

amount voted, such payment being contrary to the statute?—Yes, any sum in excess of the amount voted that the vote would bear, any sum in excess that the vote and the Unauthorised Expenditure Account would allow.

16. The Unauthorised Expenditure Account, you have already told us, could not be dealt with under this heading, so we will put that on one side. Let me put the question again: Would the effect not be, if the contention of the Treasury that the amount is not specific were sustained, that it would then be competent to expend any sum in excess of the amount voted, such payment being contrary to statute? Would not that be the effect of it? You understand the question?—I am not quite clear as to the question. Perhaps I might answer it in my own way. I think that, if the contention of the Treasury were upheld, it would mean that the Preferential Duties Act, which require that the duty shall be paid, would be amended to the effect that the duty might be refunded in contravention of that statute to the amount which the unexpended balance of the vote would allow. The Treasury's contention is this, that they may refund under that item of £11 all that the vote and Unauthorised Expenditure Account would allow.

17. They wish to include the "Unauthorised" in it?—The Treasury include the "Unauthorised" in it, yes. Therefore I put in the "Unauthorised" too, because they wished to treat that item as an ordinary general item for expenditure not prohibited by statute.

18. I see what you mean, but it is not exactly a reply to the question I put to you. I will put it in another way: What was the reason for clause 3 of the Public Revenues Act being framed in the manner that was adopted? Was it not to prevent any payment contrary to statute exceeding the specific amount voted by Parliament?—The purpose of the section, I understand, though it is hardly a matter for me to consider, was to enable the Administration to make a payment of the amount of an item which before the passing of that Act could not lawfully be made—was prohibited by Statute.

19. Would not the contention of the Treasury then, to exceed that amount, be contrary to the intention of the Public Revenues Act?—Do you mean in this case?

20. In a case prohibited by statute. Virtually, would it not give them *carte blanche* to pay what they pleased, although prohibited by statute?—Yes; what they pleased within the limits of the vote, and of the Unauthorised Expenditure Account.

21. Does the Public Revenues Act, section 3, take any cognisance of the Unauthorised Expenditure Account?—No.

22. *The Chairman.*] When a duty is levied on goods under "The Preferential and Reciprocal Trade Act, 1903," and that duty is paid, are not the provisions of that Act ended then, in regard to that transaction?—They are ended if the Government takes no step to refund any portion of the revenue paid.

23. Where do you find the further provisions of "The Preferential and Reciprocal Trade Act, 1903," dealing with refunds?—There is none.

24. Then that Act does not deal with refunds?—It provides that the duty shall be levied.

25. And when the duties are levied it is ended?—It is ended.

26. The duties having been levied and the Act being ended, will you not have to look to other legislation if there is a proposal to refund the duty?—Yes.

27. Therefore there can be no prohibition in "The Preferential and Reciprocal Trade Act, 1903," relating to refunds?—There can be no prohibition relating to refunds, unless you exclude the Public Revenues Act of 1900, section 3.

28. I want first of all to get to the fact that it is not in "The Preferential and Reciprocal Trade Act, 1903," that there is any prohibition of refunds?—I think there is.

29. Will you read the section?—It is section 3, where it says ". . . there shall be leviable," &c.

30. I do not think you understand my question. The amount having been levied—?—Yes; I think I understand it. The amount having been levied, there is no authority to refund what is leviable.

31. There is no authority in this Act dealing with the refund?—There is no authority in this Act or any other Act.

32. Take this Act first of all. There is no authority in this Act dealing with the refund?—That is so.

33. Is not the prohibition in section 3 a prohibition upon levying less than a certain amount, and not a prohibition upon levying the full amount and making a refund afterwards?—I do not read it in that way.

34. The wording of it is "there shall be leviable"?—Yes. The provision is consistent with the provisions of the Customs law, that the duties shall be leviable. There is no provision in the Act for a refund of the duties, to refund the duties would contravene—would be unlawful under those Acts, and there must be some statutory authority to do so.

35. How are duties refunded under the general Customs law?—The only way in which they can legally be refunded is under section 3 of the Public Revenues Act.

36. I suppose there are refunds provided in this same vote, are there not?—Yes, but those have been, as far as I can recollect, limited to the amount. £675 was the first one.

37. Supposing that one of those items was going to be exceeded by an additional amount being charged to it, what would be the procedure?—We allowed it, though I think it was objectionable, as a charge to the Unauthorised Expenditure Account, and I should not allow it again.

38. In the past you have allowed it?—We have allowed it to go out of "Unauthorised," but I now think it was not legal to do so.

39. But you have never raised the question?—We did not raise any objection to the charging of the payment to "Unauthorised," as such a charge would come before Parliament; but I think that in view of the express provisions of section 3, that the amount shall not be exceeded, we should not have allowed it to be charged to "Unauthorised."