

The Under-Secretary, Mines Department.

Audit Office, 14th December, 1896.

THE abstracts which are transmitted monthly to the Minister, on the form Mining No. 84, by the Wardens are so often signed by the Mining Registrar—that is, by the Receivers whose cash receipts the abstracts are designed to check—instead of by the Wardens, that I should be glad if you would call the attention of each Warden to the matter, and point out that to promote an effective audit his responsibility for the abstract being a true abstract of all the licenses issued by him should be acknowledged by his signature at the foot of each sheet.

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

35. That is the circular, and this is your reply: "The Under-Secretary, Mines Department. —On my return to my district last week I found this Audit query lying on my table. Perhaps you will kindly explain to the Auditor-General (who does not seem to understand) that I am a statutory officer, and, as such, have the Act to guide me what to do, as your circular points out. He is under a misapprehension about the Registrar's returns not being checked, as the Warden is a monthly auditor, who checks the licenses issued and rent paid periodically, and certifies accordingly, and an auditor from Nelson about once a quarter audits all the accounts. It would never do for the officers in the different out-stations to keep all their returns back for Wardens to sign, and the Warden could not overtake the unnecessary extra labour. Of course, I will comply with the statute whether a circular is issued or not." That was your answer?—Yes.

36. And you have nothing to add to that?—I have nothing to add to that.

Mr. J. K. Warburton: I wish to put in this statement of the matter [Exhibit G].

37. *Right Hon. R. J. Seddon.*] The next question relates to the payment of rents. Did you receive a circular from the Mines Department like this [document handed to witness; see Exhibit D]?—I did receive that letter, dated "Audit Office, 27th July, 1898," signed by the Auditor-General, and forwarded to me by the Under-Secretary for Mines.

38. Will you give the Committee your reply to that to the Minister?—This is my reply to the Under-Secretary for Mines: "As the question is one upon law—namely, as to how the Warden administers the Mining Act under certain circumstances—I must decline to answer it, unless authority is quoted showing the right to ask the question. I neither admit nor deny the assertions contained in the last paragraph of this letter. A judicial officer is not answerable to the Audit Department for his judicial acts, and is not a collector of rents."

39. From your reply, I presume you looked upon it as an interference with you, and an interference with the course of justice?—I do not give reasons for my judgments. Sometimes the reasons may be bad, and the judgments sound. The statute provides me with certain powers, and if I am wrong at any time there is the Appeal Court to go to, and I can also state a case for the Supreme Court if it is necessary. I do not give reasons for my decisions, especially to unauthorised persons. I may say I did write to the Minister on the subject, but I knew this memorandum would go to the Auditor-General. I did not want my judgment criticized by an unauthorised person.

40. You say that the payment of rents comes within the duty of the Receiver?—Yes; he receives the rents, and keeps a cash-book for the purpose.

41. And he is liable to be surcharged for non-payment of arrears?—I believe that is correct. I do not give any legal opinion about it at all.

42. You have had a number of cases brought before you by the Receiver of Gold Revenue for arrears of rent?—Yes; the Legislature has provided that the Receiver is the statutory officer to sue for rent. I decline to have any correspondence with the Receiver about a case until it comes before me on the bench. The Receiver is the plaintiff, and the licensee the defendant. I hear both sides and then give my decision to the best of my ability. I never interfere.

43. *Mr. Duthie.*] The letter of the 8th August, signed by you, is addressed to no one. I understood you to say it was sent to the Minister of Mines?—I addressed a letter to the Minister of Mines, and this is it [Exhibit D].

44. There is a clause of it I do not quite understand: "With regard to the asset, he has no business; and I should be most happy to suggest to him the proper method were I not afraid that a friendly hint would be misunderstood and treated hostilely by a person who without any provocation tried to drag me through the mire in Parliament last year until the Government interfered on my behalf, and protected me." Whom do you refer to here?—I refer to the Auditor-General.

45. It is a rather unpleasant reference?—Perhaps you have not seen the provocation.

46. *Mr. Montgomery.*] Which is the letter sent to you by the Mines Department: I want to have it identified?—"Audit Office, 27th July, 1898.—The Hon. the Minister of Mines.—From the Warden at Reefton's 'Abstract of licenses for special claims issued' it appears that Caxton S.C., No. 316, was surrendered on 6/8/97, and rent paid only to 22/6/97; and that Lady Onslow S.C., No. 356, was surrendered on 21/1/98, and rent paid only to 18/12/97. I beg to request that you will ascertain and let me know why the last half-year's rent was not collected before acceptance of surrender.—J. K. Warburton, Controller and Auditor-General." [See Exhibit D.]

47. This request of Mr. Warburton's was not addressed to you?—No; but I think you will find that he was asking the Minister to send it to me in order that I should forward a reply.

48. In your reply you say, "As I am not answerable to the Audit Department for my administration of 'The Mining Act, 1891,' nor for my judicial acts, I decline to answer the Auditor-General's question." He did not ask you any question, did he?—But he writes to the Minister of Mines asking me to answer it.

49. Mr. Warburton, writing to the Minister of Mines, says, "I beg to request that you will ascertain and let me know why the last half-year's rent was not collected before acceptance of surrender," and it appears that you did let the Minister of Mines know. You wrote to him privately?—I think there was a semi-official communication to the Minister—I am almost sure there was—not intended to go to the Auditor-General.

50. You are responsible to the Minister of Mines?—I am responsible to the Legislature.