

51. You had no communication with the Audit Office, but you decided to treat the request from the Mining Department as if it was directed to you from the Audit Department?—Yes, as through the head of my own department.

52. But it was not done. It was only a request to the Minister of Mines to ascertain and let the Audit Department know why the last year's rent was not collected. Is that what you objected to?—I objected to answer any question as to my reasons for having given a decision with regard to the certain matters referred to, and about which the Auditor-General asked my reasons. Mr. Elliott, who forwarded it on to me, asked what my reply was to this, and I gave my reply.

53. But this question is not asked by the Audit Department of you, but of the Minister of Mines, and in so far as there is any dispute it is not between you and the Audit Department, but between the Mining Department and the Audit Department?—It is between the Audit Department and myself. The Audit Department demands of me information which I have no power to give, and which I decline to give except on appeal to the Appeal Court or the Supreme Court, because the Legislature has given me the Act to work upon.

54. Can you point to any letter where the Audit Department demands this of you?—In that communication you have in your hands.

55. This says, "I beg to request that you will ascertain and let me know why the last half-year's rent was not collected." That is not a demand?—I take it that when the Minister forwards to me a letter from an unauthorised person and asks me to give information it is information for that person, and not for the Minister. The Minister is the only means of communication, and he demands from the officer through him to supply the information.

56. Is not the Auditor-General an authorised person to request the Minister to supply the information?—No, not to ask any Magistrate or Judge or Warden for reasons for his decision.

57. *The Chairman.*] This memorandum of the 27th July, forwarded by Mr. Warburton to the Minister of Mines, simply asks that the Minister will ascertain and let him know why the last half-year's rent was not collected before acceptance or surrender, and it happens that the Minister has forwarded that memorandum on to you?—Yes.

58. It says here: "Forwarded to the Warden at Reefton for any information he may be able to afford in reply to the question of the Controller and Auditor-General.—H. J. H. Elliott." Is this anything more than asking the Mines Department to ascertain a Ministerial act?—Supposing, Mr. Chairman, it turns out that a Warden gave two judgments and cancelled the licenses because the condition for the payment of rent has not been complied with in each case, and although there was rent due. It would, nevertheless, be his duty to cancel them if they had become forfeited. If you discovered that would not your opinion be changed as to whether it was a Ministerial or judicial act? And even it was a Ministerial act under section 71, subsection (4), there is the same appeal to the Appeal Court. It is a decision liable to be criticized and confirmed or otherwise on reference to the Appeal Court.

59. Can you say it is a judicial act when a person voluntarily surrenders a special claim upon which you indorse the word "Surrendered," as this circular says was done?—Yes, the Auditor-General says so, but I have never said it was a judicial act. He uses the term "surrender"; I have not done so.

60. Then, I understand you to say from your knowledge of the facts in connection with the surrender or cancellation of these two special claims, the Caxton and Lady Onslow, that you were aware of the fact that it was not a voluntary surrender, but a surrender ordered by the Court?—I have no recollection, but very possibly under section 71, subsection (4), the licensee walked into the office and surrendered his license, and then the Warden indorsed the licenses, and wrote the word "Surrendered."

61. If that were so, you would not say that it was a judicial act?—I would call it a Ministerial act.

62. Would that be an act against which there would be a right of appeal?—Certainly—in this way: If I cancelled a license under the Act and had no right to do so it was an illegal act, and there is a case for appeal.

63. In the case of a licensee of a special claim or licensed holding, he simply surrenders his right?—If my law is wrong the license remains in existence.

64. When the Audit Department asked the Mines Department for this information, did you not look upon it as a request from the Mines Department asking you, as an officer under the control of the Mines Department, for information?—I did not, as you will see by the memorandum to the Under-Secretary. Had I once replied, the Auditor-General might have imagined he had a right to call upon any Warden for any explanation. Any interference at once causes confusion. It is not like the Minister of Mines giving me a departmental order, which I have to obey immediately. Supposing the Minister called upon me to give an explanation, and I gave it, then, in common fairness, I would have the right afterwards to say, "On a former occasion you criticized my decision; I have a difficulty here now, will you guide me?"

65. Is this more than a query that appears on an office document?—It is a query from an unauthorised person; and my difficulty is this: I must still adhere to the Act. I am responsible. If I make any mistakes I have to suffer. My difficulty is this: If once this was admitted my past experience—bitter experience—teaches me that I should be continually tormented, and not only I, but every judicial officer. If once there is any interference there is no end to it. The Government appoints me its officer, and under the Act the Legislature says, "There is your duty; you have the Appeal Court and the Supreme Court, and must be guided by the law."

66. Do you not admit that the Mines Department has a right to ask you to explain anything in the administration of the department under your control?—I say, No. If the Minister of Mines calls upon me to interpret the Act, I say it is wrong to do so. The head of my department would not do such a thing. If he did I should claim his assistance every time I was in doubt. The