

1905.
NEW ZEALAND.

"THE PUBLIC REVENUES ACT, 1891."

CORRESPONDENCE IN A CASE UNDER SECTION 32 RELATIVE TO THE DISALLOWANCE OF A SURCHARGE OF £1,433 0s. 3d. MADE BY AUDIT OFFICE UPON ALEXANDER AITKEN, THE MANAGER OF THE WAIMEA-KUMARA WATER-RACE.

Laid on the Table of the House of Representatives by Act.

SIR,—

Audit Office, 31st August, 1905.

In compliance with the provisions of section 32 of "The Public Revenues Act, 1891," I have the honour most respectfully to report that the Hon. the Minister of Mines has disallowed thereunder a surcharge of £1,433 0s. 3d. made by the Audit Office upon Alexander Aitken, the Manager of the Waimea-Kumara Water-race.

The surcharge was for amounts owing to the revenue, and uncollected, for water which the Manager had during the several years supplied on credit; and the particular circumstances of the surcharge and its disallowance appear in the Audit Office correspondence, of which I beg leave to append a copy.

I have, &c.,

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

The Hon. the Speaker of the House of Representatives.

No. 1.

The Manager, Waimea-Kumara Water-race.

Audit Office, 4/9/97.

IN connection with the account sales of water at Kumara, the moneys owing for water supplied average £150 every month. Of course, some parties are in debit one month and in credit the next. The total debits exceed the credits, however, in the proportion of about 3 to 1.

Would it not be possible to obtain in advance in every case for all water to be supplied—the debits at least should not be allowed to such an extent. You might kindly let me have your views on the whole subject.

J. K. WARBURTON, C. & A.-G.

The Manager, Waimea-Kumara Water-race.

Audit Office, 12/10/97.

WILL you kindly reply at once to Audit query No. 789, sent to you on the 4th September, and explain cause of delay in so doing.

J. K. WARBURTON, C. & A.-G.

No. 2.

SIR,—

Kumara, 27th October, 1897.

In reply to your query No. 789, 4/9/97, I have the honour to state that after due consideration I am unable to propose a satisfactory solution of the question of doing away with the debits in the water-race accounts, and I am using every endeavour to keep the debits down in amount consistent with the interests of the races and good of the gold-mining industry.

If I receive instructions from the Hon. the Minister of Mines, I will supply no water from the races unless I receive payment in advance.

Payment in advance used to be the rule, but the increasing poverty of the ground now being worked in Kumara and Waimea has made payment in advance impossible without serious injury to mining.

I try to work the races in the same manner as I would do if they were my own private property.

One way of getting over the difficulty would be to place all water supplied to a Suspense Account, and not bring any water supplied to charge in the ordinary water-race accounts until the cash was received.

This could be done in ordinary commercial business, but I am not clear that it could be done in Government accounts; but the conduct of water-races is not at all like any other Government business.

Your query No. 789, 4/9/97, when received was laid aside for consideration, and overlooked until your query No. 889, 12/10/97, came to hand.

The Controller and Auditor-General, Wellington.

I have, &c.,
ALEX. AITKEN,
Manager, Water-races, Kumara.

No. 3.

The Hon. the Minister of Mines.

Audit Office, 12th November, 1897.

I BEG to submit for your consideration the attached copy of a report in which Mr. Alexander Aitken, Manager of Water-races, Kumara, explains the circumstances under which he has been supplying on credit the water from the race, notwithstanding that there does not appear to be any authority in law for granting such credit.

If it is necessary to supplying the demand for the water that credit should be given, and in the interests of the colony, of the water-races, and of the mining industry such demand should be supplied, the Government will doubtless consider whether the practice of the Manager ought not to be lawfully authorised.

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

The Hon. the Minister of Mines.

Audit Office, 1st February, 1898.

Water from Kumara Water-races supplied on Credit.

I HAVE the honour respectfully to request that you will let me have a reply to my communication of the 12th November last, of which I append a copy. [See preceding letter.]

I am, &c.,
J. K. WARBURTON,
Controller and Auditor-General.

No. 4.

Government Water-race, Kumara: Sales of Water.

For Cabinet.—A. J. CADMAN. 15/11/97.

In Cabinet, 20th November, 1897, Minister of Mines to draft reply.

A. WILLIS, Secretary.

To the Hon. Mr. Cadman.

I MET the Hon. the Premier this morning, when he informed me he would like to draft a reply to the Auditor-General to the question he has raised about the credit given to miners for water at Kumara. The papers are with you with a minute from Cabinet thereon.

H. J. H. ELLIOTT.
23/11/97.

Hon. Mr. Seddon,—Papers herewith.—A. J. CADMAN. 27/11/97.

Stand over until return from Coast.—R. J. S. 27/12/97.

No. 5.

Hon. Mr. Seddon.

THE Controller-General seems anxious about this. See your minute 24/12/97.

A. J. CADMAN. 12/2/98.

To alter the present arrangement would mean a great loss to the colony. It is impossible to do other than now prevails. If necessary get law altered. Credit is given by Railways and other Departments of State, and in this case cannot be dispensed with, for no estimate can be formed until after use of water has taken place.

R. J. S. 21/3/98.

Forward for the information of Controller and Auditor-General.

A. J. CADMAN. 21/3/98.

No. 6.

The Hon. the Minister of Mines.

Audit Office, 9th July, 1898.

Water supplied on Credit from Kumara Water-races.

REVERTING to this subject, and with reference to the Premier's minute, I would respectfully point out that the credits allowed by the Railways and other Departments are so secured that there is little or no risk of loss or deficiency.

Those to whom the water must be supplied on credit, if supplied at all, have neither the means of paying for it in advance nor any security to give for payment. Their work is extremely speculative. If it turns out profitably, they pay for the water; if unprofitably, they are no more, probably less, able to pay for the water than before they obtained it.

The course which appears to me to be on the whole the least open to objection is for the Government to be authorised to give credit provided that any arrears which the Manager reports to be irrecoverable, and which the Department is prepared to allow to be so, should be voted. The Manager of the races would for his own credit do all he could to keep down the amount to be voted, and so would exercise discretion in granting credit.

I have not yet surcharged the Manager, because I fear that he might discontinue the present arrangement, and that the consequence might be, as the Premier states, a great loss to the colony. Those to whom the water must be supplied on credit, if supplied at all, will pay for it if their

speculation for which it is required is successful; and if their speculation is such that they can afford to risk the loss of their own time and labour, the Government can afford to risk the loss of the necessary water.

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

No. 7.

Hon. Premier.—For your information.—A. J. CADMAN. 13/7/98.

The Secretary, the Treasury.

I THINK we should take the power suggested for all Departments. What do you think?

R. J. S. 15/7/98.

Hon. Colonial Treasurer.

I SEE no necessity to disturb the existing arrangements. The supply of the water by the Government is in the nature of a commercial undertaking, and, as in the case of the Working Railways, if it is decided that credit should be given for the services rendered, it is a matter of administration for which the Government is responsible. If, in giving credit to the miners, bad debts are made, such irrecoverable amounts are brought before Parliament, and are voted off the books.

JAS. B. HEYWOOD.

21st July, 1898.

The Minister, Mines.

I do not think the miners should be exceptionally treated.—R. J. S. 21/7/98.

No. 8.

Controller and Auditor-General.

FOR your information. I do not think it would be wise to authorise any Government to give credit, as, in my opinion, it will lead to far greater loss of revenue than at present obtains.

The present system of voting-off amounts which cannot be recovered affords every opportunity for investigation.

A. J. CADMAN. 25/7/98.

No. 9.

The Hon. the Minister of Mines.

Audit Office, 25th July, 1898.

I VENTURE to express a fear that there is some misapprehension of the point to which the Audit Office draws attention.

The question having been settled by the Government that the miners should continue to be supplied with the water on credit, the point is whether the credit is to be granted with or without the authority of law.

The Government, in proposing that the credit shall be granted and the law not amended, clearly proposes to act in violation of the law.

There will be no "bad debts," nothing to "vote off the books" as "irrecoverable amounts," for any water that may be supplied after the law, as it stands, is observed.

What is called "the existing arrangement," the arrangement by which the Manager has been giving credit, is not lawful, and it will consequently be the duty of the Audit Office at once to surcharge the Manager with the amount of the credit which he has already given, and to point out to him that the giving of credit is a breach of the law. The Audit Office has no option but to take this course.

J. K. WARBURTON,

Controller and Auditor-General.

No. 10.

The Hon. the Minister of Mines.

Audit Office, 20th May, 1904.

ADVERTING to the former correspondence, of which a copy is attached [see preceding correspondence], respecting the supply on credit of water from the Kumara Water-race, the Controller and Auditor-General would now submit for the information and consideration of the Minister a list of the amounts outstanding for which credit has been given for water supplied from the race. These credits are, as has already been pointed out, without authority of law; and the list shows that the total amount owing at end of February was £1,381 4s. The indebtedness increases month by month. No reply is returned by the Manager of the race to Audit Office questions as to the steps taken by him to recover this outstanding revenue. Nor does he take notice of a surcharge made against him, and of a direction forthwith to pay the amount of such surcharge into the Public Account. He seems to ignore all such questions. He is an officer under the control of the Department of Mines, and the Minister will no doubt take immediate steps to stop these unlawful credits and cause such proceedings to be taken as may be necessary to recover the amounts owing.

J. K. WARBURTON, C. & A.-General.

No. 11.

The Hon. the Minister of Mines.

Audit Office, 29th October, 1904.

Since the Audit Office memorandum of the 20th May last was addressed to the Minister respecting the unlawful credit which the Manager of the Waimea-Kumara Water-race allows for the water which he supplies from the race, the correspondence of which a copy is attached has taken place.

It will be observed that the Manager, though he has been surcharged to the amount of £1,433 0s. 3d. due to the revenue for the water unlawfully supplied on credit, still continues to allow such credit, and looks to the Minister to instruct him in the matter.

As, from the correspondence, it would appear to be with the concurrence of the Government that the Manager has been allowing the credit, the Government may consider the question of placing on the supplementary estimates a sum sufficient to make good to the revenue so much of the amount owing for water as may be found irrecoverable.

And the matter being that money payable to the revenue is outstanding in consequence of failure to observe the requirements of law, the Controller and Auditor-General proposes to report such matter to Parliament.

J. K. WARBURTON, C. & A.-General.

No. 12.

Kumara-Waimea Water-race, and the Supply of the Water on Credit.

(Telegram.)

Wellington, 19th August, 1904.

Manager, Waimea-Kumara Water-race, Kumara.

Are you still allowing water from the water-races to be supplied on credit; and, if so, why, it being illegal to do so?

J. K. WARBURTON, Auditor-General.

(Telegram.)

The Auditor-General, Wellington.

Kumara, 20th August, 1904.

In reply to your telegram of last night I am sending by first mail letter explaining position *re* giving water on credit from Government races.

ALEX. AITKEN, Manager, Water-races.

SIR,—

Kumara, 22nd August, 1904.

Herewith is enclosed a copy of my appointment as Manager of the Waimea-Kumara Water-races, which, I am instructed, confers full power to manage and carry on the work of the said races as if they were the property of a private individual by whom I had been appointed Manager with full power.

I would respectfully call your attention to subsection 3 of clause 273 of "The Public Works Act, 1894," which now takes the place of "The Public Works Act, 1882," and which is incorporated with "The Mining Act, 1898" (clause 91), now in force.

I am endeavouring to carry on the water-races here in a manner which I consider is in the best interests of the Mines Department, and if I insist on payment of amounts due as water is supplied, and sue for balances on the debit side, sales of water would almost cease, as the claims now being worked are very poor.

I will, however, try to carry out any instructions I may receive on this subject from the Hon. the Minister of Mines.

I have, &c.,

ALEX. AITKEN,

Manager, Water-races.

The Auditor-General, Wellington.

In pursuance and exercise of the powers conferred by "The Public Works Act, 1882," His Excellency the Right Honourable William Hillier, Earl of Onslow, Governor of the Colony of New Zealand, doth hereby appoint Alexander Aitken, of Kumara, in the Provincial District of Westland, Manager of the Waimea-Kumara Water-race and Kumara Sludge-channel to be the person to apply for, receive, and hold on behalf of Her Majesty the Queen any license or other authority required to be held or exercised in respect of the water-race described in the Schedule hereto under "The Mining Act, 1886," or any amendment thereof, or any regulations made thereunder respectively. And also to exercise on behalf of Her Majesty the Queen all such rights, remedies, and authorities to execute such instruments or documents, and to perform all such conditions in respect of any such license or authority as aforesaid in the name and on behalf of Her Majesty the Queen as she might have or exercise or could be called upon to perform if she were a private person holding such license or authority.

Schedule.

All waterworks constructed by the Government within the following area: Commencing at the north side of the Arahura River at the ocean-beach, thence following up the northern side of the Arahura River to Kawhaka Creek, thence following up the southerly side of the Kawhaka Creek to the head of the upper reservoir constructed by Government, thence in a true northerly direction to the north bank of the Teremakau River, thence following down the northern side of the Teremakau River to the ocean-beach, thence along the ocean-beach to the commencing-point; all of which are in the Counties of Westland and Grey in the Provincial Districts of Westland and Nelson.

Given under my hand, at Auckland, in the Colony of New Zealand, this fifteenth day of March, one thousand eight hundred and ninety.

ONSLow, Governor.

No. 13.

Audit Office, 30th August, 1904.

SIR,—

Waimea-Kumara Water-race, and the Supply of Water therefrom on Credit.

With reference to your letter of the 22nd instant explaining why you have supplied water from the Waimea-Kumara Water-race on credit, and representing that the sales of water would almost cease if you were to insist on payment for the water at the time when it is supplied, and sue for what is owing, but stating that you will nevertheless try to carry out any instructions in the matter that you may receive from the Minister of Mines, I must point out that there is no authority of law to supply the water on credit—that you, under your appointment as Manager, have no such authority—and that it is therefore my duty, under section 32 of "The Public Revenues Act, 1901," of which I append a copy, to surcharge you with the amount of £1,433 0s. 3d. which

you had, up to the 31st May, 1904, failed to collect. I accordingly send you the attached formal notice that you are surcharged with the amount.

I am, &c.,

J. K. WARBURTON,

Controller and Auditor-General.

Mr. Alexander Aitken, Manager of the Waimea-Kumara Water-race, Kumara.

COPY OF SECTION 32 OF "THE PUBLIC REVENUES ACT, 1891."

32. It shall be the duty of the Audit Office to surcharge every receiver or other accountant with any sum of money which he shall have wilfully or negligently failed to collect, or for which he shall have failed to account as provided by this Act, and every imprestee who shall have expended any public money without the authority of the Minister administering his Department or of the officer duly appointed to authorise such expenditure; and every sum so surcharged shall, except as herein-after provided, be deemed to be a debt to the Crown due by the person against whom such surcharge is made.

It shall be lawful for any person so surcharged to appeal to the Minister administering his Department, who, upon hearing the grounds upon which such surcharge has been made, and the objections thereto, shall confirm or disallow the same.

In every case in which any surcharge shall be disallowed by a Minister on appeal a report of the circumstances shall be transmitted by the Audit Office to the Speakers of both Houses of the General Assembly within fourteen days after the then next sitting of the same.

Audit Office, Wellington, 30th August, 1904.

Mr. Alexander Aitken, Manager of the Waimea-Kumara Water-race, Kumara.

You, being a receiver under section 21 of "The Public Revenues Act, 1891," are hereby surcharged, as provided by section 32 of that Act, in the sum of one thousand four hundred and thirty-three pounds and three pence on the account mentioned below, and are directed to pay the same into the Public Account forthwith, forwarding the bank receipt for the same to this office.

On account of amount owing for water supplied on credit from the Waimea-Kumara Water-race.

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

No. 14.

The Hon. the Minister of Mines.

Audit Office, 15th July, 1905.

Revenue uncollected for Water supplied on Credit from the Waimea-Kumara Water-races.

THE Controller and Auditor-General, advertng to the memorandum of the 29th October, 1904, in which he intimated that this matter, being that of revenue outstanding in consequence of failure to observe the requirements of the law, should be reported to Parliament, has the honour now, before making such report, to transmit for the Minister's information the appended copy of statements signed by the Manager of the Water-races and the Audit Inspector, showing that the amount due to the revenue on the 22nd March last for water unlawfully supplied on credit was:—

| For water supplied from— | | | | £ | s. | d. |
|--------------------------|-----|-----|-----|--------|----|----|
| Kumara Water-race | ... | ... | ... | 1,634 | 3 | 11 |
| Waimea Water-race | ... | ... | ... | 146 | 4 | 9 |
| Callaghan's Water-race | ... | ... | ... | 347 | 10 | 3 |
| Total | ... | ... | ... | £2,127 | 16 | 4 |

The Audit Inspector reported on the 18th April last that the Manager "has now been instructed and has placed the arrears in the hands of the Crown Solicitor to sue for or obtain security for the amount due. The Manager's latest instructions are to stop supplies of water to all who fail to pay at each washing-up."

J. K. WARBURTON, C. & A.-General.

No. 15.

Mines Department, Wellington, N.Z., 20th July, 1905.

The Controller and Auditor-General.

Revenue uncollected for Water supplied on Credit from the Waimea-Kumara Water-races.

THE Minister of Mines desires to acknowledge receipt of the memo. of the 15th instant from the Controller and Auditor-General transmitting copies of statements signed by the Manager of the Water-races and the Audit Inspector showing that the amount due to the revenue on the 22nd March last for water supplied was £2,127 16s. 4d.

In reply the Controller and Auditor-General is informed that, in the opinion of the Minister, in giving credit the Manager of the races did not commit any breach of his duty, as he was authorised by the Government, and that in authorising the giving of credit the Government performed an administrative act within its power.

Of course, the Minister does not question the action of the Audit Office in surcharging, as in so doing that office is performing the duty imposed on it by section 32 of the Public Revenues Act.

At the same time, having regard to all the circumstances, the Minister thinks the case is one in which he should exercise the power of disallowance conferred on him by that section.

As regards the arrears, the Government propose to sue where there is any reasonable prospect of recovery, and to ask Parliament for a vote for the residue.

JAS. MCGOWAN, Minister of Mines.

No. 16.

The Hon. the Minister of Mines.

Audit Office, 12th August, 1905.

Surcharge against Alexander Aitken for Water supplied on Credit from Waimea-Kumara Water-race.

IF, as would appear from the Hon. the Minister's memorandum of the 20th ultimo, he has disallowed, under section 32 of the Public Revenues Act, the surcharge against Alexander Aitken of £1,433 Os. 3d. on account of amount which was owing for water supplied on credit from the Waimea-Kumara Water-race, the duty of the Audit Office is to send to the Speakers of both Houses of the General Assembly a report of the circumstances. The Controller and Auditor-General begs leave therefore to inquire whether the Minister is correctly understood to have disallowed such surcharge.

J. K. WARBURTON, C. & A.-General.

No. 17.

Mines Department, Wellington, N.Z., 12th August, 1905.

The Controller and Auditor-General, Wellington.

Surcharge against Alexander Aitken for Water supplied on Credit from the Waimea-Kumara Water-race.

IN reply to memo. of the 10th instant, the Minister of Mines desires to inform the Controller and Auditor-General that, for reason stated in memo. of the 20th July last, the surcharge of £1,433 Os. 3d. is disallowed under the powers conferred by section 32 of "The Public Revenues Act, 1891."

It is proposed to submit a vote to Parliament for such portion of that sum as there is no prospect of recovering, and steps will be taken to endeavour to obtain payment of the balance.

JAMES MCGOWAN,
Minister of Mines.

No. 18.

Mines Department, Wellington, N.Z., 22nd August, 1905.

The Controller and Auditor-General, Wellington.

Surcharge against Alexander Aitken for Water supplied on Credit from the Waimea-Kumara Water-race.

REFERRING to memo. No. 1477, of the 12th instant, informing the Controller and Auditor-General that the surcharge is disallowed, the Minister of Mines desires to point out that the amounts included in the surcharge are principally balances due on current accounts for water supplied between the years 1899 and 1905, payments on account having been made from time to time as circumstances permitted by the persons to whom the water was supplied.

Further, some of the amounts, after inquiry, have been found to be owing by persons who are either dead or whose whereabouts cannot be ascertained, while in other cases a number of the separate items included in the amount of the surcharge are for sums under £1.

JAS. MCGOWAN,
Minister of Mines.

Approximate Cost of Paper.—Preparation, not given; printing (1,450 copies), £2 14s. 6d.

By Authority: JOHN MACKAY, Government Printer, Wellington.—1905.

Price, 6d.]