

determined that only a certain sum shall be paid for a specific service it ought not to be competent for the Treasury to pay more and to charge the excess as for a service for which no provision is made." It is in such sense that the Audit Office uses the word "specific."

Nor has the Audit Office raised any objection to charging unauthorised refunds of revenue to the Unauthorised Expenditure Account, for such a charge is made on the condition which the Audit Office considers necessary, the condition that there must be a vote for a specific refund; and a refund charged to the Unauthorised Expenditure Account is passed, if passed at all, by inclusion of the specific payment in the Appropriation Act itself.

Taking now the item "Refund of Customs duties" as the first of the most considerable of the items which the Minister quotes as similar in character to the item for refund of stamp duty, the Audit Office would point out that the administration does regard as specific the items passed on the estimates for refunds of Customs duties, and that in this regard the Customs estimates have been framed, as a more particular inquiry should make clear.

The question as to the power carried by items placed in the Customs estimates and passed for the refund of Customs duties was raised four years ago, and a copy is attached for the information of the Minister of two of the Audit Office minutes which preceded the adoption of the Audit Office decision. The items that are quoted by the Minister as having been passed at one time or another for refunds of other revenues not authorised by law to be refunded are, of course, equally specific, and have occasionally been pointed out to be so.

It may be observed, in conclusion, that the item 25 of Vote 48 on the estimates was passed only by the House of Representatives; that it was not an appropriation passed by Parliament; that the intention of Parliament, so far as such intention is to be gathered from the Acts, was not to authorise the refund; and that such intention of Parliament, according to its Acts, prevails against an application of the item to any but specific refunds of revenue to a total amount not exceeding that of the item—that is, to refunds of revenue the amount of which was known to the Administration to be payable before, and in respect of which the item was placed on the estimates.

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

No. 7 (attached to No. 6).

The Controller and Auditor-General.

Audit Office, 26th February, 1898.

Refund of Customs Duties paid by His Excellency the Governor, £96 4s.

It would appear from the minute of the Secretary for Customs that, in his opinion, the duties now sought to be refunded were correctly paid, and that in collecting them the Customs Department acted as it had previously done in the case of His Excellency's predecessor, the Earl of Glasgow, the late Mr. Ballance having given instructions that the Governor was to be treated like any other person arriving in the colony.

The charge upon the voucher is Vote 39, item 13, "Sundry articles remitted by order of the Commissioner of Customs." The amount provided for this purpose is £50. There are eight other items in the estimates under the heading "Refund of Customs duty," but they relate to specific articles, so that in making provision for refunding the duty on them the House, to use a common phrase, "knew what it was about." Item 13, however, is a general authority to the Commissioner of Customs to remit duty on any article at his discretion, and the amount which may be so remitted is not limited by the amount of the item, nor even by the total amount of the vote, because a vote may be exceeded. This method of making refunds of Customs duties is of recent origin, and places an authority in the hands of the Commissioner which I venture to think the House unwittingly assented to.

I doubt very much whether such an authority can legally be acted on; but as other vouchers have been passed charged to the same vote and item, I think we should not decline to pass this one. If you agree with me that the authority is insufficient, it might be well to intimate to the Department that, should such an item recur in the estimates, the Audit Office will be unable to accept it as a valid appropriation.

J. C. GAVIN, A.C. and A.

No. 8 (attached to No. 6).

Mr. Gavin.

I CONCUR. It does not appear to me that the item of £50 carries a power sufficient to authorise the Audit Office legally to pass claims in general to the repayment of Customs duty not repayable under the Customs laws.

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

3/3/98.

No. 9.

REFER to Solicitor-General for advice.

R. J. S.
26/2/02.

It appears to me that the sense in which the term "specific" is used in the late Controller's minute of the 1st November, 1890, and in the report of the Public Accounts Committee is to be gathered from the illustration given—viz., compensation to a particular individual—and I quite agree that in such a case the amount of the item cannot lawfully be exceeded. And with good reason, for the House has the whole matter before it when the vote is passed, and consequently the will of Parliament is expressed with fullness and precision. As other examples of specific appropriations in this sense, I take from last year's estimates such items as these: "Sir George Grey's statue," "Contribution to Indian Famine Fund," "Refund of Customs duty paid on