

1888.  
NEW ZEALAND.

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# STOCK AND DIVIDENDS UNCLAIMED.

CORRESPONDENCE ON THE SUBJECT OF THE TREATMENT AND DISPOSAL OF STOCK AND  
DIVIDENDS UNCLAIMED FOR A PERIOD OF YEARS.

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

## No. 1.

The COLONIAL TREASURER to the AGENT-GENERAL.

SIR,—

Treasury, Wellington, 28th July, 1886.

I have the honour to acknowledge the receipt of your letter of the 15th ultimo, No. 739, enclosing statements of receipts and payments by the Bank of England in respect of dividends on New Zealand inscribed stock and the new consul bonds, for which I thank you.

With regard to your remarks on the amount of dividends unclaimed, I should like to learn if there is any prescribed time after which it will not be necessary to continue to hold the dividends in reserve.

I have, &c.,

The Agent General for New Zealand, London.

JULIUS VOGEL.

## No. 2.

The AGENT-GENERAL to the COLONIAL TREASURER.

SIR,—

7, Westminster Chambers, London, S.W., 17th September, 1886.

Upon receiving your letter of the 28th July last, No. 25, I asked the Bank of England whether there was any prescribed time after which unclaimed dividends need not be kept in hand. In reply I have received a letter from the bank, copy of which is annexed, from which you will see that in the absence of any provisions in the Imperial Stock Act of 1877 such as are contained in "The National Debt Act, 1870," and the East India Unclaimed Stock Act of 1885, there does not seem to be any limit to the time during which such dividends must be held in reserve.

I have, &c.,

The Hon. the Colonial Treasurer, Wellington.

F. D. BELL.

## *Enclosure in No. 2.*

SIR,—

Bank of England, London, E.C., 14th September, 1886.

In reply to your letter of the 13th instant, addressed to the Chief Cashier, I beg to inform you that I do not find any mention of unclaimed dividends in the "The Colonial Stock Act, 1877," and in the absence of any provisions such as are contained in "The National Debt Act, 1870," and "The East India Unclaimed Stock Act, 1885," &c., I imagine that there is no limit of the period during which unclaimed dividends on colonial inscribed stocks must be held in reserve.

I have, &c.,

Sir F. D. Bell, K.C.M.G., &c., Agent-General for New Zealand,  
7, Westminster Chambers.

S. O. GRAY,  
Chief Accountant.

## No. 3.

The COLONIAL TREASURER to the AGENT-GENERAL.

SIR,—

Treasury, Wellington, 18th November, 1886.

I have the honour to acknowledge the receipt of your letter of the 17th September last, No. 1,145, stating in reply to my inquiries that there does not appear to be any limit to the time during which unclaimed dividends on inscribed stock must be held in reserve, and shall be glad if

you will say if you advise that we should by legislation name a time, or leave the matter in abeyance. You might consult the authorities of the Bank of England on the subject if you should think it advisable to do so.

I have, &c.,

ROBERT STOUT,  
(For the Colonial Treasurer.)

The Agent General for New Zealand, London.

#### No. 4.

The AGENT-GENERAL to the COLONIAL TREASURER.

SIR,—

7, Westminster Chambers, London, S.W., 29th December, 1886.

I have to acknowledge the receipt of your letter of the 18th ultimo in reference to the question of unclaimed dividends, and will take an early opportunity of seeing the Governors of the Bank of England thereon. Unless they raise an unexpected objection I do not see why a short Act should not be passed limiting the time during which such dividends should be held in reserve, as is the case here.

I have, &c.,

The Hon. the Colonial Treasurer, Wellington.

F. D. BELL.

#### No. 5.

The AGENT-GENERAL to the COLONIAL TREASURER.

SIR,—

7, Westminster Chambers, London, S.W., 30th March, 1887.

Adverting to the subject of unclaimed dividends, I lately consulted Messrs. Mackrell on the legal points connected with any proposed legislation, and I now beg to enclose copy of a letter containing their opinion. It would seem to be necessary, in any case, to have an amendment of the Imperial Stock Act; and, as such an amended Act would affect all the Australasian Colonies, I propose to bring the matter before the Conference now about to assemble.

I have, &c.,

The Hon. the Colonial Treasurer.

F. D. BELL.

#### Enclosure in No. 5.

DEAR SIR FRANCIS,—

21, Cannon Street, London, 29th March, 1887.

*Unclaimed Dividends.*—We have perused the papers (which we return herewith) which accompanied your letter of the 16th ultimo, and have referred to the Acts which are mentioned in Mr. Gray's letter.

The question may, we think, be looked at from two points of view: first, as between the Government and the Crown Agents or the Bank of England, as the case may be; and, secondly, as between the Government and the holders of the debentures or stock.

On the first point, the Government are under an engagement to provide either the Crown Agents or the Bank of England, as the case may be, with sufficient funds from time to time to meet the accruing dividend; and, when these funds are once in the hands of the Agents for payment of the dividend, there may be a nice question whether a trust is created in favour of the persons entitled to the dividend, or whether the money is simply held by the Agents for the Government till the Government, when they think fit, ask for a return of it. A somewhat similar question was raised quite recently in an action against Messrs. Rothschild in connection with the Egyptian loans, and from the short report of the case to which we have access we gather that the Court inclined to the opinion that in that case the money was not impressed in the hands of the Agents with any trust for the parties entitled to the dividend. If this were so it would, we think, be competent for the Government to ask their Agents to return to them, certainly after a period of six years, any of the moneys remaining in their hands for which no application had been made during that period. This part of the question, however, is a matter which is capable of being the subject of an agreement between the Government and its Agents without the aid of any Act of Parliament if the Bank or the Agents should be advised that they are not trustees of the money for the stockholders, though we gather from the Bank's letter that they would probably put forward the contention that they were not justified in parting with the money, after it had once been placed in their hands, except on the authority of an Act of Parliament.

On the second point, however—viz., as between the Government and the stockholders—we are of opinion that an Imperial Act would be necessary to enable the Government to transfer unclaimed dividends after certain advertisements had been made; and, looking at the provisions which have been made as regards other unclaimed dividends upon East India and other stocks, we think that ten years would have to elapse before Parliament would sanction the transfer of the fund, or of the dividend unclaimed upon it, to the Government.

We think it will be necessary that there should be an Imperial Act supplementary to the Colonial Stock Act, dealing with unclaimed dividends and the stock from which they result, containing somewhat similar provisions to those contained in "The East India Unclaimed Stock Act, 1885;" but it may be that Parliament would require that the stock itself should be retained in this country, and transferred to the name of some public official appointed by the Colonial Government, and against whom proceedings might be taken by any stockholder who might consider that he was entitled to make good his claim in respect of any stock which had been transferred. This of course will raise a wide question as to the proceedings which it would be open to a stockholder to take in the event of such official not being appointed, and we think that Parliament would not be ready to leave a stockholder to a possible remedy against the Colonial Government by some action in the colonial Court. The Imperial Act, if passed, would, in our opinion, have to be adopted in the same mode as the Colonial Stock Act by the separate Legislature of each colony, and, if any public official was appointed as the person to whom the stock should be transferred, we presume that the stock agents of the particular colony would be made a *quasi*-corporate body for the purpose.

We have, &c.,

The Agent-General for New Zealand.

MACKRELL, MATON, AND GODLEE.

#### No. 6.

The COLONIAL TREASURER to the AGENT-GENERAL.

SIR,—

The Treasury, Wellington, 17th June, 1887.

I have the honour to acknowledge the receipt of your letter of the 30th March last, No. 496, enclosing copy of Messrs. Mackrell and Co.'s written opinion upon the question of legislation required to enable the Government of this colony to deal with unclaimed dividends on its stock or debentures.

I gather that an Imperial Act is considered necessary to authorise the Government to take back from the Bank of England or the Crown Agents, as the case may be, any interest or dividends which have not been claimed during a certain period, to be fixed by statute.

Regarding claims which might come in after the funds had been withdrawn, I think these could best be decided upon by the Bank or the Crown Agents. If this view be concurred in, it might be provided that the Government should give a satisfactory guarantee to the payers of interest—i.e., the Bank or Crown Agents, as the case may be—that they would be put in funds to liquidate any claims for overdue interest proved to their satisfaction.

As to the period for which interest should lie in the hands of agents for payment, whether it should be seven or ten years, I think precedent should be followed.

The withdrawal of past-due interest suggests the further question whether the Government ought not to be relieved of the duty of making future provision for interest on the stock or debentures the interest on which has not been claimed—remaining, however, subject to liability as in the case of withdrawals.

The question of advertising also requires consideration; but I presume the proposed measure would deal with this.

The Agent-General for New Zealand, London.

I have, &c.,

JULIUS VOGEL.

## No. 7.

The AGENT-GENERAL to the COLONIAL TREASURER.

SIR,—

7, Westminster Chambers, London, S.W., 6th September, 1887.

Adverting to your letter of the 17th June, No. 13, on the subject of unclaimed stock and dividends, you will have seen that I brought the matter before the Colonial Conference. I now beg to enclose copy of a letter I have received from the Colonial Office, covering a correspondence with the Bank of England as to the form that the proposed Bill should take. I shall shortly consult with the other Agents-General, as requested by the Colonial Office, and acquaint you with the result.

I have, &c.,

The Hon. the Colonial Treasurer, Wellington.

F. D. BELL.

### Enclosures in No. 7.

A.—The COLONIAL OFFICE to the BANK of ENGLAND.

SIR,—

Downing Street, 19th August, 1887.

I am directed by Sir Henry Holland to transmit to you the accompanying copy of a paper laid before the Colonial Conference by the Agent-General for New Zealand, Sir F. Dillon Bell, on the subject of unclaimed dividends on colonial loans. The Conference agreed that it is desirable to take such action as may be necessary to enable the colonial Governments to deal with unclaimed dividends; and it appears to Sir H. Holland that an Act of the Imperial Parliament, such as Sir F. D. Bell suggests, would relieve the bank or other agents resident in this country from responsibility to the stockholder in paying over unclaimed dividends to the colonial Government. Such an Act would not, of course, affect the liability of the colonial Government towards the bondholder or stockholder; but it appears to Sir H. Holland that in practice no difficulty would arise if legislative provision were made by colonial Governments for enabling claimants here readily to obtain repayment of arrears of dividends. Parliament would probably require some such provision to be made, but the form of it would require consideration. The debentures or stock in respect of which unclaimed dividends had been repaid to the colonial Government might, as Sir F. D. Bell suggests, be transferred in trust to some representative of the colony here; but Sir H. Holland is not satisfied that there is necessity for such an arrangement. Sir H. Holland would be glad to be favoured with the opinion of the Bank of England whether there are any practical obstacles in the way of carrying out Sir F. Dillon Bell's suggestions, and with any observations on the subject generally.

I am, &c.,

The Governor, Bank of England.

R. H. MEADE.

B.—The BANK of ENGLAND to the COLONIAL OFFICE.

SIR,—

Bank of England, E.C., 26th August, 1887.

In continuation of my letter of the 23rd instant I am directed by the Governors to inform you, in answer to the first part of Sir H. Holland's inquiry, that they see no practical obstacles in the way of carrying out any method of dealing with unclaimed colonial stock and dividends which shall receive the sanction of an Imperial Act of Parliament supplementary to "The Colonial Stock Act, 1877."

In answer to the further request for any observations on the subject generally, the governors would recommend that any such enactment should be framed on the analogy supplied by the Acts which already govern the disposition of unclaimed stock and dividends of the debts of the United Kingdom and the Indian Government, and of the Metropolitan Board of Works. If this suggestion commends itself to Sir Henry Holland, then the principal provisions to be enacted would be that all colonial Governments be empowered to give instructions to the banks or firms with whom their loans are registered to transfer and pay over stock and dividends unclaimed for a period of ten years; and that the rights of the persons entitled shall in no way be affected by such transfer and payment, and that they shall be free to apply for the restoration of their stock and dividends, with the right of appeal to the Chancery Division of the High Court of Justice in the case of a disputed application. The fixing of ten as the number of years appears to be preferable to any other term, being in harmony with the National Debt, Indian, and Metropolitan Board of Works Acts, and has been found in practice to work satisfactorily. With reference to the disposition of the unclaimed stock and dividends, it appears to the governors that the transfer of them to a trust in this country, to be held for the benefit of the persons entitled, would be the course most consonant with the original contract between the colonial Government and the lenders. It is, of course, competent for Parliament to vary the terms of any contract; but some such method as that proposed by Sir F. D. Bell in the concluding paragraph of his minute would be open to less objection on the part of a stockholder than the actual surrender of his property (although he has for a time failed to claim it) to a distant Government which is his debtor; and, if this be admitted, the second provision would direct the creation of such a trust, and in it would be embodied the necessary details therewith connected. Among the subsidiary provisions would be directions for the investment or employment of the unclaimed dividends and of the accruing dividends upon stock transferred, reserving to the colonial Government the income arising from such investments. A further provision would direct claimants to apply to the bank or firm who are the registrars of the loan for restoration of the stock or dividends to which they consider themselves entitled.

Access to registers of unclaimed stock and dividends is no longer permitted, as in practice it has been found to be dangerous and useless—dangerous to the bank, as giving publicity to information which might be used for fraudulent purposes, and useless to *bonâ fide* claimants who did not know how to use the registers. The only persons who profited were the publishers of lists of unclaimed property, who misused the information they obtained. The bank are always ready to make searches on application; they send notices within a year to persons who have sold

their stock and forgotten their dividends; and when the ten-year period is about to expire they send notices to all persons whose stock and dividends are about to come within the terms of the Acts: so that a much more effective assistance is afforded to parties interested than they could derive from the publication of registers.

I am, &c.,

H. J. BOWEN,  
Deputy Chief Accountant.

The Hon. R. H. Meade, C.B., Colonial Office, S.W.

C.—The COLONIAL OFFICE to the AGENT-GENERAL.

SIR,—

Colonial Office, Downing Street, 5th September, 1887.

With reference to previous correspondence respecting the disposal of unclaimed colonial stock and dividends, I am directed by Sir Henry Holland to transmit to you, for any observations you may be able to favour him with after consultation with the other Agents-General, a copy of the correspondence between this department and the Bank of England on the subject.

I am, &c.,

JOHN BRAMSTON.

The Agent-General for New Zealand.

## No. 8.

The AGENT-GENERAL to the COLONIAL TREASURER.

SIR,—

7, Westminster Chambers, London, S.W., 3rd November, 1887.

The Agents-General met to-day to consider the suggestions on the subject of unclaimed stock and dividends contained in the correspondence which I sent you in my letter of the 6th September last, No. 1,345.

After a long discussion the Agents-General desired me to ask the Colonial Office to go on with the drafting of the Bill, and to let us see the draft, when we should be better able to form an opinion of the provisions for giving effect to the proposal I brought before the Colonial Conference.

I have, &c.,

The Hon. the Colonial Treasurer, Wellington.

F. D. BELL.

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