

1875.

NEW ZEALAND.

OVER-EXPENDITURE OF IMMIGRATION VOTE,

(CORRESPONDENCE RELATIVE TO THE).

Presented to both Houses of the General Assembly by Command of His Excellency.

No. 1.

MEMORANDUM No. 38.

IN reference to an anticipated over-expenditure of the vote for immigration which is proposed to charge upon the savings of former votes, the Commissioners of Audit are of opinion that such a charge would be clearly illegal.

By "The Immigration and Public Works Loan Act, 1870," section 14, the moneys raised for immigration were to be expended subject to the provisions contained in the Immigration and Public Works Act of the same year. Those provisions are contained in the 43rd section of the latter Act, and limit the expenditure "until the 31st December, 1871," to £150,000. This will not authorize the issue of any money after that date. The section further provides that all subsequent expenditure must be by vote of Parliament.

"The Immigration and Public Works Act, 1871," appropriates £200,000 for defraying the costs incurred in and about the introduction and settlement of immigrants during the two years commencing 1st January, 1872. If this might be strained to include payments after 31st December, 1873, for expenses incurred before that date, it could in no way be held to sanction the payment of expenses incurred in immigration taking place subsequently thereto.

The Commissioners are therefore of opinion that there is no authority for expenditure on immigration except the Appropriation Act of 1874; and the whole of the legislation seems expressly designed to prevent that which seems to have taken place, namely, a much larger expenditure on this service in any one year than in others.

All expenditure, therefore, beyond the votes must be issued as unauthorized, to the extent to which Parliament has sanctioned such issues.

28th January, 1875.

JAMES EDWARD FITZGERALD,
Commissioner of Audit.

No. 2.

The Hon. Major ATKINSON to the COMMISSIONERS of AUDIT.

(No. 120.)

SIR,—

Immigration Office, Wellington, 20th March, 1875.

With reference to Memorandum No. 38, relating to the over-expenditure of the Immigration vote, I have the honor to remark as follows:—

It is clear from the attached minute of the Secretary to the Treasury, and his statement is confirmed by three of my colleagues now in Wellington, that the Immigration estimates for the current financial year were framed by Mr. Vogel under the impression that the unexpended balances, amounting to £240,150 4s. 2d., of the votes granted by the Public Works Acts of 1870 and 1871, were still available for the introduction of immigrants.

The Commissioners of Audit, however, having decided that these votes have legally lapsed, a very large deficit—notwithstanding every effort on my part to reduce expenditure—will necessarily occur in the Immigration vote, estimated to amount to about £160,000, if the immigrants now ordered arrive in due course. The Agent-General however may be unable to execute all the orders that have been sent to England, in which case the deficit will be proportionately reduced.

The difficulty indicated must be met in one of three ways :—

- I.—By calling Parliament together at once.
- II.—By stopping all further immigration until after the regular meeting of Parliament.
- III.—By withholding the Agent-General's accounts, so that they will not be brought to charge during the current financial year.

1st. The ordinary constitutional course, and that which would be most in accordance with the wishes of Ministers, would be to call Parliament together at once, and ask it to vote the necessary supplies. But after a careful consideration of all the interests involved—both constitutional and other—the Government have come to the conclusion that they would not be justified in putting the country and Members to the great inconvenience and expense of a special meeting of the General Assembly; more especially as there can be no reasonable doubt that the present difficulty is really a technical one, and that the Government are only carrying out the intentions of Parliament by introducing the number of immigrants, the expenses on whom will cause the deficit.

2nd. It is evident that without bringing great disaster upon the country, the Government cannot suddenly stop free immigration. The Public Works Department are even now obliged to submit to long and vexatious delays on the part of contractors in the completion of important contracts; and are actually prevented from placing many other necessary works upon the market, from the impossibility of obtaining labour at a reasonable rate. The Government are also continually pressed for more immigrants from all parts of the colony.

3rd. Propositions 1 and 2 being impracticable, there remains open only the third alternative. Immigration must go on, and the necessary funds must be found. The Government will therefore give orders that the whole of the immigration accounts of the Agent-General are to be withheld from the audit until the 1st July next, to prevent them being brought to charge during the current financial year.

The Government feel the grave responsibility they incur in thus practically suspending, without authority, the operation of the law, but they are of opinion that in so doing they are simply fulfilling the important trust reposed in them, and that Parliament will willingly grant the required indemnity.

H. A. ATKINSON.

No. 3.

MEMORANDUM.

UNDERSTANDING that some doubt has been expressed by the Commissioners of Audit, as to whether the unexpended balances of the appropriations of Parliament for Immigration purposes, made in the years 1870 and 1871 are available for expenditure now being brought to account, I have the honor to state that the Hon. Mr. Vogel, when framing the estimates for the current year, requested to be supplied with a return of the total appropriations to date and of the unexpended balances. In compliance with that request, a return, of which the enclosed is a copy, was prepared.

It was, I know, the belief of the Hon. Mr. Vogel that the unexpended balances of the sums granted by the Immigration and Public Works Acts, 1870, and 1871, namely, £240,130 4s. 2d., were available, and it was on that belief that the sum which Parliament was asked to grant for Immigration services during the year was fixed at £275,000.

12th February, 1875.

C. T. BATKIN,
Secretary to the Treasury.

STATEMENT showing the sums AUTHORIZED to be expended on IMMIGRATION, and the EXPENDITURE brought to charge in respect thereof to 30th June, 1874.

ACT.	AUTHORIZED.			EXPENDITURE.			BALANCES UNEXPENDED.		EXPENDED IN EXCESS.	
	Estimates.	Credits.	Total.	1870-71	£ s. d.	1871-72	£ s. d.	1872-73	£ s. d.	£ s. d.
" Immigration and Public Works Act, 1870 :—										
Section 43	150,000 0 0	101 3 0	...	2,798 15 5	...	...	...
" Immigration and Public Works Act, 1871 :—										
Section 54	£21,000 0 0	...	...	...	...	...	43,857 12 8	...	...	...
" 55	200,000 0 0	...	...	221,000 0 0	18,014 7 3	...	102,308 18 0	...	...	...
" Appropriation Act, 1872 :—										
Vote No. 78, Agent-General's Department...	5,370 0 0	...	...	...	148,965 6 1	...	...
" 79, Immigration, Auckland	7,750 0 0	...	...	...	5,384 8 11	14 8 11	...
" 80, " Hawke's Bay	2,050 0 0	...	...	...	4,638 13 4	3,116 6 8	...
" 81, " Taranaki	250 0 0	...	...	...	782 4 3	1,267 15 9	...
" 82, " Wellington	6,100 0 0	...	...	...	...	250 0 0	...
" 83, " Canterbury	6,697 7 0	...	...	...	5,572 12 1	527 7 11	...
" 84, " Otago	9,047 10 0	...	...	...	4,901 6 7	1,796 0 5	...
" 85, Immigration Officers at Hokitika, &c.	275 0 0	4 11 8	...	...	9,878 0 4	...	830 10 4
" 86, Barracks, Pictou, &c.	270 0 0	...	...	...	137 10 0	142 1 8	...
" 91, Retrospective Immigration	4,602 12 7	...	...	...	164 12 0	105 8 0	...
" Appropriation Act, 1873 :—										
Vote No. 82, Agent-General's Department...	5,155 0 0	...	...	...	...	4,602 12 7	...
" 83, Liabilities, 1872-73	3,129 3 2	...	...	...	8,824 6 4	...	3,669 6 4
" 84, Introduction, location, &c.	250,000 0 0	17,508 4 8	...	...	3,129 3 2	...	...
" 85, Chief Office	1,359 15 0	83 6 8	...	...	216,184 8 1	51,323 16 7	...
" 86, Auckland	438 0 0	6 12 10	...	...	1,419 5 8	23 16 0	...
" 87, Taranaki	25 0 0	...	...	...	325 11 6	119 1 4	...
" 88, Hawke's Bay	570 0 0	6 13 4	...	...	390 0 7	25 0 0	...
" 89, Wellington	1,995 0 0	9 18 0	...	...	2,463 7 6	186 12 9	...
" 90, Nelson	25 0 0	...	...	...	31 5 0	...	458 9 6
" 91, Marlborough	35 0 0	...	...	...	...	...	6 5 0
" 92, Westland	50 0 0	...	...	...	50 0 0	...	...
" 93, Canterbury	1,632 12 0	...	...	...	1,477 18 0	154 14 0	...
" 94, Otago	1,655 0 0	...	...	...	1,569 17 8	85 2 4	...
" 95, Barracks and Quarantine Stations	1,000 0 0	...	...	...	1,043 1 0	...	43 1 0
" 96, Contingencies	1,000 0 0	...	...	...	947 15 10	52 4 2	...
" 97, Liabilities on Quarantine Barracks, &c.	2,076 15 0	...	...	...	2,508 19 4	...	432 4 4
" 98, Colonial Architect	250 0 0	...	...	...	250 0 0	...	...
Totals	683,808 14 9	35,734 17 5	719,543 12 2	...	...	...	...	421,069 13 3	303,928 4 4	5,454 5 5

NOTE.—The above statement includes the expenditure of the Agent-General to 31st March, 1874, and is exclusive of advances made in the colony outstanding on 30th June.

Treasury.

Wellington, 14th July, 1874.

JAMES C. GAVIN,
Accountant to the Treasury.

No. 4.

The COMMISSIONERS of AUDIT to the Hon. Major ATKINSON.

(No. 121.)

THE Commissioners of Audit beg to acknowledge the receipt of the Hon. Major Atkinson's memorandum of the 20th March, No. 120, informing the Commissioners that "the Government will," for certain reasons set forth in memorandum, "give orders that the whole of the Immigration accounts of the Agent-General are to be withheld from the Audit until the 1st July next, to prevent their being brought to charge during the current financial year."

As the duty of furnishing these accounts is imposed by law (section 49, "Public Revenues Act, 1867") upon the Colonial Treasurer, the Commissioners submit that the above communication should be made by him or a member of the Ministry acting in his behalf.

The Commissioners understand that the object of the course taken by the Government is to leave a sufficient balance in the vote to meet the issues required in the colony before the 30th June, which would be exhausted if the expenditure out of the Foreign Imprest Account were brought to charge as required by section 19 of "The Public Revenues Act, 1872."

As the Government admit the illegality of the course proposed, and rely on an indemnity by Parliament, the Commissioners are relieved from the duty which would be imposed on them of reporting the facts to Parliament immediately on its meeting. It only remains for them to consider whether the law has placed at their disposal any means for preventing the step contemplated by the Government, which it would be beyond question their duty to use should such exist, and such means would be the power to stop the issues on the vote.

The issues on any vote are limited by the balance standing to its credit in the Public Account as kept by the Audit Office. All issues take place on the requisition of the Colonial Treasurer; and the duty of the Commissioners is that of the Comptroller, set forth in the 26th section of "The Public Revenues Act, 1867," to satisfy themselves "that each sum mentioned in each such requisition has been legally appropriated to the service for which the same is required, and can be paid without exceeding the amount so appropriated." The latter point is determined by the balance standing in their books to each appropriation. The imposts accounted for are also (by practice, although not so required by law) put into requisition, and charged to the proper votes when passed by the Auditors. The question therefore presents itself, whether the Commissioners are authorized in issuing money on a vote, knowing that if all the expenditure properly chargeable thereon were put into their account, the sum asked for could *not* be paid without exceeding the amount so appropriated.

On full consideration it does not appear to the Commissioners that they would be justified in refusing to issue money so long as a credit balance appears in their books, or, where an illegality is believed to exist, to exceed the powers vested in them by Parliament to correct or prevent it. In the absence of the information which they have a right to receive, but which the Government declines to give, they cannot be certain, when any requisition is presented, whether the account is really overdrawn or not; and should it prove that the account was not overdrawn, they would have overstepped the law in refusing to issue.

The Commissioners desire, however, to point out what great abuses may be committed if the course pursued by the Government were to be drawn into precedent and become a general practice. The objections are that whilst the Parliament has declared what the Government shall do, in order to render the control and audit of the accounts effective, it has not invested the Commissioners of Audit with powers enabling them to compel obedience to the law. It is to be hoped that another Session of Parliament will not pass without such powers being placed in their hands.

It is indeed open to the Commissioners to compel the attendance of the Treasury or other clerks, with all books and vouchers, under a penalty of one hundred pounds, and so to possess themselves of the information required; but they do not conceive that it would be right or seemly to put that power in force in a case in which the action is taken by the Ministers of the Crown under their responsibility to Parliament.

The Commissioners request that this correspondence may be laid before Parliament at its next Session.

25th March, 1875.

JAMES EDWARD FITZGERALD,
Commissioner of Audit.

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