1905.

NEW ZEALAND.

"THE PUBLIC REVENUES ACTS AMENDMENT ACT, 1900"

(CORRESPONDENCE IN A CASE UNDER SECTION 9 OF, RELATIVE TO REFUNDS UNDER "THE PREFERENTIAL AND RECIPROCAL TRADE ACT, 1903").

Laid on the Table pursuant to Section 9 of "The Public Revenues Acts Amendment Act, 1900."

The CONTROLLER AND AUDITOR-GENERAL to the Hon. the SPEAKER OF THE HOUSE OF REPRESENTATIVES.

Audit Office, 5th July, 1905.

The Hon. the Speaker of the House of Representatives.

THE Controller and Auditor-General has the honour respectfully to submit to the House of Representatives, in accordance with the provisions of section 9 of "The Public Revenues Acts Amendment Act, 1900," a copy of correspondence in a case under that section where, a difference of opinion having arisen between the Audit Office and the Treasury as to the authority to which should be charged refunds of Customs duty under "The Preferential and Reciprocal Trade Act, 1903," on artificial limbs imported in excess of the item 13 of Vote 43, £11, in the appropriations for the year ending the 31st March, 1905, the Governor determined the question by deciding that such item applied to all Customs duty paid on artificial limbs imported during the year; and that consequently it was lawful to make remission, and to charge the expenditure in respect thereof to the Vote 43, notwithstanding that the amount of the item would thereby be exceeded.

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

No. 1.

APPROPRIATIONS FOR CONSOLIDATED FUND SERVICES.—CLASS IX.—CUSTOMS DEPARTMENT.—1904–1905.

Customs: Miscellaneous Services.

VOTE No. 43.

Other Charges—

Item		£
*	* * * * * * * * * *	
4	Refund of duty on machinery for Calliope Dock, Auckland	675
*	* * * * * * * * * *	
7	Refund of duty on window in memory of the late E. G. Wright, M.H.R.	16
8	Refund of duty on window in memory of the late Archdeacon Cholmondeley ..	10
9	Refund of duty on lectern presented from England to St. Paul's Church, Auckland ..	8
*	* * * * * * * * * *	
13	Refund of duty, under "The Preferential and Reciprocal Trade Act, 1903," on artificial limbs imported	11
14	Refund of duty, under "The Preferential and Reciprocal Trade Act, 1903," on invalid chair imported for J. Cox, Auckland	5
*	* * * * * * * * * *	
	Total—Vote No. 43	£2,489

No. 2.

The Hon. the Colonial Treasurer.

As it is necessary for the public service that the understated amount should be expended without the appropriation of Parliament, I beg, in terms of section 47 of "The Public Revenues Act, 1891," to submit the proposed expenditure for your approval, as a charge against the "Unauthorised Expenditure Account" out of the Consolidated Fund.

Particulars of the Proposed Expenditure.

Refund of duty on machinery for Calliope Dock over and above amount provided on appropriations £134

C. H. MILLS,
Minister of Customs.

Customs Department, 16th December, 1904.

Hon. Mr. Mills.

Has the Audit Office declined to allow the item of £675 to be overdrawn?

JAS. B. HEYWOOD,
19th Dec., 04.

The Secretary to the Treasury.

Yes.

W. T. GLASGOW.
22/12/04.

No. 3.

The New Zealand Government. Departmental No. 1031.

Department or Service: Customs.

Dr. to Lewis Burn.

Date of Service.	Particulars in full.	Amount. £ s. d.
1904.		
25/5/04.	To refund of amount of duty paid on artificial limbs per s.s. "Ventura" Duty paid on Prime Entry No. 2131, of 25th May, 1904.	9 0 0

Signature of Claimant: Lewis Burn.

Address of Claimant: Milton.

I certify that, to the best of my knowledge and belief, the foregoing account is true and correct in every particular, and that duty was actually paid as stated.

C. W. CHAMBERLAIN.

To be charged to Vote No. 43, Item No. 13.

Customs Department.—Approved.—Jan. 9, 1905.—T. LARCHIN.

Amounts of £3 12s. and £1 16s. have already been charged to item 13. The payment of this amount will therefore cause the amount appropriated to be exceeded.—J. K. W., C. & A.-G. 7/1/05.

No. 4.

Controller and Auditor-General.

ALTHOUGH item 13, which is general in its terms, will be exceeded if this voucher is passed, the total amount of the vote will not be exceeded during the year. Under these circumstances it is submitted that this amount should be allowed to pass.

THOS. LARCHIN, for Sec.
9/1/05.

The repayment of Customs duty not repayable under the Customs laws is not, by an item on the estimates, authorised to an amount beyond that of such item. The item is either specific or not specific. If specific, it authorises expenditure not exceeding its amount. If not specific, it authorises nothing.

J. K. WARBURTON, C. & A.-General.
10/1/05.

No. 5.

The Paymaster-General. Department of Trade and Customs, Wellington.

FORWARDED for your consideration. It is suggested that a legal opinion on the position be obtained.

THOS. LARCHIN, for Secretary
11/1/05.

Hon. Colonial Treasurer.

I suggest that the Hon. the Attorney-General's opinion be obtained.

JAS. B. HEYWOOD,
12 Jan'y, '05

Approved.—T. Y. D. 13/1/05.

No. 6.

The Treasury, New Zealand, Wellington, 16th January, 1905.

Memorandum for the Honourable the Attorney-General.

PROVISION is made in Vote 43, items 4 and 13, for £675 for refund of duty on machinery for Calliope Dock, and for £11 refund of duty under "The Preferential and Reciprocal Trade Act, 1903," on artificial limbs imported. The Audit Office decide to treat these items as "special" items, and that the several amounts appropriated cannot be exceeded except by charging the excess to "Unauthorised," or it may be they cannot be exceeded at all. The use of the words "special item" is intended probably to place the items under the provisions of clause 3 of "The Public Revenues Acts Amendment Act, 1900," but it is open to question whether items representing refunds of Customs duties can be so placed as "The Customs Laws Consolidation Act, 1882," although it does not authorise such refunds, does not prohibit this being done.

Assuming therefore that the items 4 and 13 and others of similar nature do not come under the operations of clause 3 of "The Public Revenues Acts Amendment Act, 1900," it is considered that expenditure in excess of the sums appropriated may be lawfully made and may be charged to the vote and items without such excess being charged to "Unauthorised" so long as the net amount charged to the vote does not exceed the sum appropriated.

For your information. File No. T. 02/832 is also forwarded.

JAS. B. HEYWOOD, Secretary.

No. 7.

T., 05/87.

In my opinion item 4 of Vote 43 (1904–5) for £675 for refund of duty on machinery for Calliope Dock is a "specific" item, and "has reference to refund of revenue the amount of which was supposed to be "known to the Administration" or estimated by them "to be payable before—and in respect of which—the item was placed upon the estimates." It appears to me to be a specific appropriation for a particular and special matter and amount, and not for the service of the Department. There is nothing in the item which can properly suggest that it was intended to refund all duty, of whatever amount, payable on machinery for the Calliope Dock throughout the financial year, beyond the sum specifically voted. No doubt it was thought by the Administration at the time the item was placed upon the estimates that the total duty of which a refund would be sought would amount to £675, and that sum was accordingly inserted in the estimates for the particular purpose of that refund. I understand the amount of duty payable is now found to be more, but that, through some oversight, the extra amount of such duty has not been provided for.

Item 4 seems to me to be specific equally with items 7 and 8 which are for refund of duty upon memorial windows in memory of particular persons, and equally with item 9 which is for refund of duty upon a lectern for St. Paul's Church, Auckland.

As to item 13 of Vote 43 (1904–5), I am of opinion that this is a general and not a "specific" item, and that if necessary the amount of the item £11 may be exceeded by the Treasury up to the available amount of the total vote should it be necessary to refund duty to that amount on artificial limbs imported during the financial year. There is nothing in the item to show that it was intended to be confined to any particular artificial limbs, imported in the same way as the next item (14) is confined, namely, to a particular chair imported for a particular person.

Wellington, 27th January, 1905. ALBERT PITT, Attorney-General.

For Cabinet.—R. J. S. 3/11/05.

In Cabinet, 7th Feb'y, 1905.—Stand over.—J. F. ANDREWS, Act'g Sec'y.

No. 8.

In Cabinet, 25th Feb'y, 1905.

(INTLD.) J. F. A. £675 to be paid over; also other items as voted. Other refunds to be in accordance with Attorney-General's opinion.

J. F. ANDREWS, Act'g Sec'y.

No. 9.

The Secretary, Customs.

FOR your information. Please note and return.

R. J. COLLINS.
4/3/5.

See opinion of Attorney-General on T. 05–87.—THOS. LARCHIN, Chief Clerk, Customs Dept. 7/3/05.

For the Audit Office judgment in the matter reference is suggested to the parliamentary papers of 1902, B.–19A and I.–11D, of which copies are attached.—J. K. WARBURTON, C. & A.-General. 8th M'ch, 1905.

1902.
NEW ZEALAND

"THE PUBLIC REVENUES ACT, 1900."

CORRESPONDENCE IN CASE OF DIFFERENCE OF OPINION BETWEEN AUDIT OFFICE AND TREASURY AS TO REFUNDS OF STAMP DUTY ON ESTATES OF DECEASED MEMBERS OF CONTINGENTS.

Laid on the Table pursuant to Section 9 of "The Public Revenues Act, 1900."

The CONTROLLER AND AUDITOR-GENERAL to the Hon. the SPEAKER of the House of Representatives.

Audit Office, 3rd July, 1902.

THE Controller and Auditor-General has the honour respectfully to submit to the House of Representatives, in accordance with the provisions of section 9 of "The Public Revenues Acts Amendment Act, 1900," a copy of correspondence in a case under that section where a difference of opinion having arisen between the Audit Office and the Treasury as as to the authority to which should be charged refunds of stamp duty on estates of deceased members of contingents in excess of the item 25 of Vote 48, £100, in the appropriations for the year ending 31st March, 1902, the Governor determined the question by deciding that such item applied to all stamp duty paid on estates of deceased members of the contingents during the year, and that consequently it was lawful to make remission, and to charge the expenditure in respect thereof to the Vote 48, notwithstanding that the amount of the item was thereby exceeded.

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

The Hon. the Speaker of the House of Representatives.

No. 1.

TREASURY VOUCHER.

Departmental No. 484, Christchurch, New Zealand.

New Zealand Government, Department Stamps,

Dr. to

Wynn Williams and Broun.

Re *Campbell and Parkinson, deceased, C.* 01/44.

1901.	£	s.	d.
May 16th—To refund of duty paid on the above estate	566	18	3
Deceased was a member of the Third New Zealand Contingent and died while on active service in South Africa.			
Remission of duty on all such estates sanctioned by Cabinet (*vide* Stamps Record 11/522), and provided for by Vote 48, item 25, estimates, 10/02.			
Stamps, 1902/36.			
	£566	18	3

Claimants: Wynn Williams and Broun, Solicitors, Christchurch.

I certify, &c.; and that the refund has been sanctioned by the Commissioner.

H. O. WILLIAMS.
(Signature of Officer authorised to certify.)

Vote 48, item 25.

No. 2.

By item 25 of Vote 48 no more than £100 is voted for such remissions, and the amount already charged under that item has inadvertently been allowed to exceed £100.

J. K. W., C. and A.-G.
14th February, 1902.

No. 3.

The Audit Office.

ITEM 25 of Vote No. 48 appears to be in the same position as any other item of the many hundreds which are contained in the several votes, and it is understood that the Audit Office control is connected with the amount of the vote as mentioned in the Appropriation Act, and not with the amount of items contained in such vote and which are not mentioned in the Act.

JAS. B. HEYWOOD,
18th February, 1902.

No. 29.

No. 4.

The Treasury.

SUCH an item as this is regarded by the Audit Office as specific, and applicable consequently only to cases which were known to have arisen for remission when the item was placed on the estimates. The contention of the Treasury would appear to be that revenue payable under an Act which does not authorise remission or refund may notwithstanding be remitted to the amount of the whole unexpended balance of a large vote, and of the appropriation for unauthorised expenditure, if the remission of a small amount is authorised by being comprised among the items of such vote.

J. K. WARBURTON, C. and A.-G.
18/2/1902.

No. 5.

The Audit Office.

The Treasury, New Zealand, Wellington,
20th February, 1902.

THERE is a clear appropriation of Parliament for the payment of "Remission of duty on estates of deceased members of contingents"; it is therefore evident that, although the Act imposing the duty does not provide for its remission, Parliament has subsequently thought fit to allow remissions to be made. Further, I understand there is no direct prohibition by law that these remissions should not be allowed, and therefore I apprehend that the Government if they saw fit, and in the absence of an appropriation, could pay remissions out of "Unauthorised," as, in fact, is the frequent practice.

The question left to consider, therefore, is whether the Audit contention is sound as to item 25 in Vote 48 being "specific," and the amount of which may not be exceeded. The only items which may be classed are those amounts which Parliament has chosen to appropriate notwithstanding that the law in connection with such services prohibits payments being made. In such cases the Public Revenues Act of 1900 makes provision that these special appropriations shall not be exceeded, and, as the Act is carefully worded so as to apply only to these cases, it is not unreasonable to assume that the Legislature recognised that in the ordinary course of payments items may be exceeded.

It would not be difficult to find a number of items of appropriation which are similar in character to these remissions and which the Audit Office have not attempted to control as to the issuing amount—*e.g.*, such items as "Refunds of fines," "Refunds of Customs duties," "Refunds of warehouse duties," "Refunds of rent," "Refunds of quarantine charges," "Refunds of railway fares," "Refunds of survey fees," "Refunds on account of lands disposed of, &c.," "Refunds for improvements effected," "Remission of rent, &c." These appropriations pretty clearly show that the intention of Parliament is that remission and refunds should be made notwithstanding there is no special provision for such refunds or remissions in the governing Acts. The Audit Office have not, so far as I am aware, objected to the sums so appropriated being in some cases exceeded, and I can see no reason why this item for remission of stamp duty should be singled out for special control. It may further be mentioned that the amount appropriated was probably sufficient to cover such remissions as were in sight at the time the estimates were passed, but by the very character of the service it would be only reasonable to suppose that a larger sum might at any subsequent time be required.

JAS. B. HEYWOOD, Secretary.

(No. 34.) No. 6.

The Hon. the Colonial Treasurer. Audit Office, 21st February, 1902.

Refund of Stamp Duty, and the Treasury Memorandum of 20th February, 1902.

THE Minister's communication of yesterday, the 20th instant, appears to the Audit Office to have been written in entire misconception of the true position.

In the Audit Office minutes on the claim to the refund in question there is no reference whatever to the Public Revenues Act of 1900. The word "specific," which has perhaps been assumed to imply such a reference, was in common use long before the passing of that Act.

The late Controller and Auditor-General wrote on the 1st November, 1890: "It is quite true that, as a general rule, the Audit does not take notice of the items in the estimates, but only of the votes as set forth in the schedule to the Appropriation Act, especially as regards the ordinary departmental service, which may be varied at the pleasure of the Minister within the limits of the vote. But the case is different as regards a specific appropriation for a special service, as in the case of compensation to a particular individual, and not for the service of a Department."

The Public Accounts Committee, too, as far back as the 11th September, 1891, made the report of which the following is an extract: "It has always been understood that the Audit Office has no knowledge of items, and is guided by the amount voted only; but where the House has 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 fountain in Wanganui Gardens." In each of these cases all the facts are ascertained at the time of the vote, and the amount voted is therefore final and specific. In the present case, however, there is nothing to show that all the facts were before the House at the time of the vote. On the contrary, the item is quite general in terms, and has no reference to any particular case. For these reasons I agree with the Treasury that it is not "specific" in the sense quoted, but is intended to apply to all stamp duty paid on estates of deceased members of the contingents during the year, and may consequently be exceeded as claims for remission occur.

FRED. FITCHETT, Solicitor-General.
10/3/1902.

No. 10.

The Audit Office.
BE good enough to see the Solicitor-General's opinion.

JAS. B. HEYWOOD.
12th March, 1902.

No. 11.

The Hon. the Colonial Treasurer.

Audit Office, 12th March, 1902.

Refund of Stamp Duty and the Solicitor-General's Opinion of 10th March, 1902.

IF the item in question is, as the Solicitor-General states it to be his opinion, "quite general in terms, and has no reference to any particular case," and is an item to which section 3 of the Public Revenues Acts Amendment Act of 1900 does not apply, then the item is not sufficient, in the judgment of the Audit Office, to authorise any payments whatever in refund of stamp revenue.

After a most careful consideration of the opinion of the Solicitor-General, the Controller and Auditor-General regrets that he is unable to concur with him. His opinion, indeed, is understood by the Audit Office to lead to the conclusion that it would be sufficient for an item to be passed on the estimates of £1 for any class of revenue to justify the Administration in refunding such revenue to the amount of the available balance of the vote and of the appropriation for unauthorised expenditure.

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

No. 12.

The Hon. the Colonial Treasurer.
ASSUMING that a Warrant of His Excellency the Governor will be asked for, I think we should first ask the Solicitor-General if he desires to make any remarks upon the above reply of the Audit Office.

JAS. B. HEYWOOD.
14th March, 1 02.

Refer accordingly.—J. McG., 14/3/02.

The Solicitor-General.—JAS. B. HEYWOOD, 14th March, 1902.

No. 13.

THE conclusion drawn by the Audit Office as to the effect of my opinion is quite correct in the case of a non-specific item, and is in strict accord with the view of the Audit Office itself in its minute of the 21st February. The sole question at issue is whether the item is specific or not, and in suggesting as it now does that this must be determined by the amount of the item, instead of by its nature, the Audit Office appears to me to contradict itself.

FRED. FITCHETT, Solicitor-General.
18/3/1902.

No. 14.

WELLINGTON, 19th March, 1902.—His Excellency the Governor is respectfully advised to sign the attached determination, under section 9 of "The Public Revenues Acts Amendment Act, 1900," respecting item 25, Vote 48, "£100, remission of duty on estates of deceased members of contingents."

C. H. MILLS.

Signed.—R.—27/3/1902.

RANFURLY, Governor.

WHEREAS by section 9 of "The Public Revenues Acts Amendment Act, 1900," it is provided that in case any difference of opinion arises between the Audit Office and the Treasury as to the vote, appropriation, fund, account, or other authority to which any expenditure ought to be charged, the question shall, if in the opinion of the Audit Office it involves a question of law, be determined by the Governor, having before him the opinion of the Attorney-General thereon: And whereas such difference of opinion as aforesaid has arisen as to the authority to which should be charged refunds of stamp duty on estates of deceased members of contingents in excess of the item 25 of Vote 48, £100, in the appropriations for the year ending the thirty-first March, one thousand nine hundred and two, the Audit Office contending that refunds in excess of that item cannot lawfully be charged to that vote, inasmuch as the item is specific in the sense that the amount thereof cannot be exceeded:

Now, therefore, I, Uchter John Mark, Earl of Ranfurly, the Governor of the Colony of New Zealand, in exercise of the hereinbefore-recited powers, and having before me the opinion of the Solicitor-General, do hereby determine the said question by deciding that the item in question is not specific in the sense referred to, but applies to all stamp duty paid on estates of deceased members of the contingents during the year; and that consequently remission may be made, and the expenditure in respect thereof be lawfully charged to the said Vote 48, notwithstanding that the amount of the said item is thereby exceeded.

Given under the hand of His Excellency the Governor at Wellington, this twenty-seventh day of March, one thousand nine hundred and two.

C. H. MILLS.

No. 15.

The Audit Office
To note His Excellency's determination.

JAS. B. HEYWOOD,
2nd April, 1902.

No. 16.

The Hon. the Colonial Treasurer. Audit Office, 3rd April, 1902.

THE Governor having determined, under section 9 of "The Public Revenues Acts Amendment Act, 1900," that item 25 of Vote 48, "Remission of duty on estates of deceased members of contingents, £100," in the appropriations for the year ending the 31st March, 1902, applies to the refund proposed to be made of the sum of £566 18s. 3d. paid for duty on the estate in question, and that consequently remission of such sum may be made as a charge to Vote 48 notwithstanding that the amount of the said item is thereby exceeded, the Controller and Auditor-General has passed the relative voucher, and will in ordinary course lay before Parliament, in accordance with the provisions of the Public Revenues Act, a copy of the correspondence on the subject.

The item on the estimates was intended to provide for remission, by payment out of the Consolidated Fund, of stamp duty which was required by statute to be paid out of particular estates—that is, for remission to private persons of revenue legally payable by them which there is no statutory authority to remit, except as a charge to the Unauthorised Expenditure Account of money expended in excess of the appropriation of Parliament; and such an item is obviously not an appropriation for the service of a Department.

Passing over the question whether an appropriation for remission of duty would apply to the present claim, "to refund duty paid on the above estate," the item for remission of duty was either specific or not specific. If it was specific, it authorised no more than its amount of expenditure for the remission. If it was not specific, it authorised no remission whatever of revenue required by statute to be paid by private persons or estates. For if an item to relieve classes of persons or estates from liability to pay duty is quite general in terms, and has no specific reference to any particular case, the provision of the statute that such persons or estates shall be liable is paramount, except in a case under section 3 of the Public Revenues Amendment Act of 1900, where the payments must in no case exceed the amount of the item.

Such was accordingly the judgment of the Audit Office, and such, consequently, the law; and in none of the Audit Office minutes on the question is there anything that can reasonably be read even as implying a suggestion that the question, whether the item is specific, must be determined by its amount.

The remark that the Solicitor-General's "opinion, indeed, is understood by the Audit Office to lead to the conclusion that it would be sufficient for an item to be passed on the estimates of £1 for any class of revenue to justify the Administration in refunding such revenue to the amount of the available balance of the vote and the appropriation for unauthorised expenditure" was a remark made by the Controller and Auditor-General by way of submitting that the opinion which led to such a conclusion was open to conclusive objection.

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

No. 17.

The Solicitor-General. Premier's Office, Wellington, 7th April, 1902.

THE further remarks of the Audit Office, dated the 3rd instant, are submitted for any comment you may care to make.

I think these memoranda, after the Governor's Warrant has been obtained, are very objectionable, inasmuch as such correspondence might be continued indefinitely, and altogether new arguments and matter introduced.

In the cases of difference of opinion between the Audit Office and the Treasury the opinion of the Solicitor-General is obtained, and such opinion is forwarded to the Audit Office for their information. If the Audit Office does not accept such opinion, they should at this stage exhaust all the objections they may have to the course which the Solicitor-General advises the Government may be pursued in the matter, and the correspondence should close with the determination of the Governor, leaving merely to the Audit Office the task of transmitting a copy of the papers to be laid before Parliament.

It will probably be necessary to amend the Public Revenues Act in this direction.

R. J. SEDDON.

No. 18.

The Right Hon. the Colonial Treasurer.

I HAVE no comment to make, except to say that I do not take the Audit Office to now hold that the case is governed by section 3 of "The Public Revenues Acts Amendment Act, 1900." In its minute of the 21st February it indicated its view that the section referred to did not apply, and, I think, rightly so, for it is confined to items which are in conflict with some statutory limitation or prohibition of payment. FRED. FITCHETT, Solicitor-General.

6/4/1902.

No. 19.

FOR the Audit Office.—JAS. B. HEYWOOD.—9th April, 1902.

No. 20.

The Hon. the Colonial Treasurer. Audit Office, 10th April, 1902.

IN acknowledging the receipt of and returning these papers, the Controller and Auditor-General begs leave respectfully to point out that the suggestion of the Minister, in his memorandum to the Solicitor-General of the 7th instant hardly applies to the present case.

The Minister referred for the remarks which the Solicitor-General made in his minute of the 18th March the memorandum of the 12th March which was addressed to the Minister by the Audit Office in connection with its judgment on the question; but those remarks by the Solicitor-General, though they appear to the Audit Office to cast reflection on it, and may reasonably be deemed to have influenced the Treasury, were not forwarded to the Audit Office till after the Government had advised the issue of and obtained the Governor's Warrant. It is submitted that, in these circumstances, the Controller and Auditor-General could not well have passed over the remarks in silence, except at the risk of being misapprehended to imply acquiescence.

In every such case, however, the Audit Office concern is only that the expenditure may be charged in accordance with law; and the purpose of the Audit Office memoranda is, as the Controller and Auditor-General would assure the Minister, only to afford assistance to a clear conception of the law.

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

I.—11D.

902.

NEW ZEALAND.

PUBLIC ACCOUNTS COMMITTEE

(REPORT OF THE) ON PAPER B.-19A.—"THE PUBLIC REVENUES ACT, 1900": CORRESPONDENCE IN CASE OF DIFFERENCE OF OPINION BETWEEN AUDIT OFFICE AND TREASURY AS TO REFUNDS OF STAMP DUTY ON ESTATES OF DECEASED MEMBERS OF CONTINGENTS.

Report brought up 26th August, 1902, together with Minutes of Evidence, and ordered to be printed.

ORDERS OF REFERENCE.

Extracts from the Journals of the House of Representatives.

Tuesday, the 8th Day of July, 1902.

Ordered, "That a Committee, consisting of ten members, be appointed to examine into and report upon such questions relating to the Public Accounts as they may think desirable, or that may be referred to them by the House or by the Government, and also into all matters relating to the finances of the colony which the Government may refer to them; five to be a quorum: the Committee to consist of Mr. J. Allen, Mr. Colvin, Mr. Fisher, Mr. W. Fraser, Mr. Flatman, Mr. Graham, Mr. Guinness, Mr. Palmer, Sir William Russell, and the mover."—(Hon. Sir J. G. WARD.)

Thursday, the 3rd Day of July, 1902.

Ordered, "That Paper No. 62, 'The Public Revenues Act, 1900': Correspondence between the Audit Office and the Treasury relative to Refund of Stamp Duty on Estates of Deceased Members of Contingents, be referred to the Public Accounts Committee."—(Hon. Sir J. G. WARD.)

REPORT.

PAPER B.-19A.—"THE PUBLIC REVENUES ACT, 1900": CORRESPONDENCE IN CASE OF DIFFERENCE OF OPINION BETWEEN AUDIT OFFICE AND TREASURY AS TO REFUNDS OF STAMP DUTY ON ESTATES OF DECEASED MEMBERS OF CONTINGENTS.

THE Public Accounts Committee, to whom was referred the above-mentioned Paper, has the honour to report that it has considered the same, and is of opinion that no action is necessary.

Tuesday, 26th August, 1902. G. FISHER, Chairman.

MINUTES OF EVIDENCE.

TUESDAY, 5TH AUGUST, 1902.

Refunds of Stamp Duty on Estates of Deceased Members of Contingents.—(B.-19a.)

Mr. JAMES KEMMIS WARBURTON, Controller and Auditor-General, examined. (No. 1.)

1. *The Chairman.*] The Committee would like to hear what you wish to say with regard to this matter?—I may say that the attention of the Audit Office was drawn to a certain item in the estimates for the year ending on the 31st March, 1902. The item to which I refer is under Vote 48. It is for £100 for the remission of stamp duty on the estates of deceased members of contingents. I forget the exact terms in which the item is stated on the estimates, but it is for the remission of stamp duty on the estates of deceased members of contingents. Looking at the provisions of the statute under which the stamp duty was payable, the Audit Office regarded this item as specific, and applicable only to cases which were known to have arisen for the remission when the item was placed on the estimates. The Audit Office therefore considered that the item could not be applicable to payment of more than the amount granted, and if there were any estate which was not known at the time when the item was placed on the estimates it could not be made applicable to such estate.

2. *Mr. J. Allen.*] Is that the whole trouble?—That is the whole trouble. If the item is not put down for a known estate it is inoperative in view of the provisions of the statute in regard to the payment and remission of stamp duty.

3. And was a remission of stamp duty made in regard to some other estates other than the known ones placed on the estimates?—Yes. Here is one which goes far beyond the amount provided for in that item. This is a case in which it is proposed to remit stamp duty to the extent of £566 18s. 3d.

4. Was that one known at the time the item was put on the estimates?—I conclude not, or the item would have provided for that amount.

5. Then, the trouble was that not only was remission made on the known estate of a deceased member of a contingent, but others afterwards, and they exceeded the amount provided for in the item on the estimates?—Yes; they were more than the item of £100 which the Audit Office regards as specific.

6. Could it be made out of "Unauthorised," or how?—The Audit Office did not object to the amount coming out f "Unauthorised."

7. *The Chairman.*] Do you wish to say anything more, Mr. Warburton, in regard to this item?—No. I have explained myself fully in memorandum No. 16, on page 5 of paper B.-19A.

8. *Hon. Sir J. G. Ward.*] Was not that memorandum, No. 16, written after the Governor had determined the question?—Yes.

9. Do you think it is a good practice that, after correspondence which has been led up to by a dispute between the Audit Office and the Treasury has been submitted to the Governor, and he has determined the matter, further comment should be made upon his decision?—I think that the Audit Office objections should be stated. If the Audit Office finds an irregularity in a charge of this kind I think Parliament should be informed of it. In this case the remarks of the Solicitor-General were not all sent up to the Audit Office, and it knew nothing of the application to the Governor until after the Governor had determined the matter.

10. Then, if the Governor has determined a matter, you consider that it can be commented upon by you afterwards?—When I see what I consider to be a misapprehension of the law, or a mistake, I consider it is my duty to inform Parliament of the matter, and Parliament is entitled to have my opinion upon it—my objections.

11. In this memorandum No. 16, of the 3rd April, 1902, I notice you use this expression: "Such was accordingly the judgment of the Audit Office, and such, consequently, the law." What do you mean by that?—I mean that the Audit Office interprets the law to a certain extent—that is, the Audit Office must be satisfied.

12. Do you regard the judgment of the Audit Office as superior to the interpretation of the law by anybody else?—Not by anybody else, perhaps, but superior to the opinion of the Law Adviser of the Government. I consider the judgment of the Audit Office in such a case as equivalent to a judgment of the Supreme Court in regard to the interpretation of the Public Revenues Act.

13. Then, you regard the judgment of the Audit Office as to the interpretation of the law as superior to the opinion of the Law Adviser of the State and as overriding it ?—Yes.

14. Then the Controller and Auditor-General is to finally decide ?—I think it is so. I think the interpretation of the law lies with the Audit Office to a certain extent. The Audit Office must be satisfied. Of course, the difficulty may be overcome by the Governor's order. But that can be issued whether the Solicitor-General's opinion agrees with the judgment of the Audit Office or not.

15. When the law says the Governor's order shall finally decide you think it is still right to comment on the judgment of the Crown's Adviser ?—I think I was right in informing Parliament of the opinion of the Audit Office—that is, of its objections.

16. The law says the Governor shall decide. You say afterwards, "Such was the judgment of the Audit Office, and such, consequently, the law." That is a comment upon what has already been decided. Is it not a reflection upon the Governor ?—I do not think so. It was my duty to inform Parliament of what had taken place. It was no reflection on the Governor.

17. You commence your memorandum by saying, "The Governor having determined"; surely, then, you are reflecting on the Governor's action ?—No. I go on to give an explanation of the matter.

18. That is followed by a memorandum by the Premier at the time, and a further memorandum by the Solicitor-General, and another from yourself, in which you objected to the decision of the Governor ?—Yes; but I remark in my memorandum of the 10th April, No. 20, "Those remarks of the Solicitor-General, though they appear to the Audit Office to cast a reflection upon it, and may reasonably be deemed to have influenced the Treasury, were not forwarded to the Audit Office till after the Government had advised the issue of and obtained the Governor's Warrant." If I thought there was any information which would be required by Parliament it was my duty to supply Parliament with that information. I do not consider there was any reflection on the Governor in supplying that information.

19. But the whole question in dispute, together with the opinion of the Solicitor-General, had already been referred to the Governor ?—In my memorandum of the 10th April I say, "The Minister referred to the remarks which the Solicitor-General made in his minute of the 18th March on the memorandum of the 12th March, which was addressed to the Minister by the Audit Office, in connection with its judgment on the question; but those remarks of the Solicitor-General, though they appear to the Audit Office to cast a reflection on it, and may reasonably be deemed to have influenced the Treasury, were not forwarded to the Audit Office till after the Government had advised the issue of and obtained the Governor's Warrant."

20. That memorandum of the 18th March is No. 13 in these papers ?—Yes.

21. Well, that was after the Solicitor-General's opinion had been submitted to you, and you had replied to it, and in the ordinary course your reply would have gone to the Secretary to the Treasury, and then it must go to the Governor ?—I think the reflections made on me in the matter were such that I should have been informed of them. Still, I think that in this case the Audit Office was justified in the course it took. I think that when the Audit Office conceives that information is required, and that the law has not been properly interpreted, the Audit Office should inform Parliament of the matter.

22. Are you of opinion that after a case where a dispute has arisen between the Treasury and the Audit Office has been submitted to the Governor under the law it is a proper thing to review it for the information of Parliament ?—I think, if Parliament requires information or explanation from the Audit Office it is necessary to give it. I do not regard the Governor's order as above the law. The Audit Office interprets the law to a certain point. The Solicitor-General merely advises whether judgment of the Audit Office is according to law or not.

23. *The Chairman.*] What the Committee is anxious to arrive at is this: Where does the final decision rest ?—With the Audit Office, so far as the law is concerned.

24. Do you tell us that the Governor's order is the only authority to which you bow ?—The order of the Governor determines to what account the amount shall be charged.

25. You tell us in one breath that the order of the Governor is the only authority that you recognise as superior to your own, but that does not determine the matter, because you come to Parliament with these papers. I should like to know where is the final authority in settling disputes between you and the Treasury ?—I do not regard it as a matter of dispute. The interpretation of the law is determined by the Audit Office being satisfied or not. The Governor makes the order determining the account to which the amount is to be charged.

26. What I want to get at is this—and if I am wrong I wish to be shown where I am wrong: The Treasurer is guided by Act. There is an amendment of the Public Revenues Act which refers this matter through the Solicitor-General to the Governor: this makes the Governor superior to the Audit Office. Then there is a decision by the Governor, and still you discuss the decision of the Governor ?—No, not at all. We interpret the law to a certain point, and we make no reflection on the Governor.

27. Very well; we have the order of the Governor, which, it would be proper to assume, determines the question between you and the Treasury. Then, what is it we are asked to do ?—I submit that it is an abstract question which ought to be put in writing, so that I might have an opportunity of considering it.

28. What I am searching for is this: Where is there to be a finality ? We have the Public Revenues Act, which says the Governor is to decide; but it appears from these papers that you hold that his decision is not final. Where, then, is there to be the final decision ?—The Governor's decision is final so far as stating to what account the amount is to be charged.

29. *Mr. Palmer.*] You said that you determined a point of law your decision had the same force as the decision of a Judge of the Supreme Court ?—Yes.

30. Then, under section 53 of "The Public Revenues Act, 1891," when your interpretation of the law is overridden by the Governor, does not that reverse your decision ?—No.

31. Why not ?—Where the Governor has overridden my decision I have already required in a second case of the same description an exactly similar order to be made, and I have the authority of the Solicitor-General for that course.

32. I do not grasp what you mean ?—If, for instance, the decision of the Governor was that the amount should be charged to a particular account, and it was followed by a precisely similar case, I should require another Governor's order.

33. You could have as many orders as you wished, and have them every day, because there is no controlling power over the Governor's orders ?—Each order only determines one particular case.

34. Is not the Governor's power overriding under section 53 of "The Public Revenues Act, 1891" ?—I do not think so.

35. That is your opinion ?—Yes.

36. Supposing your opinion is wrong ?—I cannot answer a suppositional question. The Governor determines each particular case where the Government applies for his order and we say the claim is not legally chargeable. He determines to what vote this amount shall be chargeable, and if a second similar case should arise I should require a second order.

37. Would not that be questioning what the Governor does ?—I do not think so.

38. Supposing that in coming to your decision you had made a mistake in the law, still your decision becomes absolute, whether it is legally right or wrong ?—I cannot suppose such a case.

39. Even Supreme Court Judges are not infallible, and you might make a mistake ?—I should like to have abstract questions like this written down, so that I might have an opportunity of considering them deliberately before being called upon to answer them. I have mentioned the fact that the Audit Office requires that these charges shall be made legally, and the Solicitor-General does not object to the decision of the Audit Office that in every case of a similar kind a Governor's order shall be issued where the Executive claims to make charges which the Audit Office does not approve of.

40. You assume that your decision must be law, and if the Governor overrides it he is overruling your decision as to the law ?—I obey the Governor's order.

41. *Mr. W. Fraser.*] Has this money been paid; and, if so, from what vote ?—It has been paid as a charge to Vote 48, I think. I forget exactly.

42. I understand it was in excess of the £100 provided for in Vote 48. This amount is £566. How can you pay £566 out of £100 ? How did the dispute arise ?—The item for the remission of stamp duty on the estates of deceased members of contingents was considered by the Audit Office to be specific, and not applicable to charges of more than £100. Therefore when an overcharge for £566 came in we refused to pass it.

43. *Hon. Sir J. G. Ward.*] The item was one item of a particular vote ?—Yes.

44. And the vote was largely in excess of the £566 ?—Yes. The item was for £100, but the vote was for a larger sum.

45. *Mr. W. Fraser.*] Then, you objected to the £566 being paid out of Vote 48 ?—I did, because the item in the vote for £100 was a specific one, and the statute did not give the exemption which would have enabled the remission of stamp duty in this case to be made. The remission was in conflict with the statute, and the item was therefore considered by the Audit Office to be a specific one.

46. Is there power under the Public Revenues Act to transfer from one vote in the same class to another, or are they bound by the item ?—I will give you an instance of a specific item. An item for the remission of Customs duty on certain articles in respect of which duty is payable is placed on the estimates. In that case the whole vote under which the item appears does not become available. It is like an item for a compassionate or specific allowance to a particular individual.

47. *Hon. Sir J. G. Ward.*] Is it the fact that the Vote 48, not the item, had ample money in it to enable that payment to be made out of it ?—I think it had.

48. Previous to your questioning this £100 were there other payments of the same kind ?—There were, and through inadvertence of the office they were passed, but when this one came under consideration it was thought necessary to remark upon it.

49. You think, then, it should have been paid out of "Unauthorised" ?—That question was not raised, but we should not have objected to that being done.

50. The vote was ample, but you objected to the expenditure of this item ?—I objected to the expenditure of this amount in the remission of stamp duty, although the item was comprised in a vote for a larger sum, because the statute required that the revenue should be collected, and did not provide for the remission in this item. The statute was against a remission beyond what was provided for in the item itself, and therefore the Audit Office looked upon this as a specific item.

51. If you had a vote for, say, £25,000 for road expenditure, and there were various items from £500 to £1,500: if the total vote was not exceeded, would you think it necessary to put the machinery of the Audit Office into operation to show that a particular item was exceeded ?—Not unless it was a specific one. I am not speaking upon abstract questions just now.

52. *Mr. J. Allen.*] In a vote where there are separate items, would the Audit Office consider it right to question the excess paid over the amount laid down for the item unless paid out of "Unauthorised" ?—If an item was not a specific item of the vote in question the Audit Office would not regard the item as more than determining one of the purposes to which the vote was to be devoted at a whole. If there was money in the vote available, I should allow the expenditure on the items without regard to their amounts; but if there was an item in the estimates for the remission, not coming under the statute, of a duty which it made payable, I would not allow the expenditure of the specific item to exceed the amount of such item.

53. But not if paid out of "Unauthorised" ?—We should not have objected to its being paid out of "Unauthorised."

54. If paid out of "Unauthorised," could the amount exceed the item ?—There are many items which are exceeded. The great majority of them can be exceeded, if there is sufficient money in the vote; but this would not apply in the present case. Section 3 of "The Public Revenues Acts Amendment Act, 1900," provides: "In any case where any payment of an item is provided for in the estimates as passed by the House of Representatives, and is included in the total of the vote in the Appropriation Act, such payment of the said item may be lawfully paid, anything in any Act to the contrary notwithstanding; and in the said payment shall be deemed to be irrespective of any appropriation or limit contained in any such last-mentioned Act: Provided that in no case shall the amount so paid exceed the total sum of the item voted: Provided further that this section shall apply only to payments which could not be lawfully made if this section were not in operation." If taken out of "Unauthorised," that section will not apply.

55. Then, the payment cannot be made except out of "Unauthorised" ?—We took no exception to "Unauthorised," and therefore we did not consider that section.

56. *Mr. Guinness.*] Did you act under the provisions of "The Public Revenues Act, 1891," or under the amending Act of 1900 in making this objection—under section 53 of "The Public Revenues Act, 1891," or under section 9 of the amending Act of 1900 ?—We did not act under either of these sections.

57. Did a dispute arise between you and the Colonial Treasurer as to whether this money should be paid ?—I cannot say that there was any dispute as far as the Audit Office is concerned.

58. Did the Colonial Treasurer act under section 9 of "The Public Revenues Acts Amendment Act, 1900" ?—Yes; but it is a question of law.

59. Did the Colonial Treasurer determine the question as set out in section 9 of "The Public Revenues Acts Amendment Act, 1900" ?—The Colonial Treasurer did not determine it. The section provides, "In case any difference of opinion arises between the Audit Office and the Treasury as to the vote, appropriation, fund, account, or other authority to which any expendiutre ought to be charged, or as to the proper head of revenue, fund, or account to which any receipt should be credited, the question shall be determined by the Treasurer, and his determination shall be laid before Parliament as provided by section fifty-three of the principal Act: Provided that if in the opinion of the Audit Office the question involves matter of law, then it shall be determined by the Governor, having before him the opinion of the Attorney-General thereon; and in such case the objection of the Audit Office, the opinion of the Attorney-General, and the determination of the Governor shall be laid before Parliament as provided by section fifty-three of the principal Act."

60. Did you give your opinion to the Secretary to the Treasury that this was not according to law ?—I do not think so.

61. You will see that that section provides that the determination of the Governor shall be laid before Parliament as provided by section 53 of the principal Act. Now, section 53 of "The Public Revenues Act, 1891," provides, "If the Audit Office declines to pass any issue or credit requisition on the ground that the charges therein are not according to law, the matter in dispute shall be determined by the Governor in Council, having before him the opinion of the Attorney-General; but the objections of the Audit Office shall, together with the opinion of the Attorney-General, be forthwith laid before Parliament, if Parliament be then in session, and, if not, then within ten days after the commencement of the then next session." In the face of that statutory enactment, you are not to lay before Parliament anything but your statement and the opinion of the Solicitor-General: how, then, do you come to lay all these other memoranda and correspondence which appear in these papers before Parliament ?—I consider it was my duty to lay all the facts before Parliament.

62. Is there any other statutory enactment to which you can refer us which states that you can set out all these other facts ?—That section does not limit my power in reporting the objections of the Audit Office to Parliament.

63. I will read the section again. [Section read.] Does not that limit the objections you have to report ?—Those are not merely the objections given before the application to the Governor, but any objections the Audit Office may have to raise.

64. Is it not the objections on which the Solicitor-General has given his opinion ?—The Act does not say so.

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."

13. It was Mr. Palmer ?—The name of the deceased is Campbell Parkinson. The word " and " should be left out. I might tell the Committee I find that the item was charged with six payments in respect of refunds for stamp duty. These were allowed to pass by the Audit Office, and overdrew the £100 voted to the extent of £66 15s. 7d. before the Audit Office discovered it. Of course, that was merely an oversight on the part of the Audit Office and upon which I lay no stress at all. Then, it has been subsequently charged with £566 18s. 3d., £3 10s. 6d., and £7 9s. Of course, the Committee will understand that I have nothing to add to the arguments already used in connection with the matter. The Audit Office dictum is the law, whether it is good, bad, or indifferent; and, if it does not agree with the law which is said to be the law by the person who is an expert in the law, the Treasurer has to obtain the Governor's Warrant to override the layman's opinion. I may mention also in regard to the observations which have been made by the Controller that it appears to me that in the paper that we are looking at opportunity was given for the Audit Office to state their case in the fullest possible manner before the Warrant was obtained. The Solicitor-General's opinion was sought, was obtained, was referred to the Audit Office, was commented upon by the Audit Office, and afterwards the Warrant of His Excellency was obtained. Notwithstanding that, you will see that the Audit Office was good enough to make very long observations on the Warrant of His Excellency. Of course, criticism of His Excellency's opinion I cannot help thinking—it is only my own opinion—is not a proper thing, nor for comment to be made after the Warrants of His Excellency have been made, because there is no finality at all. As you will see by these very papers, it could have gone on, of course, until now, and you would never have got to the end of it. Finality in such matters, of course, is that of the determination of His Excellency.

14. *Hon. Sir J. G. Ward.*] This item of £566 18s. 3d., Mr. Heywood. The total amount of Vote 48 was not exceeded, I understand ?—The item of £100 was exceeded at the time this £566 18s. 3d. was presented for audit.

15. Was the total amount of the vote exceeded with only that item excluded ?—I do not know that the total vote was exceeded.

16. What has been the custom of the past in cases where an individual item that might be exceeded was included in a vote ?—The custom has hitherto been that the appropriation for each item is not considered by the Audit Office, except in special cases.

17. Then, I understand, in this particular case of Campbell Parkinson's, that the view of the Audit Department regarding the £566 18s. 3d. has been treated exceptionally ?—Yes. The Audit Office considered that this was a special item which was limited to the item set down on the estimates for this particular service.

18. And a number of other claims of the same character had been allowed to be charged to the item. I understood you to say £2,000 had been inadvertently charged ?—Oh, no. I said that the item itself had been exceeded by £66 15s. 7d. at the time this voucher was sent to the Audit Office.

19. What were the items you were referring to in the matter of £2,000-odd a few moments ago ?—I did not refer to £2,000.

20. What is your opinion about this particular method of charging against the vote when the individual item is exceeded ?—I consider that the estimates not being part of the Appropriation Act the Audit Office is only concerned with the limits in the Appropriation Act set against each vote. And that has been the practice ever since the estimates ceased to be a part of the Appropriation Act.

21. Can you suggest a method by which the disputes that from time to time must necessarily arise between the Audit Department and the Treasury can be settled without involving tags being attached to the Public Accounts, which create unnecessarily, in the minds of outsiders, an impression that there is something wrong with the Public Accounts of the colony ?—No; under the existing law I cannot suggest anything. I quite recognise that the duties of an auditor necessitate his placing his opinion upon the accounts submitted to him. If in his opinion the accounts are correct he states so. If they are wrong in his opinion he places his remarks against the accounts, and those constitute the tags which we very often have. Of course, the matter is one which rests entirely with the auditor himself. There are auditors and auditors; some are not so careful as others. Some have different opinions concerning the particular points upon which they have examined the accounts, and it may happen that one auditor will consider that the accounts, although in his opinion they are not absolutely as correctly stated as they might be, are sufficiently accurate as not to be worth his while to draw attention to the apparent discrepancy which is in his own mind. Another auditor would consider that he should draw attention to it. In a general way I do not see how we or anybody else are to overcome that sort of examination, which the Audit Office feel it necessary to do. It obtains not only in Government accounts, but it obtains with every account that is examined by any auditor of any reputation whatever.

22. Yes; but the point is in regard to a dispute between the Audit Office and the Treasury which is bound to arise from time to time. There is a method of settlement. With your varied experience, is there no way you can suggest that the settlement should be a final one, so as to obviate the necessity of having tags attached to the Public Accounts ?—No; I consider the tags on the Public Accounts are the expressions of the Auditor's opinion.

23. Even after a dispute has been settled ?—Yes.

24. *Mr. W. Fraser.*] You made use of an expression just now, " An appropriation for an item ": is there such a thing ?—No; technically there is no appropriation for an item.

25. There is an appropriation for a vote, is there not ?—Yes.

26. In this kind of correspondence the point at issue between the Solicitor-General and the Auditor-General appears to be as to whether this particular item of £100 was a specific appropriation or not ?—That is so.

27. What is your opinion as to whether this sum of £100 was specific or not ?—I am clearly of opinion that it was not specific.

28. What would you mean by the term " specific ? "—Well, I agree with the interpretation of the Solicitor-General upon the subject. I think that he has absolutely differentiated the term " specific."

29. You mean that the £100 was not a specific payment to any particular person, but that the item of £100 was intended to cover any sums which might require to be paid on account of the refund of stamp duty ?—Yes. That is a constant practice. We will get an item placed upon the estimates for the purposes of being able to charge that item for expenditure of a similar character.

30. Could you have had any knowledge of the claim of £566 18s. 3d., and that it was likely to arise where the £100 was placed on the estimates ?—Not the slightest. The £100 was placed on the estimates in respect to no particular claim.

31. You said that certain sums had been paid out of the vote besides the £566 18s. 3d.: what were they ?—The first claim was £136 17s. 9d.

32. Was that objected to ?—No. The next one was £10 2s. 3d.; the next one, £10 5s. 4d.; the next, £3 18s. 6d. There is another one for 19s. 4d., and one for £4 12s. 5d. That totals to £166 15s. 7d. Then I presume the Audit Office—I do not for a moment imagine that the Controller himself saw the voucher until the examining clerk had shown it to him—dealt with it. It was probably the seventh claim. If it had been £56 instead of £566 18s. 3d. probably it would have gone through the same as the others, but being such a large amount no doubt the examining clerk thought it his duty to bring the matter before the Controller.

33. Is it the practice when a claim for a sum of money largely in excess of an item in a vote is made to pay that out of that vote under cover of that item ?—Oh, yes, that has been done.

34. And has it been objected to ?—Well, speaking from memory, I should imagine that there have been thousands of this sort of charges against these items.

35. In excess of the items ?—Yes; and no objections have been made to them.

36. You have read that letter of the 10th April. Now, in reference to your comment as to the propriety of the Auditor in reflecting on the matter after the Governor's Warrant, do you not think that the Auditor was justified in so far by the remarks contained in his letter of the 10th April that he did not receive, or rather had not before him, the Solicitor-General's letter until after the Governor's Warrant had been issued ?—In reply to that I may say, of course,

that Mr. Warburton was probably correct in his letter that he had not had that minute before him; but that does not alter my opinion in the least upon the propriety or impropriety of correspondence being carried on after the judgment by determination of the Governor has been arrived at; and Mr. Warburton apparently by these papers, if these references are correct, had the opportunity of setting out the whole of his arguments before the Governor's Warrant was obtained.

37. But he had not seen the whole of the correspondence from the Solicitor-General ?—He had not seen at that time the whole of the correspondence from the Solicitor-General.

38. At what time ?—Before the Governor's Warrant had been issued.

39. With whom does the responsibility lie of forwarding the opinions of the Solicitor-General to the Auditor-General ?—I think that the Act does not require that the Solicitor-General's opinion should be forwarded.

40. With whom did it lie ?—With the Treasury.

41. Do you not think that the Treasury should submit to the Auditor-General the whole of the opinions given by the Solicitor-General before any final steps are taken, in order to avoid friction ?—In order to avoid this subsequent correspondence ?

42. Yes ?—If the Treasury could be assured that the subsequent correspondence would be avoided, I think we would be willing to submit the whole correspondence, or rather the opinion of the Solicitor-General, in every case to the Controller first; but the Act does not require that, and in the case that you have before you the Solicitor-General's opinion was forwarded to the Audit Office.

43. Not the whole of it ?—The further opinion of the Solicitor-General was not sent.

44. That was a statement of the opinion of the Solicitor-General ?—But the opinion of the Solicitor-General was forwarded to the Audit Office, and the Auditor replied to it, and it was considered by the Treasury that the whole of the arguments which the Audit Office could submit had been submitted.

45. *The Chairman.*] Do you not think it would be a very proper thing for the Legislature to pass an amendment to the Act to the effect that if the Solicitor-General's opinion were obtained on the question of a dispute between the Audit Office and the Treasury it should be submitted to the Auditor-General for any remarks that he may wish to pass upon it before the opinion is submitted with the request to the Governor in Council to make his order ?—Yes, I should quite agree to that.

46. *Hon. Sir J. G. Ward.*] You might put this question to both of them, Mr. Chairman: Upon questions of law and the interpretation regulating orders should there not be some one whose opinion would be final in order to save all this bother and trouble ? That is what it amounts to, it is all a question of law; and should there not be some authority whose opinion—for the guidance of both the Controller and Auditor-General and the Treasurer—should be final ?—I think most undoubtedly that should be the position.

47. That is where all these troubles arise ?—Yes; it is the interpretation of the layman against the skilled expert in law. Of course, the Committee will readily understand that there are numbers of cases for disagreement which arise between the Treasury and the Audit. It is only those which contain questions of law which they get before them. There are numbers of occasions where a disagreement arises between the Treasury and the Auditor, and the Solicitor-General decides the Treasury is wrong, and of course the Committee see or hear nothing of those cases.

Mr. J. K. Warburton recalled. (No. 4.)

48. *Hon. Sir J. G. Ward.*] I want to ask you, Mr. Warburton, if from your wide experience you can suggest any method by which, after a dispute between the Audit Department and the Treasury has arisen and has been settled, the avoidance of the attachment of tags to the Public Accounts—which are so misleading to outsiders and calculated to be damaging to the colony—can be accomplished in future similar cases ?—Well, if the transactions of the Public Accounts are not strictly in accordance with the law I do not see how you can avoid a report to that effect.

49. There is no suggestion that you can make where you could alter it—where you could have it finally settled so as to avoid the tags which have been attached to the Public Accounts ?—I think not. I think you must have a report by the Auditor on the account itself. The Auditor cannot in such report lose sight of every objection.

50. What I mean to say, Mr. Warburton, is this: The course of procedure in connection with these disputes is that you report to Parliament and that report is laid on the table of the House. That is under section 9 of the Public Revenues Act. Is there no method, in your opinion, whereby the attachment of tags to the Public Accounts can be avoided ? Take the last clause of section 9 of the Act ?—If the Treasury had charged the £566 18s. 3d. to the Unauthorised Expenditure Account there would have been no report upon it. The provision to report to Parliament is in a case—as I understand the law—where the Administration considers it necessary to pay, but impracticable to charge to the Unauthorised Expenditure Account.

51. It is not a question as to whether this could have been charged by being charged to "Unauthorised expenditure." My question is whether you can avoid attaching tags to the Public Accounts by reporting direct to Parliament and keeping those tags off the Public Accounts ?—There is no tag in that case on the Public Accounts.

52. What I mean to show is that advantage is taken of the fact that there is a tag upon the Public Accounts of the colony, and that it has arisen through a misunderstanding regarding that account, and the impression is widely disseminated that our Public Accounts are negligently kept, that our accounts are all wrong, and there is a misunderstanding on the part of the public in regard to those accounts. What I want to know is whether you could not achieve the same object by having a report direct to Parliament, and keeping those tags off the Public Accounts ?

Mr. Heywood: I can suggest something, Sir Joseph Ward, if you will allow me. I consider there is a method, and a simple one, to obviate these tags, and it is in this direction: If the law were altered from its present condition so that the Public Accounts should not require to be audited prior to publication, then these tags would not appear. In the other colonies, and I suppose pretty well throughout the world, the Audit Office presents a report upon the accounts of the colony, and it is this report—which is quite separate and distinct from the accounts—that is submitted to Parliament and the public. It is in this report that the Auditor's tags or comments, reports, and opinions are contained; and if that was our system here the Audit Office would not put these tags upon the abstract of the Accounts presented to Parliament, and through it to the public; but the opinions of the Audit Office and the consequent tag would come along in the report just the same.

Mr. Warburton: Yes; after the Public Accounts——

Mr. Heywood: But they would not be attached to the abstract of the Public Accounts as gazetted.

53. *Hon. Sir J. G. Ward* (to Mr. Warburton).] In your opinion, Mr. Warburton, the same object could be achieved by an alteration in the law—to have a report from the Audit Department upon the accounts, and which could be considered ?—I do not think that would be consistent with the principle of an auditor's report—"That it should on the account itself state any objection."

Mr. Heywood: I might remark that it is the effect of two systems. This is the effect in our colony of the pre-audit system, as against the post-audit system the world over.

54. *Hon. Sir J. G. Ward* (to Mr. Heywood).] Are there any other countries which have the pre-audit system as well as us ?—No, not in any place that I am aware of.

55. *Hon. Sir J. G. Ward* (to Mr. Warburton).] Do you see any objection to the post-audit ?—No, I do not. I think it is a good system. I think it is the natural system, that of audit after payment. When all the work of the administration is done the Audit Office should come in and examine the result. I think that is a proper system of audit, and under that system you have the administration making its payments of accounts on grounds which will justify them. If they were submitted to the audit before payment, the passing by the Audit Department is often considered quite sufficient. At present, if an account is passed by the Audit the administration is quite content to pay it, whether they think it right or not. In the Public Trust Office accounts the system is one of audit after payment, and there you have every clerk taking very great care before he makes a payment that he will be vindicated by the auditor. But under our present system an account may sometimes be sent in three or four times, as in a case that obtained three

or four years ago; and if, for instance, an account like that could be paid before audit and justified by the administration there would be no objection to so paying it. They might draw an imprest and pay it; but in cases of payments that might be challenged by the Audit Office the Administration or the Department considers it safer to go to the Auditor first—that is, safer if the Audit Office passes it first than if they pass it themselves.

56. In your opinion would it be preferable to have post-audit instead of pre-audit ?—Yes. I think it would be preferable under a good system of accounts, not under the Treasury system such as I have seen. I would not, however, like to be responsible for recommending any alteration of the system unless I had the carrying-out of it. I certainly have always thought—and when I was in the Public Trust Office I brought about audit after payment—that our accounts should be on the system of paying direct the amount of the moneys you are authorised to spend. A clerk might be in the Treasury to pass the payments made as the business went along. But if I set up a system I should like to be in a position to see it carried out—to be its executive or administrative officer. I should like to have the independent administration of the system myself. I think if a post-audit system were adopted it should be one that would work automatically, whether you were there or not. It ought not to be dependent upon one man, however good that man might be. It ought to be a system that would work automatically and to the satisfaction of all.

57. *Hon. Sir J. G. Ward* (to Mr. Heywood).] Which, in your opinion, would be the better of the audit systems for the colony, the existing system—the pre-audit—or the post-audit ?—I am very strongly of opinion that the colony should as quickly as possible revert to the post-audit system. The experience of late years is quite sufficient for me to see that there is nothing for it but to revert to the old system of post audit so long as we can preserve as closely as possible the advantages which we have obtained from the pre-audit system, and those advantages are in the direction of the speedy entry in the Public Accounts of the colony of the expenditure and receipts. With a carefully drawn new Public Revenues Act, which should be in the direction of conserving those advantages, I am clearly of opinion that the post-audit system should be, if possible, immediately substituted for the present pre-audit system. The great advantages to be derived from the post-audit system, so far as the public is concerned, will be the avoidance to a large extent of the many delays which take place in consequence of the attempt of the Administration to get payments which often arises payable to the public, and which are delayed from time to time owing to the difference of opinion which are properly between the Audit Office and the Treasury. In the post-audit system the Administration takes the actual responsibility of making the payments, and the public get their money, and the friction and trouble and delay which may subsequently arise affects only the departmental administration, and not the public. So for these reasons I am of opinion that the post-audit system would be a great improvement on the present system.

58. *Mr. Graham.*] You said that your opinion was that we ought decidedly, and as soon as possible, to revert to the post-audit in preference to the pre-audit system: what was the reason that we discarded the post-audit system to adopt the pre-audit system ?—On account of the enormous delay there was in making up the Public Accounts of the colony.

59. Supposing that we revert to that system as you suggest, how is that delay to be avoided in the future ?—You may remember I remarked that provided we retained the advantages which the pre-audit system gives us in being able to enter payments and receipts as speedily as they are now entered.

60. Then, you are of the opinion that if we revert to the post-audit sytem we can get certain advantages under that system that we do not possess under the pre-audit system ?—Yes, that can clearly be effected.

No. 10.

Abstract received in Wellington.

Invercargill. Departmental No. 1453.

The New Zealand Government Dr. to the Southland Hospital and Charitable Aid Board.

Department or service: Customs.

1905.	£	s.	d.
11th March.—To amount of duty paid (preferential) on artificial limb imported from U.S.A. per parcels post	4	11	6

Signature of claimant: Reginald Day, Secretary.

Address of claimant: The Southland Hospital and Charitable Aid Board, Invercargill.

I certify that, to the best of my knowledge and belief, the foregoing account is true and correct in every particular; that the repayment is authorised on C. 1905/406 No. 455/64 of 8th March, 1905.

To be charged to Vote 43, item No. 13. A. McDowel, Collector.

[Approval Stamp, Customs Department, March 15, 1905.] Th. Larchin.

The Audit Office minute of the 10th January last on the voucher proposing to refund £9 to Lewis Burn applies to this claim (see No. 4).—J. K. Warburton, C. & A.-G. 16/3/5.

No. 11.

Wellington, 21st March, 1905.

His Excellency the Governor is respectfully advised to sign the attached Warrant determining under section 9 of "The Public Revenues Acts Amendment, 1900," that item 13 of Vote 43, £11, in the appropriations for 1904–5, is not specific but applies to all Customs duty paid on artificial limbs imported during the year. T. Y. Duncan.

Signed—P., 25/3/1905.

No. 12.

Plunket, Governor.

Whereas by section nine of "The Public Revenues Acts Amendment Act, 1900," it is provided that in case any difference of opinion arises between the Audit Office and the Treasury as to the vote, appropriation, fund, account, or other authority to which any expenditure ought to be charged, the question shall, if in the opinion of the Audit Office it involves a question of law, be determined by the Governor, having before him the opinion of the Attorney-General thereon: And whereas such difference of opinion as aforesaid has arisen as to the authority to which should be charged refunds of duty under "The Preferential and Reciprocal Trade Act, 1903," on artificial limbs in excess of the item 13 of Vote 43, eleven pounds, in the appropriations for the year ending the thirty-first March, one thousand nine hundred and five, the Audit Office contending that refunds in excess of that item cannot lawfully be charged to that vote, inasmuch as the item is specific in the sense that the amount thereof cannot be exceeded:

Now, therefore, I, William Lee, Baron Plunket, the Governor of the Colony of New Zealand, in exercise of the hereinbefore-recited powers, and having before me the opinion of the Attorney-General, do hereby determine the said question by deciding that the item in question is not specific in the sense referred to, but applies to all Customs duty paid on artificial limbs imported during the year; and that consequently remission may be made, and the expenditure in respect thereof be lawfully charged to the said Vote 43, notwithstanding that the amount of the said item is thereby exceeded.

Given under the hand of His Excellency the Governor at , this twenty-fifth day of March, one thousand nine hundred and five.

T. Y. DUNCAN.

The Audit Office.

To note His Excellency the Governor's determination.

JAS. B. HEYWOOD.
28 M'ch, '05.

No. 13.

The Hon. the Colonial Treasurer. Audit Office, 29th March, 1905.

THE Governor having, under section 9 of "The Public Revenues Acts Amendment Act, 1900," determined that item 13 of Vote 43 in the appropriations for the year ending the 31st March, 1905, "Refund of duty under 'The Preferential and Reciprocal Trade Act, 1903' on artificial limbs imported, £11," is not specific, but applies to all Customs duty paid on artificial limbs imported during the year, and that consequently remission may be made, and the expenditure in respect thereof be lawfully charged to the said Vote 43, notwithstanding that the amount of the said item is thereby exceeded, the vouchers to make the refunds in respect of which it has been so determined will now be passed as soon as they are again sent to the Audit Office; and the Controller and Auditor-General will, in ordinary course, lay before Parliament, in accordance with the provisions of the Public Revenues Act, a copy of the correspondence on the subject. He regrets, however, that the Minister before proceeding to advise the signing of the warrant did not inform the Audit Office of his intention to do so, so that the following brief expression of its objections might have preceded the warrant: By "The Preferential and Reciprocal Trade Act, 1903," duty is imposed on artificial limbs imported into the colony. To admit them free of that duty by refunding it requires statutory authority. An item which appears only on the estimates is not statutory authority, unless it is an item authorised by section 3 of the Public Revenues Act of 1900; and an item under such section is not an authority to expend more than the amount of it.

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

Vouchers passed.—J. C. G., A. C. & A. 1st April, 1905.

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