

I could not go any further. There is a little collectible by the local bodies generally outstanding as arrears.

68. You said just now you did not know how they could claim if the Government did not give them authority?—I am going outside questions relating to audit. The Financial Arrangements Act, I think, gives this revenue to the local bodies. All that the Audit Office is doing is to surcharge those who are charged with the statutory duty of collecting this gold revenue and negligently fail to collect it.

69. You could not surcharge in any way or put an embargo on the local body? You said just now you would be bound to report when auditing their accounts?—If the Audit Office observed that the local body practically had surrendered its rights without authority, the Audit Office would take exception to the act.

70. *Mr. McLean.*] You said the local bodies were sometimes a small amount in arrears. As a matter of fact, they are sometimes a very large amount in arrears?—Some are. Some are well administered, and some are not. If the rates are largely in arrear, then the local bodies are communicated with. Sometimes almost the full amount of the rates has been allowed to be in arrear for one or two years.

71. To whom do you report?—The accounts show what rates are in arrear in such case. I make a note that the rates are uncollected. I had before me the other day a case of an unduly large amount of arrears for rates. It seemed to the Audit Office that the neglect in that case was hardly justifiable, and I think the correspondence will show that the Audit Office regarded arrears to that extent as subject to exception.

72. *Right Hon. R. J. Seddon.*] You have heard me state that there is £18,846 6s. for rents of special claims and licensed holdings in arrears as at the 31st March, 1898, and this Paeroa case is the only one in which you have surcharged. Was there anything special in this case that made you surcharge Mr. Moresby and let the other Receivers go scot-free?—No; I have taken up Mr. Moresby's case first. The others are not let go. They are receiving notice. The course which the Receivers are taking throughout the colony is, I believe, to take proceedings for these rents. I have already explained that the Audit Office has no authority to take proceedings; and though the Audit Office and its Inspectors have pointed out that in accordance with the Act the Receivers are required to take proceedings in a certain event, these proceedings must be taken on the authority of the department.

73. The Receivers are officers of the Mines Department?—Yes.

74. Supposing the Mines Department instructed the Receivers that it was against the public interest that these back rents should be sued for, and that they were not to take harsh measures by selling people out, what would be the position of the Receiver then? Would you surcharge him?—I should surcharge him with what was legally payable as revenue, and what, of course, he had wilfully or negligently failed to collect.

75. The same law was in force before you became Auditor. Do you know of any previous case of surcharging?—I do not recollect any like this, but my impression is that there must have been.

76. Did you give any notice beforehand to the Receiver at Paeroa?—Yes, a considerable correspondence took place. The surcharge was really not made, I think, until the Receiver acknowledged that the amount was legally arrears payable to the revenue.

Mr. MORESBY further examined.

77. *Mr. Fraser.*] On what ground did you come to the conclusion that you had acted improperly?—My grounds were these: I had accepted these surrenders and rents up to the date of the surrenders, and the decision in *Jordan v. Cuff*, decided about two months before I was surcharged, was that I was wrong in accepting that rent. It was not a case of forfeiture. That was a case in which the Receiver at the Thames had sued for the full amount, and the defendant had only tendered rent up to the date of surrender.

78. Was it one or two years' rent that was due in the case of *Jordan v. Cuff*?—It was only, I think, six months due.

79. Was this £780 you were surcharged with for one or two years, or more than one year?—It was only for the remaining period of six months.

The CONTROLLER and AUDITOR-GENERAL further examined.

80. *Mr. Montgomery.*] Under what circumstances do you think surcharges should be disallowed by the Treasury—the Ministry, I suppose it is?—I could not answer unless I was administering.

81. Do you think that in every case where personal negligence has been shown not to exist the surcharge should be disallowed?—I cannot speak as Auditor, but I take this case of Mr. Moresby as the example. Mr. Moresby has collected, according to his judgment, what was due by law. He is acknowledged to be a careful and capable officer, and I think he interprets his instructions and the law very well, and that he does his work conscientiously and to the best of his ability. In his case he appears to have been excusably mistaken in his interpretation of the law, and I think I should, if I were administering the law, and if there be the power, disallow the surcharge to the extent of relieving him of what is not recovered; but the difficulty is in the right of the local bodies, and in so relieving him as not to deprive the local bodies of their right to the money.

82. *Right Hon. R. J. Seddon.*] In your opinion, though, as the law stands, you were justified in surcharging. It is not a case of negligence. Where an officer is a statutory officer the responsibility of interpreting an Act under which he works rests with that officer?—Yes, I should think so, as far as the Audit Office is concerned. The Receiver alone can be surcharged.

83. Statutory officers cannot be advised by the Government?—I would not say that. If I were in charge of the department I think I should advise them. I think I should instruct them as