

89. From a practical business point of view, is that not out of the question?—It would perhaps depend on the amount.

J. B. HERWOOD, Secretary to the Treasury, examined. (No. 2.)

90. *Right Hon. R. J. Seddon.*] Will you please state shortly to the Committee the facts in relation to this matter?—Well, as far as my memory serves me, these debentures were due on the 1st April, and bank holidays intervened up to the 5th April.

91. *Hon. Sir J. G. Ward.*] Including the 1st?—Yes. We, of course, were not able to send down to the bank on the 1st April our bank order for payment of the interest so as to protect the cheques, and we could not pay until the first day on which the banks were opened after the holidays, which was the legal paying-day. At the same time these debentures had been lodged, in accordance with the prospectus, three days or more before the due date. The holders of the debentures had lodged the debentures with us for payment on the 1st. It was through no fault of theirs that they could not get payment on the 1st, and the Government decided—in my opinion, properly—to pay them the overdue interest. The question then arose with the Audit Office as to whether this was a proper charge under the Act—these few days' extra interest. The Solicitor-General gave it as his opinion that it was a proper charge under the Act. The Audit Office declined to recognise his opinion, and the alternatives left were that it should be made a charge to "Unauthorised," or that a Governor's Warrant should be obtained, directing the Audit Office to accept the charge as it stood. That really sets out the matter. The Audit Office accepted the Governor's Warrant. So far as charging the payment to "Unauthorised" is concerned, it appears to me that it would be a terrible blow to the credit of the colony if it were once known that it could be left to the discretion of Ministers whether they could pay a legal charge for interest or whether they could not—that is to say, that investors would be at the mercy of the Ministry of the day as to whether they would get their proper legal interest or not. That is what it would amount to if such payments were left to be charged to "Unauthorised." So far as my own knowledge is concerned, I have never heard of any case before where the authority of the Loan Act itself was not supposed, at any rate, to cover authority to pay interest up to the date upon which the principal sum was paid off. I have no doubt—in fact, I am sure—that there have been cases in Australia often enough where principal sums have not been paid on the due date, and there has never been a question as to whether the Loan Act has been sufficient to provide for payment of the interest. The opinion of the Solicitor-General seems perfectly clear on the subject, and I think that to all persons of common-sense, at any rate, it would appear that until you have paid off your principal the interest must run, and it must run under the Act which authorises the payment of interest. I do not know that I have anything more to observe on the matter.

92. *Right Hon. R. J. Seddon.*] The fact is that the Government could not pay this money at the time the debentures fell due—on the 1st April?—They were unable to pay the money. They could not provide the money in the bank to pay the interest.

93. *Hon. Sir J. G. Ward.*] I would just like that point made clear. You say they could not provide the money?—They could not get the bank order down at the bank on the 1st April, because the bank was closed on that date.

94. *Right Hon. R. J. Seddon.*] You have heard the evidence given by the Controller and Auditor-General. One suggestion is to pay out of "Unauthorised," and another is to alter the Act, giving debenture-holders the right to the interest and the Treasury the power to pay it on moneys not paid till after due date. What is your opinion upon the suggestion to pay out of "Unauthorised"?—As I said before, I think it would be a very serious thing that investors should come to the conclusion that there would be a possibility of the interest which is legally due to them being at the mercy of the Ministry of the day, as it must be if it becomes a charge to "Unauthorised." They would, on the other hand, be of opinion that the Act which authorises the payment of interest would authorise it until the date of payment of the principal.

95. Would this meet the case: "That an amendment of the law be made conferring the right to receive, and power for the Treasury to pay, interest on debentures which, owing to similar circumstances, for a period not exceeding one month, remain unpaid"?—If you asked my opinion I should say that legislation of that character is vicious. If the Committee desire my opinion, straight-out, about the Act, I say that I consider it ample for the payment of interest. We have only the opinion of a layman in the matter—a gentleman who holds his own opinions, and they are very often necessarily, in the course of his duties, at variance with the views of the Law Officers of the Crown. At the same time, we must feel—at least, I must feel—that they are only the opinions of a layman, and not of a skilled lawyer in the matter.

96. Would it not be better, though, to avoid anything of this kind arising? You have heard the evidence of the Auditor-General, and there are statutory obligations cast upon him. If you put it in the Act and said straight-out that interest was payable to the debenture-holders until the principal was paid——?—That is quite another thing.

97. The Solicitor-General advises that that is the law now; but suppose we put it in concrete form, in an Act of Parliament, that until the principal was paid the debenture-holders were entitled to interest?—Then you are giving room for further dangers ahead if such an alteration is made.

98. The only danger is that the Government may not pay at the given date, and the interest will continue to run?—Well, you might arrange and hold over the payment of principal for an indefinite period. It would not be a proper thing to do; it would not be a straightforward act.

99. But did you not just now state that you believed that in Australia it has been the case that they have not been able to pay?—No, I have never heard of such a thing. You mean, not been able to pay on due date?