

65. Can you refer us to any other enactment, except this section 53 of "The Public Revenues Act, 1891," which shows what you are to lay before Parliament?—I should be wanting in my duty to Parliament if I were not to lay before it all the facts connected with the matter.

66. I do not say you did not do very right, but I want to know what enactment entitles you to give an opinion after the Governor has determined?—I should be a useless officer of Parliament if I were not to furnish it with all the information in my possession in regard to any matter which I had to lay before Parliament.

67. *The Chairman.*] I heard you say this many times this morning—I have written it out: You hold that the Audit Office is the interpreter of the law, and, the interpretation of the law by the Audit Office having been given, the Auditor-General will yield to no other authority. Then you go on to say that, if the law does not give effect to what the Government desires and Parliament has granted, the law must be altered?—I did not say that. I said that Parliament should consider the necessity for an alteration of the law. I said the judgment of the Audit Office determined the law for itself.

68. But you said you would not yield to any other authority?—I did not say that, because Parliament might alter the law. I think abstract questions of this kind should be submitted in writing, so that I might have an opportunity of considering them.

TUESDAY, 19TH AUGUST, 1902.

Evidence of Mr. J. K. Warburton continued. (No. 2.)

*Mr. Warburton.* I should like to explain the position of the Audit Office with respect to the complaint against it of making a statement of the case after the Governor's order has been made. The provision of the Public Revenues Act is that the objections of the Audit Office shall together with the opinion of the Attorney-General, be forthwith laid before Parliament. Now, in the judgment of the Audit Office the objections mentioned in that section are those made in respect of the intention of the Government to apply for the Governor's order, and the Audit Office expects that it may be informed of such a proceeding, and that the opinion of the Attorney-General, with an intimation of an intention to proceed for the Governor's order, may, before the Governor's order is obtained, be submitted to the Audit Office for its objections. The opinion of the Solicitor-General is a sort of challenge to the position taken up by the Audit Office, and the Audit Office claims the common right of a defendant to know what the proceeding is to be and what the counsel for the Crown may have said in support of it. That is the position we take up, that we ought to know what the opinion of the counsel for the Crown is, and that then we should be afforded the privilege of a defendant in answering a charge. I am referring to case 4 as an example, because it was a case dealt with by Sir Joseph Ward, who can bear me out in what I say. In that case the Solicitor-General's opinion was not submitted to the Audit Office till after the Governor's order had been obtained, and I had good reason to believe that the order was not to be applied for. All that we ask is that we may in every way have an opportunity of meeting the charge.

1. *Mr. Palmer.*] When you say "charge" do you mean it in a personal way?—Oh, no. It is simply an opinion objecting to our judgment.

2. *Hon. Sir J. G. Ward.*] You were of the opinion that after your memorandum of the 25th March—namely, "Audit Office, 25th March, 1901.—The Hon. the Colonial Treasurer.—Advances to Colonel Penton and Major Owen.—The vouchers, which now have been sent in for credit of the imprestee, and according to which the payments are charged to the Unauthorised Expenditure Account, are passed subject to the objection already raised by the Audit Office, that it was contrary to law for the imprestee to use in making such payments money which had not been issued to him by way of imprest for the purpose of being expended under section 47 of the Public Revenues Act without the appropriation of Parliament; and, as the Treasury is understood to contend that it was not contrary to law for the imprestee to do so, the Audit Office proposes in the circumstances to take exception to the payments in question having been made by the imprestee out of money of which the issue to him by way of interest had been charged to votes for authorised services.—J. K. Warburton, Controller and Auditor-General"—was written, no further action was necessary?—So far as that memorandum is concerned, no further action of the Audit Office was necessary with regard to the entry as it then stood.

3. After the memorandum was sent to the Colonial Treasurer on the 25th March the point in dispute between the Audit Office and the Treasury, to enable that amount of £3,000 to be made against the interest in London, had not then been settled. You see this memorandum of yours dated the 25th March, 1901, addressed to the Colonial Treasurer. The last point up to which you had acted was the 18th June?—Oh, that is 1901. These memoranda are merely put in as examples of objection. That memorandum of the 25th March, 1901, is a paper attached to No. 8 to show that the Treasurer was not correct in stating that the Audit Office had never objected. This was put in as evidence that we always did and were objecting.

4. It was after that audit that the matter was referred to the Governor, of course?—It was referred to the Governor in June, 1902. This was the case mentioned which happened the other day. It was only after the order was obtained that we knew anything of the advice of the counsel of the Crown. I only desire to inform the Committee as a witness.

5. Would you, Mr. Warburton, if you had had the advice of the Crown in this case dated the 21st June, 1904, have prevented it going to the Governor for settlement?—No; but I should have made before the Governor's order the statement of objections coming after the Governor's order. That is the objection that I understood was made.

6. You have had the Solicitor-General's opinion before it has gone to the Governor?—I think in every case I have been justified in saying something. If we were freely informed of the proceeding and of the advice of the Solicitor-General—that is, the opinion of the counsel for the Crown—then we should have less reason to say anything after the Governor's order. I think we should know the intended proceeding, and be afforded every opportunity of stating our reasons before the Government goes to the Governor.

*The Chairman.* Gentlemen, I must call you back to B.—19A; we have drifted away to B.—19B.

7. *Hon. Sir J. G. Ward.*] Does the Auditor-General consider it was right to comment upon the final decision of the Governor in a matter that had been the subject of dispute?—The Auditor-General says he had not the whole of the information placed before him before the matter was referred to the Governor.

[At this stage Mr. Fisher had to leave to attend another Committee, and Mr. Guinness took the chair.]

*The Chairman.* Now that Sir Joseph Ward has got this information from the Auditor-General, I think it would be advisable that we should proceed. We have dealt with the first paper, B.—19, and now we are going to B.—19A.

8. You have given evidence on this paper as to the repayment of duty on the estates of deceased troopers, Mr. Warburton?—Yes.

Mr. JAMES B. HEYWOOD examined. (No. 3.)

9. *The Chairman.*] I propose to ask Mr. Heywood to give evidence on B.—19A. Have you given evidence on paper B.—19 yet, Mr. Heywood?—No.

*The Chairman.* I move, That the consideration of B.—19 be postponed until Sir Joseph Ward reports to the Committee as to whether he can see his way to recommend an amendment—to meet the case—of the Public Revenues Act.

The motion was carried.

*The Chairman.* Now B.—19A. Mr. Warburton has given evidence on it. You have nothing further to add, Mr. Warburton?

*Mr. Warburton.* No.

10. *The Chairman.*] We will now take your evidence, Mr. Heywood. What is your name in full?—James B. Heywood.

11. You are Secretary to the Treasury?—Yes.

12. As far as I can see, Mr. Warburton's statement of the position from the Treasury point of view is contained in these papers. Have you anything further to add, Mr. Heywood?—I do not know that I need add anything for the information of the Committee in respect to the matter. I would like to point out an error which is due to the printer, or the typist, in connection with the paper B.—19A. I think Mr. Allen asked me last time I was here the meaning of the words in the Bill "*Re Campbell and Parkinson, deceased.*"