

absolutely overridden by the Department which they are supposed to control in the issue of public moneys. My answer to the question is, that the final decision should rest with the Commissioners, subject to the opinion of the Law Adviser of the Crown, if the Treasurer should think proper to refer a difference of opinion to that functionary.

2. This question is involved in that of No. 1, and my reply is the same as above.

3. This also seems involved in No. 1. If the Treasurer can, at their option, make transfers after payment, and can compel the Commissioners to follow their controlling power, this would be giving the Treasury all the authority that they would have if their decision were final at the time of absolute payment. My answer is, that no transfer should be made without the assent of the Commissioners.

If, however, I have mistaken the question, and it is only intended to decide whether the Treasury should have the power to make transfers in the Public Accounts as rendered to Parliament, then I am of opinion that the Treasury cannot be interfered with by the Commissioners in this respect, since no such alteration will force them to alter their accounts; nor would it affect the further issues of public moneys, the extent of which will be governed by their own mode of treating the issues in their accounts.

CHARLES KNIGHT,
Auditor-General.

Replies to Questions by the Controller.

1. In answering this question, I wish to guard against giving any general expression of opinion under any other system of control and audit. I confine my answer to the system at present in the course of establishment by the proposed Bill. With this limitation, I think the Commissioners should accept the vote stated on the voucher submitted to them, unless such an issue would be absolutely illegal. The functions of the Commissioners are strictly judicial; every matter depending on discretion is ministerial, and rightly lies with the Treasurer. To allow the Commissioners to exercise any other function than that of determining the plain legality or illegality of a step would destroy their character as Controllers, and invest them with duties of Ministers. As to the legality of an issue their power should be absolutely uncontrolled, except by *mandamus* of the Supreme Court, and by the ultimate power of suspension vested in the Governor in Council.

2. In any alteration of the charge of an imprest the same rule should apply. The Treasurer should charge them as he pleased, subject to the decision of the Commissioners that such charge was not illegal. Obviously, had the Commissioners resolved not to issue, against a vote, the vote ought not to be charged through the indirect process of an imprest.

3. Certainly not. The present system will do comparatively little good unless it results in two absolutely identical accounts, one in the Treasury and one in the Audit. It is hardly an exaggeration to say that one-half the time of these Departments is wasted in adjusting discrepancies of account. No charge ought therefore ever to be made in one account without a corresponding entry in the other. This involves a consent of both officers, which should therefore be the rule before any charge is altered.

JAMES EDWARD FITZGERALD,
Controller.

MINUTES OF EVIDENCE.

FRIDAY, 20TH SEPTEMBER, 1872.

Dr. KNIGHT, Auditor-General, in attendance and examined.

1. *The Hon. Mr. Gillies* directed the attention of the witness to clause 7 of the Public Revenues Act, which was read as follows:—"In case any difference of opinion shall arise between the Commissioners and the Treasury as to the vote or authority to which any expenditure ought to be charged, the question shall be determined by the Colonial Treasurer, but the objections made by the Commissioners shall be laid before Parliament within ten days thereafter, if Parliament be then in session, and if not, within ten days after the next meeting of Parliament." The witness was asked to state his opinion with respect to that provision.—The first I heard of an alteration proposed to be made in the Bill was by information gained from the newspapers. It was stated that disputes had arisen between the Controller and the Auditor-General, and that a provision was rendered necessary so as to admit of the Colonial Treasurer deciding the points in dispute. The only difference of opinion that I have heard of—for disputes there could not have been, seeing that there has been no official communication between the Controller and the Auditor-General—arose I understand in this way: I objected to a certain expenditure which was afterwards passed by the Controller. It will be seen on reference to "The Immigration and Public Works Act, 1870," that a sum of £40,000 is allocated out of the loan as unapportioned, to be expended by direction of the General Assembly. As the General Assembly has made no direction in the matter, I have been compelled to refuse passing any claim for payment under this part of the loan. The Controller, I understand, has taken a different view, and seems to have treated the provision as a vote to be spent as the Government may direct, without specific direction from the General Assembly. I think a provision in the Act should be made, to enable the Colonial Treasurer to decide how expenditure should be charged in such cases of difference between the two Commissioners. But the provision to which my attention is now called is a very different one. It gives to the Treasurer absolute power to make transfers from one vote to another, in opposition to the decision of the Commissioners. In fact, it leaves matters pretty much as they are at present. Under the existing law, public money is drawn from the Public Account for one service, and is spent in another. Under the proposed law, the public

Dr. Knight.

20th Sept., 1872.