

24. If it were proved to you that no alteration had been made in the law, but only that a correct legal interpretation of the existing law was being given now, how would that affect your opinion?—I should ask, "What was the necessity of this alteration in the Appropriation Act?" I take it that that altered the law.

25. *Right Hon. Sir J. G. Ward.*] If it was discovered that an underpayment had been made to a public local body, would you expect that mistake should be corrected by the Government and the full payment made?—Yes, because it would be the fault of the Government in making an underpayment.

26. *Mr. Massey.*] If an overpayment has been made in this instance, do you not think the parties responsible for the mistake—the Minister of Finance and the others—should be compelled to refund the money to the Treasury out of their own pockets?—I do not know whether they should refund it, but I do not think the local bodies should suffer.

27. *Right Hon. Sir J. G. Ward.*] So you are of opinion that if a local body has been overpaid, that should not be corrected?—That is so, because it is the fault of the people in authority in paying it. The local bodies took the money in all good faith and spent it accordingly.

WEDNESDAY, 15TH DECEMBER, 1909.

JOHN W. SALMOND, Counsel to the Law Drafting Office, examined. (No. 5.)

The Chairman: It was decided yesterday, as you know, gentlemen, to submit a certain question to Mr. Salmond. I have here his reply, which I will read to the Committee: "Law Drafting Office, Wellington, 14th December, 1909.—The Chairman, Public Accounts Committee.—SIR,—I have the honour to acknowledge the receipt of your letter of the 14th instant asking for my opinion as to whether any alteration in the law has been made by the substitution of the Sixth Schedule to 'The Appropriation Act, 1908,' for the schedule to 'The Local Bodies' Finance and Powers Act, 1885.' I understand that the question relates more particularly to the effect of paragraph 4 of the new schedule as compared with the last proviso of the old schedule. I have carefully considered the matter, and am of the opinion that no alteration has been made in the law, but that the new schedule reproduces with perfect accuracy the effect of the old one. The last proviso in the old schedule (imposing a limit on the maximum subsidy) covers the whole of clause (c) of that schedule, and therefore applies to all counties in which there are road districts and to all Road Boards. The new paragraph 4 has the same application.—I have, &c., JOHN W. SALMOND, Counsel to the Law Drafting Office."

1. *Right Hon. Sir J. G. Ward.*] Did you, Mr. Salmond, receive any direction from me in connection with any alteration in the Appropriation Bill of 1908?—No, sir.

2. *Mr. Massey.*] What was the object in altering the wording of the Act from the wording of 1885 to the wording of the Appropriation Act of last year?—The work was not done by me; it was done by Mr. Jolliffe, and I understand that his only object was to put the thing in proper form. It is certainly in the most cumbersome form in the old Act of 1885.

3. Do you not think it a wonderful coincidence that the reduction in the subsidies paid to the local bodies affected followed the alteration of the wording?—I do not know whether it is due to the new Act or not, or whether it was an independent act on the part of Mr. Campbell. If it is the result of the new wording of the Appropriation Act, it is simply due to the fact that the Appropriation Act is now clear on the point, while the other may not have been.

4. Would you mind turning to clause 4 of the Sixth Schedule of the 1908 Appropriation Act?—Yes, I have it.

5. "No greater sum in all than £2,500 shall be paid in respect of any county and its road districts; and when the total amount of subsidy that would be payable in respect of the total amount of general rates collected as aforesaid exceeds £2,500, then the total amount of subsidy to be payable to the Road Boards and County Council shall be apportioned *pro rata* according to the amount of general rates collected as aforesaid by such Road Boards and the County Council respectively." That contemplates the existence of a County Council, does it not?—You are thinking of a county in which the Counties Act is not in force.

6. I am thinking of counties where the Counties Act is in force, and where they have both County Council and Road Boards; and it seems to me that this subsection 4 is intended to apply to such counties, and I am asking whether the existence of a County Council is not contemplated in subsection 4?—I do not see why it should be. Clause 4 deals with road districts, and it is not essential to the operation of clause 4 that there should be a County Council.

7. You will notice these words: "Then the total amount of subsidy to be payable to the Road Boards and County Council shall be apportioned *pro rata* according to the amount of general rates collected as aforesaid by such Road Boards and the County Council respectively"?—Then, if there is no County Council, the clause would operate upon the Road Boards.

8. I think we are getting away from the point. Do you not think that clause 4 contemplates the existence of a County Council in its application?—Not as necessary—a County Council, if any.

9. The words "if any" are not there?—I think they are to be read in.

10. You think that section 4, then, would govern subclause (i) of subclause (c)?—Yes, I think it governs the whole.

11. Subclause (i) reads as follows: "When the general rates actually collected by the Road Board in the road district do not exceed the total sum of £500, then a sum equal to 10s. of every £1 of such rates." Do you not think that that subclause would apply to the Road Boards where there is no County Council?—Clause 1 cannot possibly apply to Road Boards.

12. Why?—Because the heading of it is "To the Council of each county wherein there are no road districts."

13. Will you read clause 2, "In respect of counties when there are road districts"?—Yes.

14. "To the Board of each road district in the county if the Counties Act is not in full force." Then it stops there. I understand that what follows is a sort of parenthesis, "if the Counties Act is in full force, then to each Road Board and the County Council in equal parts"?—I mistook your meaning. I thought you referred to clause 1.