

No. 24.

Right Hon. Colonial Treasurer.

THE Audit Office has refused to pass for credit payments which have been made by the Post Office as interest on debentures issued without coupons. I recommend the matter be referred to the Attorney-General for his opinion.

JAS. B. HEYWOOD.

14 Dec., '04.

The Solicitor General.—Please advise hereon. The Attorney-General is absent.—R.J.S. 22/12/04.

No. 25.

It appears from the correspondence that the objection of the Audit Office is based on section 54 of the Public Revenues Act of 1891, which requires vouchers to be duly receipted by or by the written authority of the person entitled to receive the money, and directs the Audit Office "to surcharge every sum for which such properly receipted voucher is wanting, against the officer whose duty it was to obtain such receipt."

In my opinion this section applies only to cases where the person entitled is specified and ascertained—as for example a contractor for work done—and does not extend to debentures which are invariably issued to bearer. Where a debenture is paid off, the holder signs nothing—he merely surrenders his debenture. So also in the case of an interest coupon—he merely surrenders the coupon. The surrendered debenture or coupon is itself the only voucher. And the reason is obvious, for the debenture or coupon being payable to bearer, a voucher signed by any specified person would be no evidence that he was the person entitled to receive the money. The Audit Office recognises this, in suggesting that in the present case, the debentures should be issued with coupons. But the answer is that the Act under which they were issued ("The Aid to Public Works and Land Settlement Act, 1903") expressly provides for the issue without coupons (section 3), and the Colonial Treasurer was, therefore, entitled to adopt that course if, in his opinion, the public convenience required it.

For these reasons I am of opinion that the mere fact that signed vouchers for the interest are not procured is no objection in law to the payments being passed by the Audit Office. The sole question is whether there is reasonable evidence that the payments have been duly made, and in considering this and the paying officer's certificate it may reasonably be assumed that the holder of a debenture will look for his interest when due—and make himself heard if he does not get it.

FRED. FITCHETT, Sol.-Genl.

22/2/05.

The Audit Office.

I trust that the above opinion of the Solicitor-General will satisfy you as to the sufficiency of the certificates in connection with the payment of interest (without coupons), and will enable you to allow credit for the payment of same.

JAS. B. HEYWOOD, Secy.

21 Mch., '05.

No. 26.

The Hon. the Colonial Treasurer.

Audit Office, 22nd March, 1905.

*Vouchers wanting for Debenture-interest Payments, and Treasury Minute of 21st March, 1905.*

THE paying officer's own certificate that he pays the interest affords no satisfactory check upon him. It is not a voucher for the payment. On the 30th May the Minister stated that if desired, receipts would be taken from the payees. On the 6th June the Audit Office informed the Minister that it would be unable to pass the debenture-interest payments not supported by coupons or by vouchers equally satisfactory; and the Minister, on the 7th June, in asking the Controller and Auditor-General to sign the debentures, assured him that "the question of a sufficient voucher for the payment of the interest will be subsequently considered." Now the Minister asks the Audit Office to do what it has stated its inability to do, to pass the payments without coupons or any other vouchers. For the payment of interest to debenture-holders, who may not be known to the Administration, there is no more satisfactory voucher than the coupon which, issued to such holder as the title to payment, is given up and sent in as conclusive evidence of payment by the paying officer to the person entitled to payment. It is the substitute for the ordinary receipted voucher.

J. K. WARBURTON, C. &amp; A.-General.

No. 27.

Hon. Colonial Treasurer.

As the Audit Office still persists in refusing to allow credit for interest paid upon debentures issued without coupons it remains to refer the matter to the Hon. the Attorney-General, and if he concurs with the opinion given by the Solicitor-General then the Governor in Council will determine the question in dispute.

JAS. B. HEYWOOD.

25th Mch., '05.

Approved.—C. H. M. 25/3/5.

The Hon. the Attorney-General,

For your opinion, in order that the same may be submitted to H. E. the Governor, if you concur with the Solicitor-General.

J. B. HEYWOOD.

25 Mch., '05.

No. 28.

*Opinion.*

I HAVE read and considered the opinion given herein by the Solicitor-General on the 22nd February, 1905, and in that opinion I concur. Section 54 of "The Public Revenues Act, 1891," requires that

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