

No. 4.

The Audit Office.

I THOUGHT the word was intended to be written "inoperative," and I read the context with that word, but I am still unable to understand the meaning of the minute. It is my stupidity, no doubt, but I would be glad if you would write out at greater length what you intend to convey.

21st June, 1900.

JAS. B. HEYWOOD.

The Treasury.

THE words of the Audit Office express their meaning so clearly, and explain the objection so completely, that it is difficult, except by repeating the same proposition, to write at greater length. The meaning which the words convey, and are intended to convey, is the meaning that section 40 does not authorise the Order in Council.

21st June, 1900.

J. K. WARBURTON, C. and A.-G.

No. 5.

The Audit Office.

YOUR memo. appears to say that the section is inoperative because the issue and payment of moneys was not authorised by a vote on the estimates during the three months after the commencement of the "financial year for which such vote on the estimates is passed"—that is to say, in the present instance, during the three months after the 1st April, 1899. This appears to me unintelligible. If you mean "after the end of the financial year," I would observe that section 3 of "The Public Revenues Act, 1896," extends the previous year's appropriation for a period of three months of the succeeding financial year, and one-fourth of the amounts voted last year may be used as votes of the current period of this year. This section is in effect a re-enactment of section 39 of the Act of 1891, and the section 40, following it as it does, obviously relates to it as well as to the specific appropriation on the estimates themselves.

21st June, 1900.

JAS. B. HEYWOOD.

No. 6.

The Treasury.

Audit Office, 21st June, 1900.

THE meaning of the Audit Office is taken correctly. The minute should have read "financial year following that," and it is regretted that the last two of these words should accidentally have been dropped.

Section 40 must be understood to have the meaning of its words, "any surplus on any vote on the estimates," and could not relate to any appropriation but a vote on the estimates.

The appropriation by section 3 of the Act of 1896 is not a vote on the estimates. It provides that, "If, during the space of three months after the commencement of any financial year or period, no Act is passed granting and appropriating money for the service thereof, the Colonial Treasurer may, until such Act is passed, issue and pay moneys during such three months," on the condition that the payments shall not exceed a prescribed amount; and the unexpended balance of the vote on the estimates and the fourth part of such vote are mentioned in the section only to define to what amount authority is given to pay moneys.

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

No. 7.

REFERRED to Solicitor-General for his opinion.—J. G. WARD, 22nd June, 1900.

Hon. Colonial Treasurer.

THE 40th section of "The Public Revenues Act, 1891," provides that "the Governor in Council may direct that any surplus on any vote on the estimates may be applied in aid of any other vote in the same class." This section follows the original provision for continuing appropriations for three months after the expiration of a financial year—a provision now contained in section 3 of "The Public Revenues Act, 1896."

It is objected by the Audit that the appropriation by section 3 is not a vote on the estimates, and that section 40 is at present inoperative. Having read the papers submitted to me herein, I do not think the proposition of the Audit can be legally supported; but that section 3 of "The Public Revenues Act Amendment Acts, 1896," having extended appropriations after the close of a financial year for three months, all the enactments of these Acts, so far as applicable, must be read together, and that there is no good legal reason why section 40 should not be operative. To hold otherwise would reduce that provision to a nullity, because until the end of the financial year it cannot be said whether there is a surplus on any vote, and section 40 could never be operative unless estimates were submitted within the three months after the end of the financial year.

It is a maxim of ordinary construction of statutes that it should be such as would suppress the mischief and advance the remedy—a principle recognised by "The Interpretation Act, 1888," section 5, subsection (7), which declares that every Act shall receive such fair, large, and liberal construction and interpretation as will ensure the attainment of the object of the Act according to its true intent, meaning, and spirit. Clearly one of the objects of section 40 was to promote the service of the State by allowing the powers thereby conferred to be exercised during the period of extended appropriation which has been provided for by law.