer there has the right to consult whenever he thinks proper?—I do not know that he has the right to consult, or the authority to consult them. There is a direct authority to the Audit Office in New Zealand to consult the Solicitor-General, but there is no other authority.

41. As a matter of fact, he does consult the lawyers in England?—I do not know.

42. I understand that he does?—He holds two offices, as you know—the office of Accountant to the Agent-General, and that of Auditor of his accounts.

43. As Accountant to the Agent-General he, of course, would be under the Agent-General's directions; but I understood that, as Audit Officer there, he had the right to confer with the adviser to the colony in London on any matter he thought proper?—I did not know that.

44. I understood you to say, Mr. Warburton, at an earlier stage, in connection with examination upon either this matter or some other, that when the Governor under the law settled a dispute you accepted that as final?—For the particular charge in dispute.

45. I think that, in explanation of subsequent correspondence, your view was that you put that on record because you had not seen the whole of the correspondence previous to the decision of the Governor?—I do not recollect any case in which the Government informed me that it was their intention to apply to the Governor for an order. What I claim is that the objections which the Audit Office raise under the section of the Act which provides for reference to the Governor should be objections raised with a knowledge of what the proceeding of the Government is—that such Audit Office objections to the order as are placed before the Governor, with the opposition to its opinion, should not be the objections made without a knowledge of the proceeding, and without a knowledge sometimes of the advice of the Solicitor-General.

46. After the process provided by law has been gone through, do you consider it proper for the Audit Department to criticize the actions of the Governor?—I have not criticized the actions of the Governor. I have explained the objections of the Audit Office after the Governor has given his order, when that order has been obtained without any intimation to me.

47. If you will refer to page 12 of your evidence given on the 19th August you will see that in answer to this question by me—"With a recognition of the serious responsibility that devolves upon the colony, I want to ask you this question: Is the Auditor in London, under instructions from you, compelled to cable out here as to what course he is to take regarding the unauthorised expenditure by the Government of the colony before that payment is made?"—you said:—"Before I said anything to him he was of the idea that my instructions referred to payments which were authorised or unauthorised, but I have written to correct him since then. This is the letter I wrote: 'Audit Office, Wellington, New Zealand, 23rd July, 1902.—The Audit Officer in London.—SIR,—In my letter, No. 27, of the 15th May, from which you in your letter, No. 134, of the 21st June clearly understand "that it is intended that all payments, irrespective of amounts, and not authorised by requisition," may be paid out of General Imprest, I should have explained, instead of leaving it to be understood, that such payments shall be none but those of expenditure which Parliament has sanctioned by its votes. Unauthorised expenditure is not so sanctioned and is not payable out of the moneys issued by way of general imprest, and the payments by the Agent-General of such expenditure are illegal unless they are expressly authorised by a requisition charging them to the Unauthorised Expenditure Account.'" . . . Then you go on to say, "General imprest is, according to the Audit Office judgment, a provision of money not charged to the votes, for payments chargeable to the votes." Is not that a statement that the action of the Governor in connection with the payment made by the Agent-General was an illegal one?—Oh, no; that is an explanation of the law.

48. You do not say there that the "payments by the Agent-General" refer to the one that had been authorised by the Governor?—I say that the Treasury acted illegally in directing the payment to be so charged—that is to say, that the Treasury acted illegally when they gave that direction previously to the telegram of Mr. Palliser, given in No. 1 of the papers.

49. What was the date of the Governor's order?—21st June.

50. Is not that letter dated the 23rd July?—Yes; but I am speaking of the direction given by the Treasury, to which Mr. Palliser refers in paper No. 1. The Governor by order overcame the illegality, no doubt.

51. The Governor, by the order, decided that it was legal, otherwise it could not have been paid?—I do not understand that, Sir Joseph. I understand that the Governor has settled the question as to the charging of that particular sum to General Imprest.

52. This is the Governor's order :—“ . . . Now, therefore, His Excellency the Governor of the Colony of New Zealand, in exercise of the powers conferred upon him by the section aforesaid, and having before him the opinion of the Solicitor-General on the question in issue, doth hereby determine the same by deciding that in countersigning cheques on the Foreign Imprest Account the Audit Officer is not concerned with the nature of the service or with the knowledge of the Treasury, and may lawfully countersign. . . . ”?—I think he goes beyond his powers there.

53. That is the point. If under the law the Governor says that an act has been unlawfully done, is it a proper thing to advise the Audit Officer at Home that it was illegal?—I think so. I think the Governor has merely settled the question of that particular charge; and at a time before the Governor's order was made the charge was illegal.

54. But afterwards it was legal?—I am speaking on the assumption that the position you take up there is right, though I deny that it is right. The direction in this letter to the Audit Officer was that the instructions of the Treasury, given long before the Governor's order, were illegal. But they were demonstrated to be illegal by sections 47 and 48 of the Act; for without the observance of the requirements of those sections you cannot legally make a payment chargeable to the Unauthorised Expenditure Account.

55. There we come back to the original position; in the colony itself both the Treasury and the Audit Department wait until the return of the imprestee's account, and then they examine that account and allocate from it what has been rightly charged to Unauthorised and what has not, and then the disposition of the payments is made in accordance with the law; but in this case the whole business was in the course of transition?—In the Home case there is this difference: in neither case would it be legal for the Treasury to direct a payment out of money issued as a charge to a vote to be charged to Unauthorised Expenditure. But in London there is this difference; an imprestee in the colony, when left to himself, has no one to check him; in London the Audit Officer audits each payment before it is made. The Audit Officer has to countersign the cheques of the Agent-General on the Foreign Imprest Account, and the Audit Officer must see, before he countersigns the cheques, that the payments which the cheques propose to make are authorised by requisition.

56. Then, I understand you to say that there is a different system in London in connection with Audit matters to what there is in the colony?—In connection with the payment of moneys out of the Foreign Imprest Account.

57. The system is different there to what it is here?—Yes; there is an Audit Officer there to countersign every cheque on the Foreign Imprest Account. That is this officer, Mr. Palliser.

58. And the system of disposition there is different up to a point?—The system of disposition is different in respect of general imprest moneys. The moneys issued by way of general imprest are for payments chargeable to votes; but, it not being possible to charge them to the votes, the moneys are not so charged, and are called general imprest moneys.

59. Well, now, you are an officer who has had a very large experience in the colony, extending over many years, and have a knowledge of the working of the finances of the colony. I want to ask you this question: Would it be possible for any Administration to carry on the affairs of the colony if a system similar to that which has applied in this case—that of this draft—in England were to apply to payments against Unauthorised or Imprest Accounts in the colony itself?—I think it would be possible—would be easy—for the Government to carry on the administration, subject generally to the provisions of sections 47 and 48 with regard to unauthorised expenditure. The Administration is responsible to Parliament for its unauthorised expenditure, and it must know generally that any expenditure is unauthorised before it is paid, and must therefore be in a position to supply the money as a charge to the Unauthorised Expenditure Account. Now, the unauthorised expenditure is limited to the £150,000, and if the Administration were not able to enter every sum of unauthorised expenditure before it was paid, well, the responsibility would be unreasonable.

60. That is not an answer to my question. What I want to know is whether, with your experience, you would say that it would be possible for any Administration, under a system similar to that which was applied to the payment of the three-thousand-pound draft in London, to carry on the financial affairs of the colony within the colony itself; in other words, if the necessities of the payment of accounts required that before a responsible officer made a payment chargeable to his imprest he must have the countersignature of the Audit Department, or of some one representing the Audit Department, would such a system be possible in the colony itself?—I think so; possible for—

61. In other words, could the necessary payments to carry on the affairs of the colony be made in different parts of the colony under such a system?—Not under a system requiring that before every imprestee in the colony made a payment out of his imprest an Audit officer should countersign his cheque.

62. Then, in the colony, to enable the payments to be made and the affairs of the colony to be carried on in a reasonable way, it is absolutely necessary for the responsibility to be taken without the control of the Audit Department in the first instance, all payments that are required to be charged to Unauthorised Expenditure being charged after the imprest itself has come to hand?—

Yes; but in this case the Administration, with a knowledge that the sum of £3,000 was to be used for unauthorised expenditure, directed that it should be paid out of moneys issued by way of general imprest.

63. I am not talking about the particular case. What I am asking is, would it be possible, under such a system as I have indicated, and which we are all familiar with, in the colony itself, for any Administration to carry on the financial payments necessary for the colony?—I understand you to be speaking with reference to this £3,000, or payments under the circumstances of this £3,000. Well, that payment was ordered by the Government to be made in London by the Agent-General. An officer in South Africa was ordered to draw on the Agent-General; and the Agent-General was, no doubt, ordered to pay the draft, because there is the telegram to me from the Audit Officer.

64. *Mr. J. Allen.*] The instructions came from the colony?—Yes; the Agent-General was instructed, according to the Audit Officer's telegram, to pay that £3,000. He had no moneys applicable.

65. *Hon. Sir J. G. Ward.*] He had a general imprest?—He had general imprest moneys, and it is implied by that telegram that the instructions were to charge General Imprest with the payment. Now, the moneys issued by way of general imprest were not charged to the Unauthorised Expenditure Account, so that there were no moneys in General Imprest which could be legally applied to the payment.

66. Do I understand you to say that out of the General Imprest Account in London no payments have ever come to hand that required to be charged to Unauthorised Expenditure after they reached the colony?—Very many of them.

67. In this case that course was not followed?—In this case the Auditor was not satisfied that General Imprest was chargeable.

68. It is a fact that after the statement of the Imprest Account in London from time to time comes to hand in the colony there may be, and doubtless have been, items chargeable to Unauthorised Expenditure paid for out of the Imprest Account?—There have been some very large amounts—amounts to which the Audit Officer, perhaps, ought to have taken objection.

69. At all events, whether they took objection, or whether they did not, it has been done?—Yes.

70. How long has that system existed?—I should say that it has existed for many years, not as a system, but rather that the accident has happened of a payment in London for unauthorised expenditure out of moneys there not issued as a charge to the Unauthorised Expenditure Account.

71. Would you contradict me if I were to say that under every Administration for the last twenty-five years it has occurred?—I could not speak as to that. I can only speak here as to the provisions of the Public Revenues Act, and as to what has happened in my own time as Auditor-General.

72. Of your own knowledge you do not know whether the system has occurred previously?—No; but I have no doubt that it has occurred. I would not say that I have no doubt it has occurred in such a case as that of the £3,000, where the Administration directed to be made out of moneys issued for authorised purposes a payment chargeable to Unauthorised Expenditure, but possibly that has been the case too.

73. Still, I presume you must recognise—and every one must recognise—that directions of some sort must emanate from the Treasury of the country in connection with financial payments, wherever they may be made; advices, of course, of some sort must go forward?—Yes, that is so; but section 63 of the Public Revenues Act provides that "All sums transferred to the Foreign Imprest Account shall be charged, so far as possible, against the votes." Now, if the Treasury observed that strictly there would be very few payments to be made out of General Imprest. At present the arrangement of the Treasury is that by every mail—say, every four weeks—a sum of £5,000 is remitted by post to meet payments chargeable to General Imprest. Now, according to the Audit Office judgment of the law, those payments for which moneys are issued by way of general imprest are payments chargeable to votes, but are of such a contingent character that it is not possible to charge the necessary moneys to votes.

74. Would it be possible for the Treasury, under the clause of the Public Revenues Act that you are quoting from, to be in the position of directing to what vote every item paid by an imprestee was chargeable until the detailed statement of the imprestee's account came to hand?—This section contemplates a large number of payments chargeable to votes which it is not possible to charge to the votes.

75. As a matter of fact, I know, and every one who has had any experience with it must know, that in practice it must be an impossibility to give a direction as to what vote a payment under an Imprest Account is to be charged until you have the detailed statement before you?—But in the case of unauthorised expenditure, for which the Administration has to account to Parliament, and for which you obtain the sanction of Parliament afterwards, it is made necessary by the Act that the Administration should first adopt the course required by sections 47 and 48—that is, before an expenditure is made the Minister should approve of it, and that the Treasury should approve of it, and that a requisition charging the amount to the Unauthorised Expenditure Account should be passed.

76. If an Imprest Account had been given to Major Pilcher in South Africa, under which that payment had been made by him, that in the ordinary course would not have gone to Unauthorised Expenditure until the detailed statement of his Imprest Account had been received by the Treasury?—I should say that the Government would have issued to Major Pileher a sum of money chargeable to the vote for the purpose for which he required it.

77. Yes; and if under that imprest he had made a payment of £3,000 for the purpose of conveying the Coronation Contingent to England that had not been included in the vote the

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.

93. Well, what does it provide?—It provides for the determining of the dispute and the settling of the charge. If the Solicitor-General said it was plainly not according to law, the Governor could still make the order, and it would be a good order.

94. I will put it in this way; do you mean to say that if the Governor heard both sides, and gave his decision under this clause, then it would become law?—I cannot go beyond the section of the Act.

95. I am trying to see what is really in your mind with regard to it?—It would, perhaps, make it quite clear if I pointed out that section 44 of the Public Revenues Act will settle the matter. The last words of that section, before the subsections, are: “and the Audit Office shall pass such voucher, and send it to the Treasury, being first satisfied”——

96. What has that got to do with section 9 of the Act of 1900?—We must be satisfied.

97. You must be satisfied, and if you are not satisfied section 9 says, “Provided that if in the opinion of the Audit Office the question involves matter of law, then it shall be determined by the Governor.” That is a matter of law. Then that question is to be decided by the Governor—that is, the law question?—No.

98. If a dispute crops up and the Audit Office say it is, in their opinion, a question of law between them as to the payment of the particular item, then the Governor decides that question?—No. When the Audit Office is not satisfied it becomes a question for the Governor to decide, not the law, but the charge of the particular payment.

99. What does he decide?—That the particular item in dispute shall be charged as he is advised.

100. Then, whether it is lawful or unlawful, he decides it?—Yes, by section 9.

101. Then, when he has decided it you say it is lawful?—I say it is lawful then for the Audit Office, not being satisfied, to pass the charge.

102. But before the Governor decides it you say it is unlawful and the Treasury say it is lawful, and the Governor has to decide the question whether it is lawful or unlawful?—No.

103. The plain meaning of the section is that it shall be determined by the Governor—that is, the question of law?—No.

104. He determines the dispute, does he not?—Yes, but not by interpreting the law.

105. He determines the dispute between you and the Treasury?—I presume so. The section says so.

106. And your dispute is as to whether it is lawful or unlawful?—No.

107. Is not that the dispute?—No. The section says that if it is not a question of law the Treasurer can decide it, and if it involves a question of law the Governor shall; but he does not interpret the law.

108. He decides the law without interpreting it at all?—Yes; he decides the question.

109. Well, is not his decision final?—He enables the Audit Office to pass what it would not otherwise pass.

110. *The Chairman.*] With regard to the case before us, I understand, Mr. Warburton, that a dispute having arisen as to this three-thousand-pound draft—whether it should be charged to General Imprest or not—the opinion of the Solicitor-General was taken on the point, and he gave his opinion that the Treasury were right and the Audit Office wrong; is that not so?—That is as I understand it.

111. The Governor then, under section 9, was appealed to, and gave his decision and issued the order?—Yes.

112. Supposing that a draft, under similar circumstances—not necessarily for the same amount, although it might be, and for the same purpose—to this was sent through, would you, in the face of the Governor’s decision, again set up the contention that you have set up in regard to this draft?—I should require another Governor’s order.

113. You read the proviso in the section quoted by Mr. Palmer in that way—that after the Governor has once settled as to what is the correct interpretation of the Public Revenues Act, under those circumstances, each time a dispute arises you require another Governor’s order to settle it?—I do not regard the Governor as settling the interpretation of the law.

JAMES B. HEYWOOD, Secretary to the Treasury and Paymaster-General, examined. (No. 2.)

114. *Hon. Sir J. G. Ward.*] You are familiar, Mr. Heywood, with the circumstances of the authority given for the three-thousand-pound draft on London to Major Pilcher in South Africa, and the payment of it in June last?—Yes.

115. Could you have, at the date referred to, advised the Agent-General in London of the exact amount that was going to be used of the £3,000 authorised?—No.

116. It not being possible to know to what extent the three-thousand-pound authority was to be used under the ordinary circumstances of the administration of the Treasury, how would provision be made for the payment of the £3,000 in London?—The Treasury could have sent money Home by cable requisition to the Agent-General for any round sum, merely estimating the amount to meet the expenditure, or they could have asked the Agent-General to pay the expenditure out of General Imprest moneys.

117. Which course was followed?—The course followed was to ask the Agent-General to pay out of General Imprest moneys.

118. Was there anything unusual in following that course?—No; nothing particularly unusual.

119. After the draft reached London a difficulty arose in connection with the payment of it in consequence of the Audit Department here holding that the amount should have been charged to Unauthorised Expenditure and not to General Imprest?—Yes.

120. What is your opinion upon the view entertained by the Audit Department?—I am clearly of the opinion that the amount could be charged to General Imprest. Obviously the purpose of the Legislature in framing the special provision in the Public Revenues Act was for unforeseen expenditure being made in London. In other words, there is a safeguard clause in the Public Revenues Act which allows moneys to be paid out of General Imprest which are not otherwise provided for in requisition.

121. Is that the position in reference to this draft?—That is the position in connection with this draft.

122. Will you read out to the Committee the clause in the Act that you refer to?—Yes. “All sums transferred to the Foreign Imprest Account shall be charged, so far as possible, against the votes, but moneys may be issued by way of general imprest, of which the balance unaccounted-for shall not at any time exceed sixty thousand pounds.” In connection with imprests issued in the colony, the law is stringent that all the expenditure issued by way of imprest shall be charged against votes for services for which the money had been provided; but in connection with the London Imprest Account I assume the Legislature considered the imprestee there was at such a distance from the seat of Government that extra precautions were necessary in the methods by which he could pay moneys, and they provided that the moneys issued to him should be charged, so far as possible, against the services for which they were issued, but that there should be a sum of £60,000 placed at his disposal out of which he could pay any moneys in connection with the services not provided for and not charged against the votes.

123. *Mr. J. Allen.*] On his own responsibility, you mean?—On his own responsibility.

124. Not on the responsibility of the Government; that is the point?—Well, of course, the Agent-General is a Government officer holding one of the highest positions in the Government of the colony. I suppose he may be considered an Ambassador or Minister away from the seat of Government.

125. *Hon. Sir J. G. Ward.*] In a memorandum, dated the 13th June, 1902, the Auditor-General says, “In any case, the expenditure is unauthorised, and it is therefore suggested that the Treasury should provide forthwith for the payment by bank order.” The Minister for Native Affairs, in the absence of the Treasurer at that date, replied on the following day: “The Treasury is not aware whether Major Pilcher has absolutely drawn upon the Agent-General, nor of the amount of the draft if he has so drawn. Under these circumstances the Treasury is not in a position to issue a bank order as suggested. The Treasury intimated to the Agent-General that if a draft for £3,000 (meaning not exceeding £3,000) drawn by Major Pilcher was presented it should be honoured, and the amount charged to General Imprest, in which account there is an ample balance to provide for the amount of the draft in terms of section 63 of ‘The Public Revenues Act, 1891.’” The reason for not giving the bank order, as suggested by the Audit Department, is given in that letter?—Yes, that would be the reason.

126. Then, in view of the fact that you were not able to advise the amount—that you were not in a position to state the amount in a bank order—you adopted the Auditor’s suggestion, as contained in clause 63 of the Public Revenues Act?—Yes.

127. Did you anticipate any exception being taken to that course?—No.

128. You have heard the evidence regarding the date of the payment of the draft, as disclosed by the correspondence that has since taken place?—Yes.

129. What was your opinion at the time as to the position the colony might be placed in in consequence of the Home Auditor taking time to cable out here and to wait for instructions from here?—I consider that the credit of the colony was in grave peril. The draft, so far as I understood, would be only a three-days draft, which would mean payment six days after it had been sighted; and, of course, I am perfectly unaware when the draft had been sighted in London. It might have been sighted five days before, or six days before, the arrival of this cable from the Audit Officer in London. I therefore considered that the credit of the colony was in very grave peril by reason of the action—the unprecedented action—of the Audit Officer in cabling out for instructions. All the statements and dates that Mr. Warburton has given the Committee, in consequence of which he considered there was no jeopardy at all in the matter, have, of course, been ascertained by him after the event. At the time there was no knowledge on his part or on my part as to the due date or even the currency of the draft; it might easily have happened that the draft was a demand draft instead of a three-days draft.

130. It was not known here at the time that it was a three-days draft?—No.

131. I understand you to say that the course followed by the Audit Officer in London, of cabling out here, was unprecedented?—Yes. I have no remembrance of any previous communications between the Audit Officer in London and the Controller.

132. If the responsibility devolving upon the London Audit Officer were to be transferred from him to the Audit Office in the colony, so that he should take instructions from Wellington, would that, in your opinion, be a desirable condition of affairs for the carrying-on of the important financial operations that from time to time must come under the direction of the London Audit Officer?—I should say it would be most dangerous to the interests of the colony. The administration would be very difficult to be carried on satisfactorily under such conditions. It must be remembered that we are only in communication with England by the facilities of wire, which may at any moment be interrupted by a breakdown.

133. How long have you been Secretary to the Treasury, Mr. Heywood?—I forget the exact number of years, but it would be something like ten or twelve.

134. Has there been any trouble, under the system which has existed for controlling the financial operations of the colony in London, of a similar kind previously?—By the word “previously” do you mean prior to the present objection of the Audit Office?

135. Yes, and under the former Controller and Auditor-General?—I do not remember any difficulties under the former Controller.

136. Has there been a change made in the system by the present head of the Audit Office, as far as London is concerned, from that which existed under the former head of the Audit Office?—I, of course, cannot make any answer of any value in connection with that. I do not know what instructions the Auditor has given to his officer in London, except those shown in the correspondence disclosed in the evidence given by him.

137. What course do you suggest to be taken to prevent the recurrence of disputes between the Treasury and the Audit Department?—I suggest the adoption of the post-audit system to clear away a great deal of the trouble.

138. You suggest that the post-audit system should be adopted?—Yes; it would clear away the embarrassment of the Government so far as it concerns the public. Of course, it would not in any way interfere with the ultimate objections of the Audit Office to the Treasury actions; but under our present system it so often happens that the disputes between the Treasury and the Audit Office are disputes which affect public interests at the moment, and possibly jeopardize the credit of the colony.

139. By "embarrassing the Government" I presume you mean embarrassing the colony?—Yes; embarrassing the public interests of the colony.

140. There have been, I understand, Mr. Heywood, many occasions on which you, as head of the Treasury, have required to consult the Solicitor-General upon points of law connected with the administration?—Yes; very frequently I have done so.

141. Am I right in stating that the Treasury accepts the advice of the Solicitor-General upon the interpretation of the law, and that nothing further is heard of it—I mean, the fact of the acceptance by the Treasury of the advice of the Solicitor-General renders all reference to the public, either through Parliament or in any other way, unnecessary?—That is so.

142. A number of disputes take place on points of law, which are referred to the Solicitor-General, and of which neither Parliament nor the public ever hear, in consequence of the advice of the Solicitor-General being accepted by the Treasury?—Yes, that is so.

143. It is a fact, then, that in the disputes on legal points between the Audit Department and the Treasury, when the advice of the Solicitor-General is not accepted by the Audit Department, then, and then only, the opinion of the Solicitor-General—in that case, of course, adverse to the view of the Audit Department—comes before Parliament?—Yes.

144. It would be quite an erroneous assumption that the opinions of the Solicitor-General are always one-sided as against the Audit Department?—Quite erroneous.

145. It is a fact that they are more frequently against the Treasury upon legal matters?—I would not say that would be the exact proportion. In each case as it arises, if I consider it necessary to do so, I ask the opinion of the Solicitor-General upon the points raised by the Audit Office, and if he considers the Audit Office is right there is an end of the matter, so far as the Treasury is concerned. If the Solicitor-General does not agree with the Audit Office, and the Colonial Treasurer considers it proper to continue the matter, then ultimately it reaches its various stages through the provisions of the Public Revenues Act.

146. I presume, Mr. Heywood, that it would be much more satisfactory if there was some system that could be established that would avoid the recurring difficulties between the Treasury and the Audit Department upon questions of law as far as they affect the administration of the finances of the colony?—I do not anticipate that any system could be framed by which differences of opinion in the interpretation of the law could be prevented. Somewhat similar provision has been made throughout the various States of Australia, and the Commonwealth has adopted the same principle—*i.e.*, reference on occasions of dispute.

147. To the Governor?—Yes; or to the Committee of Public Accounts; and, in the case of the Commonwealth, to the Attorney-General to decide upon.

148. That is one of the necessities of the position, of course—that there must be some differences between the Audit Department and the Treasury?—Yes. I do not complain at the Audit Office raising objections when they consider it their duty to raise them.

149. Well, with regard to the three-thousand-pound draft, you are of the opinion that the course followed of advising that this was to be charged to General Imprest was the only alternative to the bank order?—I am of the opinion that the amount could be legally charged by the Agent-General to General Imprest.

150. *Mr. W. Fraser.*] On what date, Mr. Heywood, were the instructions sent from the colony to London to honour Major Pilcher's draft?—I cannot give you any dates outside of these papers.

151. About how long—I do not want the exact time—before the telegram was received from Mr. Palliser had these instructions been sent?—I am not clear whether I informed the Agent-General when I received notice from Major Pilcher that he desired to pay these expenses, and asked me how he was to do it. I do not remember whether it was at that time or during the month of June.

152. What time would that be?—Well, you see, the draft was drawn in the month of June, and the cable of the Audit Officer in London to the Controller would be about the time the draft itself arrived in London.

153. That is so?—Yes; so that it might have been three weeks previously to that that I sent the instructions to the Agent-General.

154. To honour Major Pilcher's draft?—That would perhaps be the time that Major Pilcher was cabling to me about it.

155. Do you remember what the form of the instruction was generally?—To the Agent-General?

156. Yes, in reference to Major Pilcher's draft?—I think I told him to honour a draft of Major Pilcher's not exceeding £3,000, and pay out of General Imprest.

157. You did not know at that time what the exact amount of the draft would be? You made

a statement that this cable of Mr. Palliser's imperilled the credit of the colony; is it not a reasonable inference that he would not have sent the cable asking for a reply unless he was satisfied that there was time to get a reply before the draft matured?—Well, I could not say what inference could be drawn.

158. Could that inference be drawn?—It could be drawn.

159. What sort of man is Mr. Palliser; is he a good business-man?—A very excellent man, indeed.

160. Then, it was a reasonable inference to draw—that there would be time to get a reply to his telegram before the draft matured?—Yes, I think that is a perfectly reasonable inference.

161. And, I presume, if the cable had broken down and he had not got a reply he would have had to act on his own responsibility?—I assume that he would.

162. Then, how would the credit of the colony be imperilled in that case?—The credit of the colony would be imperilled by an unknown action on his part. We could not know what he was going to do.

163. You never know what he is going to do?—We had before us evidence that he was doubtful about his course of procedure, and that he was going to get instructions from the Controller about it, and until those instructions had been given it was, of course, perfectly indefinite to us as to what he was going to do or not going to do, and therefore if the draft matured during these deliberations there was a distinct peril to the colony's credit.

164. You admitted just now that it was a reasonable inference, from the fact of his telegraphing out for instructions, that there was time to receive a prompt reply before the Bill matured?—Yes.

165. Having a doubt as to what his proper course of action should be, was it a proper thing for him, knowing there was time to get a reply, to ask for instructions?—I offer no opinion as to whether it was a proper thing.

166. How could his action in so telegraphing out imperil the credit of the colony?—The want of a prompt reply would imperil the credit of the colony.

167. Will you tell me how, please?—We will suppose, for instance, that the draft had been a demand draft—

168. Then he would not have telegraphed?—I do not know, I am sure.

169. You have admitted that it was a reasonable inference that there was time for Mr. Palliser to get a reply, or he would not have asked?—Yes.

170. Well, if the cable had broken down and the time within which he expected to get a reply had passed, he would have had to assume his own responsibility to act; was he a man likely to imperil the credit of the colony in that case?—I cannot say in the least what difference there might have been in his actions.

171. My question was, Was Mr. Palliser, from your knowledge of him, a man likely to imperil the credit of the colony through not receiving a reply?—I can distinctly say that originally he was not a man at all likely to imperil the credit of the colony, but under the instructions which may have been given to him by the Controller—

172. What instructions?—I say that under instructions which may have been given to him by the Controller—I am merely taking a supposition—it is quite likely that he would not act on his own responsibility at all; he would throw the responsibility upon the Controller.

173. Had you any knowledge, at the time you assumed that he was imperilling the credit of the colony, that the Auditor-General here had instructed him?—I had no knowledge. I have knowledge, as you see by the evidence, that correspondence has gone on between the Controller and his clerk.

174. Since?—Yes. I do not know what correspondence may have gone on before.

175. Your answer to Sir Joseph Ward, Mr. Heywood, was specific—that the action of Mr. Palliser in telegraphing out had placed the credit of the colony in peril. That is a very strange statement to make, and I wanted to know on what grounds you based it?—I endeavoured to explain it to the best of my ability.

176. Well, we will leave that now. Do I understand you, in quoting that clause of the Public Revenues Act of 1891, to assume that the £60,000 may be used for unauthorised purposes?—I do assume that.

177. Then, you would assume that there is a limit of £150,000 in the colony for unauthorised, and £60,000 in London?—That might be so.

178. But is it so?—It would be so if that was the case.

179. My impression is that you assumed that that £60,000 was available for unauthorised purposes; now, is it absolutely so or not—you must know whether it is or not?—I distinctly think that it is available for unauthorised purposes.

180. Therefore your interpretation of the law is that there is really £210,000 as a limit to unauthorised—£150,000 in the colony and £60,000 at Home?—Oh, no. So far as the Treasury was capable of charging the unauthorised, it would be bounded by the £150,000.

181. The £60,000 would come out of the £150,000?—Yes.

182. When it came to your knowledge, Mr. Heywood, that this cable had been sent out by Mr. Palliser to the Auditor-General, why did the Treasury object to paying by bank order?—One of their reasons was that they did not consider it was necessary.

183. Was there any other reason?—Yes. I think that the other reason was that the limit of unauthorised was very narrow indeed. It was not advisable to trench upon it unnecessarily.

184. The Auditor-General stated in his evidence, I understood, that unauthorised was not up to its limit?—It might not have been up to its limit, but it might have been rapidly approaching it, when every penny of the £150,000 was necessary to be conserved. It is my duty then not to allow anything to be charged if it can be helped.

185. Then, do I understand you to say that, by virtue of that particular section that you

quoted, the Treasury feels at liberty to pay for services which have not been authorised by Parliament out of General Imprest?—Yes, that is so; that the Agent-General might pay the moneys.

186. At your direction?—At the direction of the Treasury, or by his own action.

187. Was there not a specific direction in this case for him to do it?—There was a specific direction by the Treasury for him to do it.

188. The Agent-General, I presume, has knowledge of what sums are authorised; he gets copies of the Appropriation Act?—Yes.

189. Then, if he has to pay a sum which he knows to be unauthorised, would he pay that sum out of General Imprest or out of Unauthorised Expenditure?—He must pay it out of General Imprest if he has not had it in requisition for Unauthorised.

190. Is it his practice to do so?—Yes; it is of daily occurrence.

191. Sums not authorised?—Sums which are unauthorised.

192. Unauthorised to his knowledge?—To his knowledge? Well, yes; you might say “to his knowledge.” I might explain that. Under the provisions of the section referred to, he would be, in accordance with my idea of what is the law, and as explained by the Solicitor-General, justified in charging unauthorised expenditure to the General Imprest Account.

193. Has the Solicitor-General ever advised you upon the interpretation of that particular clause?—Yes; and it is here in his opinion, which is given in the papers.

194. What is the number of the clause?—63 is the one in the Act.

195. You say distinctly that the Solicitor-General holds the same view that you do—that under section 63 there is a limit of £60,000 of general imprest which the Agent-General can use for unauthorised services?—That is my clear opinion.

Mr. J. Allen : I wanted to ask some questions, but the papers are not here. I wanted to know how the Treasury heard of this draft, and when they heard, and so on; but as Mr. Heywood has not got the documents we cannot get the information.

Witness : Perhaps I can tell you what you want to know from memory. If the draft is dated the 3rd June, as has been stated, it would be, I suppose, at that time when Major Pilcher telegraphed over to know how he was to arrange for the payment of the money, and I would then advise him that he would draw on London for what he wanted, and I would advise the Agent-General to honour the drafts not exceeding £3,000.

196. *Mr. J. Allen.*] Why did you advise him to draw on London, and not on the colony?—Because that is the usual method of settling between the Cape and ourselves. It is the commercial practice.

197. You advised him to draw on London?—Yes.

198. Did you know at the time that it was unauthorised expenditure?—Oh, yes.

199. That £3,000 is unauthorised expenditure?—It was unauthorised expenditure; it is not now.

200. Then, on or about the 3rd June you knew about this?—Yes.

201. And you knew the amount?—No; I would not know exactly what Major Pilcher had drawn.

202. What did Major Pilcher send you from Cape Town?—He sent a telegram that he expected the expense would be about £3,000, and asked how he was to get the money.

Mr. J. Allen : I think we ought to have that telegram produced, and the correspondence.

Witness : I have no objection. I was not aware that the Committee was going to consider this particular paper to-day.

203. *Mr. J. Allen.*] You made a statement that the colony's credit was in danger. I cannot see how it was. These negotiations started on the 3rd June, and the draft was not paid till the end of June. Who was the draft sent to?—The Agent-General.

204. Was it sent through the bank?—It was sent through the Standard Bank.

205. What was the position of the draft: was it payable until it was accepted?—No.

206. Or sighted?—Not until it was sighted.

207. Until the Agent-General accepted it it was not payable?—No.

208. Did you know when it was sent away from Cape Town?—No, I did not. That was the whole trouble with me—as to when it reached Home.

209. Did you know that it was not sent on the 2nd June?—I did not know anything about it at the time.

210. When was your correspondence with Major Pilcher, because the draft was not sent when you had the correspondence?—No, not to my knowledge.

211. It could not have been; you advised him what to do?—Yes.

212. He would not have sent the draft till you advised him?—No, certainly not; but I would not know when he sent it afterwards.

213. Did you know that up to that date he had not sent it?—No.

214. When was the date of your last correspondence with him advising him to send the draft?—Some time about the beginning of June, I suppose.

215. Very well. Then, he did not send it away from Cape Town, so far as you know, until the beginning of June?—That is so; but I can only judge from the dates you gave me just now. You quoted the 3rd June.

216. How long would it take for the draft to get Home?—I should say three weeks.

217. Then it would arrive in London on about the 24th June?—Yes.

218. What is the date of this telegram—you knew that the draft had arrived in London then?—Yes.

219. What is the date of this telegram of Mr. Palliser's?—13th June.

220. That is eight days before you knew the draft had arrived in London?—But I did not know that it had arrived in London at all.

221. You say that you knew it was sent at the beginning of June?—I would like to refer to the papers, because I fancy that I had the impression in my mind that it would reach London long before it did.

222. It could not have got there so early—it was not sent till the 3rd June?—I do not think my correspondence with Major Pilcher was at the 3rd June. I think it must have been very much earlier.

223. With regard to the general imprest mentioned in clause 63 of the Act: you know clause 64?—Yes.

224. What does that specify?—That “No money shall be drawn from the Foreign Imprest Account except by cheque of the Agent-General, countersigned by an officer of the Audit Department, who shall be selected from time to time by the Audit Office for the purpose; and such Audit officer shall not countersign any such cheque except for payments authorised by a requisition as aforesaid.”

225. What is the requisition referred to there?—A requisition issued by the Treasury, providing for certain sums chargeable to certain votes.

226. Does that not refer to unauthorised?—Yes; and if it were charged to Unauthorised in requisition it would thereby become a vote in accordance with the section—

227. If this Act had been complied with in this case—if the requisition had been sent——?—If the requisition had been sent it would have been charged to Unauthorised.

228. But the requisition was not sent?—No.

The Chairman: Do you wish to have the papers that you referred to, Mr. Allen?

Mr. J. Allen: I do not care particularly. It seems to me to be pretty clear.

229. *Mr. W. Fraser*.] You said just now, Mr. Heywood, that no requisition was sent for this money: then, how could the Agent-General, without a requisition, draw this money—which you admit was for unauthorised services—out of £60,000 that he is authorised not to exceed?—Because he had ample funds provided by requisition for the General Imprest Account for any sum up to £60,000.

230. I understood you to say that there was no requisition?—Not for this specific sum.

231. Yes, but that was for authorised payments; this is for unauthorised?—Yes.

232. You admit that it is for unauthorised?—Yes.

233. Then, ought he not to have had a requisition for it?—No; I said that moneys he had in requisition for general imprest could be applied to this purpose.

234. The succeeding section says they shall not be applied except by requisition?—Then he has plenty of money for general imprest by requisition. The general imprest moneys have been duly provided in requisition.

Mr. Warburton: With respect to the regard of Mr. Palliser, the Audit Officer in London, for the credit of the colony, I think I ought to read a letter of his dated the 18th May, 1901.

Hon. Sir J. G. Ward: Is it in this correspondence?

Mr. Warburton: No; it is a letter that I referred to the Treasury. It reads as follows:—“Westminster Chambers, 13, Victoria Street, London, S.W., 18th May, 1901.—The Controller and Auditor-General, &c.—SIR,—I have the honour to state for your information that on the 9th instant a cable bank order was received from the colony for £15,000 at the request of the Agent-General, and on the 16th instant it was also found necessary to again cable for a further bank order for £15,000, which has duly come to hand. Whilst on this subject of bank orders I would like to state that much inconvenience is caused by the fact that bank orders are not forthcoming when payments are required to be made out of Foreign Imprest Account, and I have been put to the necessity of withholding several urgent payments on this account within the last few days in anticipation of the San Francisco mail furnishing a bank order for a large amount, which, however, was not the case. Of course, if the credit of the colony were in question I would countersign cheques on the Foreign Imprest Account, which would require to stand overdrawn until again put in credit by a bank order; but I do not think I should be placed in a position such as that, seeing that every information is supplied to the Treasury to enable them to make proper provision for payments they know to be due.—I have, &c., F. W. PALLISER.” I referred that to the Treasury, with this memo.:—“In referring to the Treasury this letter of the 18th May from the Audit Officer in London, in which he states that he had recently been under the necessity of withholding several urgent payments because the necessary bank orders were not forthcoming, but that ‘of course, if the credit of the colony were in question I would countersign cheques,’ the Audit Office feels that the Treasury will take such steps as should obviate the necessity of payments being again withheld, and secure the credit of the colony from the possibility of being dependent on the exercise by the Audit Officer of a discretion which the law does not authorise him to exercise.—J. K. WARBURTON, C. and A.-G. 25/6/1901.” The answer I had to that was, “Seen and returned with thanks,” by the Treasury.

235. *Mr. J. Allen*.] I would like to ask Mr. Heywood a question: Why was the cablegram which the Auditor-General wanted to be sent to England withheld—why was it not sent by the Treasury?—Because the Treasury considered it was absolutely unnecessary to send it.

236. Still, the Auditor-General sent you a telegram and asked you to transmit it to London?—Yes, but his cable was in direct opposition to the Treasury view.

237. Therefore you held it back?—The Treasury did not consider it necessary to send it until the question had been decided.

238. Did you at once inform the Auditor-General that the cable was not being sent on?—I do not remember what happened then. Perhaps I can tell by looking at the papers.

239. The Auditor-General refers to the matter on page 7, where he says, “The Controller and Auditor-General ventures, however, to ask for the Minister’s assurance that such telegrams to places beyond the colony as may henceforth be forwarded by the Audit Office for transmission through the

Treasury will not be arrested, for they are generally so forwarded merely in order that expense may be saved by the use of the Treasury code." Why was that cablegram not sent on?—At that time the question had not been settled, and it was not proper to send it.

240. Did you tell the Auditor-General at once that you were not sending it?—I fancy, if I remember rightly, that he was informed it had not gone.

241. Perhaps Mr. Warburton can tell us. Were you informed at once, Mr. Warburton, that the cablegram had not gone on?

Mr. Warburton: The telegram that I received from Mr. Palliser on the 13th June I forwarded to the Treasury, with a suggestion that they should provide for the payment by bank order. Some correspondence then took place up to the 15th June, and on that date, as my Audit Officer was without a reply to his message, I forwarded the cablegram to the Treasury for transmission, as will be seen from memorandum No. 5, on page 2 of the papers. The message read, "Pilcher's draft unauthorised expenditure not chargeable General Imprest."

Mr. J. Allen: You sent that to the Treasury for transmission on the 15th?

Mr. Warburton: Yes.

Mr. J. Allen: And when did you hear about it again?

Mr. Heywood: I wrote on the 17th. The telegram was left attached to the papers.

Mr. J. Allen: You knew nothing about it between the 15th and the 17th, Mr. Warburton?

Mr. Warburton: The 15th, if I recollect aright, was a Saturday, and the 17th a Monday.

Hon. Sir J. G. Ward: Nothing was held back from the Auditor-General, Mr. Heywood, in connection with the matter of the sending of the cable?

Mr. Heywood: No.

Mr. Warburton: I should like to say this: The cablegrams which the Audit Office sends through the Treasury are not for criticism or for inspection by the Treasury, but for transmission through the Treasury, as through the Telegraph Office itself, or through Reuter's Agency. If I am not to trust the Treasury to transmit Audit Office messages, I must send them through the Telegraph Office direct.

Hon. Sir J. G. Ward: In that particular case, when the cablegram was returned to you on the Monday—

Mr. J. Allen: That is wrong. The 15th was a Sunday; the cablegram was not returned till the Tuesday.

Hon. Sir J. G. Ward: I am going by what Mr. Warburton said.

Mr. Warburton: I probably made a mistake.

Hon. Sir J. G. Ward: At all events, when the message was sent to you, you could have sent it direct at once if you took exception to the action of the Treasury.

Mr. Warburton: I could have replied at once, but I presumed that the expense of doing so would be saved by the Treasury adopting the suggestion of sending the money in the proper way.

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