

The requisitions of the Audit Office on a department can as readily be addressed to a Minister as to the Under-Secretary, and if I had not been influenced myself, as my predecessors appear to have been, by a regard either for practical results or for the convenience of Ministers, and had acted in none but a consideration of the interests of the Audit Office, I might not improbably have taken it upon myself to address every such requisition to a Minister; but I ought most respectfully to state that it would not have occurred to me to offer it as a reason that the Under-Secretary might not submit to the Minister the requisition of which he would expect to be informed.

I have, &c.,

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

The Hon. the Minister of Mines.

No. 4.

The Hon. the MINISTER of MINES to the CONTROLLER and AUDITOR-GENERAL.

SIR,—

Mines Department, Wellington, 1st November, 1897.

I have the honour to acknowledge the receipt of your letter of the 18th instant, informing me that before the receipt of my letter of the 16th you had already taken the course which you suggested in your memorandum of the 22nd September you intended to take, of including in the report of the Audit Office on the public accounts of the colony "a reference to the failure of the Mines Department to comply with the requisition of the Audit Office for such a statement, signed by one of its officers, of the leases and licenses that he issues as will enable the office to satisfactorily check the Receivers of Gold Revenue in their accounts of their receipts under such leases and licenses."

In reply, I have to direct your attention to the fact that you first entered into a correspondence on this subject with Mr. Warden Stratford on the 11th December last by returning to him the abstract of licensed holdings issued for the District of Ahaura during the previous month of November, and it was not until the 29th of January that you brought the question before the Mines Department, in a minute upon a query dated the 15th of that month addressed to the Receiver of Gold Revenue at Kumara, requesting that the monthly abstracts of leases and licenses issued at that place might be signed by the Warden. The Warden having declined to accede to your request before the matter came under my notice, I referred the point at issue to the Solicitor-General, who indorses the interpretation of the law expressed by Mr. Warden Stratford.

Under these circumstances I consider it unwise to interfere further, but, had the matter come to me in the first instance, I should probably have asked the Warden to do what you desired without raising the legal aspect of the case.

I have, &c.,

A. J. CADMAN,
Minister of Mines.

The Controller and Auditor-General, Wellington.

No. 5.

SIR,—

Audit Office, 3rd November, 1897.

To-day I received your letter of the 1st instant, and I hasten to reply, though I do not know what the precise question is on which you have obtained the advice of the Solicitor-General.

I beg leave to submit, what it has been my endeavour throughout all my correspondence with the Government and its departments on this subject to make clear, that the point at issue between the Audit Office and the Government, or the Mines Department, is not whether it was necessary for the Warden to sign or whether the Warden could or should be required to sign the abstract which it is his statutory duty to cause to be furnished, in accordance with section 76 of the Mining Act, but whether the Government is competent to obtain from one of its own servants, independently of and in addition to what it may be the actual statutory duty of the servant to furnish, a certified statement of the licenses and leases issued by such servant.

On the latter point—the point really at issue—the Solicitor-General or the Crown Law Office or a lawyer would hardly be asked to advise; for the question would, I respectfully urge, be whether the Government ought or ought not to expect from its own servants any more than the assistance which there is direct statutory authority to require them to render. This does not seem to me to be a question requiring any interpretation of law.

If, however, the Government complies with the requisition of the Audit Office, and thus furnishes the office with the means of making the verification for the purpose of which the requisition is made, the internal departmental arrangement by which compliance becomes practicable may not concern the Audit Office; and it may therefore be no part of my duty to express my own fear that it would be unsatisfactory that the Government should have to ask its own servants—the servants of a department—to furnish the means of enabling the department to comply with such a requisition of the Audit Office, and should have to depend on their mere will or pleasure for those means. I trust that you will understand me to be making these remarks out of an earnest desire to promote the interests of the administration.

I cannot but suppose it impossible that you have taken a comprehensive view of the circumstances of that memorandum of the 11th December last which I addressed to the Warden, and of which you speak as my correspondence with him; and on this supposition I propose now, as briefly and clearly as I can, to relate those circumstances, and to place the whole question in such a light as must, in my judgment, show you that my attitude has been proper and consistent throughout.

On the 23rd September, 1896, a little more than a year ago, your department issued the circular of which the following is a copy:—