

In conclusion, I am directed by the Colonial Treasurer to state that he hopes the Controller and Auditor-General will very carefully consider his action if he contemplates refusing to allow these and similar imprests to be issued. The whole responsibility of a dislocation of Treasury payments must rest with the Audit Office, and the Colonial Treasurer trusts this will, if possible, be avoided.

JAS. B. HEYWOOD, Secretary.

No. 5.

Imprest Requisitions for Moneys to be used for Payments after the 30th June.

The Treasury.

Audit Office, 29th June, 1898.

THE Audit Office is disposed to be as considerate in the circumstances as the law will allow. The question is entirely one of the law. The Audit Office does not understand the law to provide for the proposals of the Treasury, and is without authority to exercise any discretion.

As to "the whole responsibility of a dislocation of Treasury payments" resting with the Audit Office, it has already been observed to the Controller and Auditor-General, and with his assent, before a parliamentary inquiry respecting a similar case, that "Of course, it is no business of yours to take into consideration public convenience. Your business is to see that the law is observed and complied with; and as to public convenience, that is a question for the Government."

Before there is appropriation for payments after the 30th June, it would, in the judgment of the Audit Office, not only be unlawful to issue the money required for such payments, but also unlawful for any imprestee to make them. The amount of the requisition should therefore be reduced by so much as is not required for the payments to be made before the close of June, and to be charged to the extended appropriations for the services for which the imprests are requested.

Money required by way of imprest must be charged against the vote for the service for which the imprest is required. The service for which the imprest is required must be the payment out of the imprest money of charges against a vote. The payments after the 30th June are not chargeable to the extended appropriations for the services to that date; and there are no appropriations yet for the services after that date.

It follows that the imprest requisitions, in respect to so much of the moneys required as it is not proposed to use before the close of June, could not yet be charged to any votes for the services for which the imprests are required. There are no such votes yet; and as the payments after the 30th June, before there is appropriation for such payments, must be accounted for as expenditure after that date in the Public Accounts of the colony, the expenditure could only be without appropriation.

On the ground that it would be unlawful, before there is appropriation for payments after the 30th June, to make such payments, and also unlawful to issue the money required for such payments, the Audit Office cannot pass any requisition for the issue of the money as for an authorised expenditure before the appropriation. The Audit Office is not satisfied, under section 46 of the Public Revenues Act, that the issue is within the amount authorised by Parliament; for the payments for which it is acknowledged that the issue is required are not authorised at all.

It may here be well to point out that the Colonial Treasurer is expressly prohibited, by section 3 of "The Public Revenues Act, 1896," from paying any claims after the 30th June, unless authorised by an Act granting and appropriating money for the services of the financial year, and that this prohibition cannot but extend to all imprestees, and especially to an imprestee who is virtually the Treasury itself. The payments made by an imprestee are payments made by him on behalf, or as the agent, of the Treasury. The powers of the agent do not exceed those of the principal; and it does not appear to the Audit Office that it can consistently be claimed that payments which it would be unlawful for the Colonial Treasurer to make could lawfully be made by any of his imprestees.

The Treasury arrangements are doubtless sufficient to prevent imprestees from making any payments after the 30th June for services of the financial year for which there is no appropriation. A safe course of prevention would be to require that the imprest balances of the 30th June should, if there be then no appropriation, be repaid to the Public Account.

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

No. 6.

The Solicitor-General.

I AM directed by the Colonial Treasurer to ask your consideration of the points raised by the Audit Office, and he would be glad to receive your opinion of the same at the earliest possible moment.

30th June, 1898.

JAS. B. HEYWOOD, Secretary.

No. 7.

SEE opinion herewith.—W. S. REID. 30th June, 1898.

Hon. the Premier.

I HAVE carefully considered the points arising out of the papers submitted to me. The question turns on the true construction of section 3 of "The Public Revenues Act Amendment Act, 1896." It appears to me that that section, which re-enacts, and, as far as affects the present matter, without any alteration, section 39 of the Act of 1891, should be read with sections 44 to 46 of the latter Act. The purpose and effect of section 3 are merely to extend until 30th June the power