

There is, properly speaking, no Building Account kept. It is true that there is a balance of a sum transferred from the ordinary account to a so-called Building Account; but the effect of the transaction is simply that the amount of the overdraft of the ordinary account at the bank is increased.

The overdraft at the bank on the 31st December last amounted to £717 12s. 5d. There is no authority of law to warrant loans of this description. While moneys may be issued from the ordinary account of the Board for general or building purposes, such issues can only be legally made *when there are funds at credit of the ordinary account.*

The statement of assets and liabilities is one of the most extraordinary public documents ever laid before the Auditor. It shows that a building has been erected which, together with the land on which it stands, is valued at not less than £7,000; while liabilities to the amount of £5,466 16s. 3d. have been incurred, inclusive of the amount of the overdraft at the bank of £717 12s. 5d. But, notwithstanding those large transactions relative to Loan Fund Accounts, not one farthing of loan moneys (except those by way of overdraft) has been either received or expended by the Governors.

In reply to inquiries on the subject, the Secretary to the Governors explains that a contract was entered into with builders for the erection of a high school; that no loan was raised for the purpose; that the contractors built the school with their own funds; that they have not yet received a farthing in return for their work; and that interest at the rate of 7 per cent. per annum continues to accrue upon the liabilities of £5,466 16s. 3d. incurred.

It will thus be observed that the Governors have had no control whatever over the moneys expended. Solicitors' bills of costs and other documents furnished in support of items entered in the accounts show that the lands and buildings vested *in trust* in the Governors have been mortgaged to the builders.

The course pursued by the Trustees in this matter is considered to be indirect contravention of law. The real property vested in them is inalienable, and cannot on any account be legally assigned over to any person. Subsection (2) of clause 9 of "The Wellington College Acts Amendment Act, 1878," authorises the Governors to grant mortgages upon the *rents and profits* of all or any part of the land which may be vested in them, but "without the power of selling the freehold of such land." The Trustees have therefore, in mortgaging the lands, assumed an arbitrary discretion which has been wrongly exercised.

While it is quite clear that the mortgage of the lands is illegal and valueless to the builders as an asset which could be sold or converted into money, it gives them a certain power of possession which is undesirable, and which was evidently never contemplated by the Legislature.

The mortgages and other documents connected therewith have not yet been submitted to this department. The Auditor is therefore unable at present to determine what the exact powers purporting to be given to the mortgagees by those documents amount to.

It is observed that the value of lands at Mangaone—about 3,000 acres, valued at about £3,000—set apart by His Excellency the Governor as an endowment of the institution under clause 8 of the Act (1878), has been altogether omitted from the statement of assets. The document requires to be amended accordingly.

It is understood that the extraordinary action of the Governors, in respect of the real estate intrusted to them, was taken in anticipation of contemplated legislation, a Bill having been drafted by them containing, among other things, power to mortgage the high school and its endowments. The Legislature rejected this part of the Bill, and passed an Act intitled "The Wellington College and Girls' High School Act, 1887," which specifically limits the powers of the Governors in dealing with those lands to leases and to mortgages of the rents and profits only.

There can be no doubt that the sole intention of the Governors in dealing with the endowments as they have done was a laudable desire to erect, establish, and maintain a public institution which is much required in the city; but the means by which they sought to attain their object is considered to be unconstitutional, and detrimental to the public good. If such innovations on the law, in respect of matters financial, are deliberately made by local governing bodies in anticipation of future legislation, and allowed to pass without comment, serious results would be likely to follow. They are calculated to lead to financial disaster to the public bodies concerned, and to the embarrassment of the Government of the colony.

The attention of the Government is invited to the peculiar construction of "The Wellington College and Girls' High School Act, 1887." The preamble to the Act is apt to lead to the supposition that the statute is a consolidation of all previous Acts. It is not so; and clause 15 is so ambiguous as to leave it open to contention whether the ordinary income of the Wellington College and Girls' High School should for the future, except in cases where special trusts have been created, form one common fund. This was evidently not the intention of the Legislature. The whole tenor of previous Acts shows quite clearly that the financial operations of those institutions should be kept separate and distinct, as heretofore.

The Auditor has endeavoured to impress this upon the accountant to the Governors. No action under the latter statute has, up to the present date, been taken, owing to the non-appointment of new Governors; but it is understood that the constitution will soon be complete, and that the Board will meet in a few days, when a copy of this report, or such portions of it as the Government may think fit, should be submitted for its consideration.

In view of all the circumstances stated, the Provincial District Auditor exceedingly regrets that he is unable to certify the accounts furnished to him for examination and audit.

R. MACALISTER,

Provincial District Auditor.

The Hon. the Minister of Education.