

Natives, and these people for whom the Government are virtually trustees cannot lawfully forego their rights.

48. The Government are not responsible for these amounts—they are only collectors?—I think they are responsible for a justifiable administration. The money is payable as gold revenue to the Crown, and is, when received, payable to the local bodies and Natives.

49. Do you say the colony is bound to make good the default of any local bodies?—I think that whatever the colony fails to collect, of the amount which the colony could by the exercise of its powers collect, would be a just liability to those to whom the revenues are to go.

50. And if a company fails and does not pay its rent?—The colony must as trustee for these bodies, have the liability unless it can justify its refusal or failure to collect.

51. Then, if a local body, by resolution, says it wishes the money to be foregone, as trustee, should the Government not allow it?—The local body has no legal power to do so. The trustee must first be authorised by law to do so.

52. But if he is authorised by the principal? You say we are trustees and rent-collectors for the local bodies, and you say if we fail the colony should pay the money, although it has not collected it, to the local bodies. That is your contention?—Not exactly. The principal is the law which gives this revenue to the constituents of the local bodies, and the local bodies could not forego what they were entitled to as gold revenue payable to the Government. What the Government collects as gold revenue has to be distributed among the local bodies and the Natives, who are the beneficiaries, and the local body beneficiaries could not lawfully forego.

53. I understood you to say that for rents payable under licenses and collectible by the Crown you held the Crown responsible to the local bodies, whether the amount was collected or not?—Well, I qualify it by saying the Crown would be responsible for so much of the rents uncollected as the local bodies could prove a good claim to—that is, could prove the Crown to have negligently failed to collect. If the Crown ought to have collected this money, and could by law collect it, and failed to take whatever course the law provided for collecting it, then, I think, the local bodies would have a good claim.

54. Could they sue the Government for it and recover it? Is there anything in law which says that where the Crown are collectors for the local bodies they could sue?—I would not advise on that point. I know of no authority in a local body to forego this revenue.

55. As regards the amount for which the Crown is responsible for not having collected it, you qualify what you said by saying that reasonable efforts ought to be made, and then if reasonable efforts are not made the local bodies have a claim against the colony?—Gold revenue is Crown revenue.

56. Suppose the colony was to pay this money—I find that £18,000 is due for rents to the different local authorities at the present time, 31st March, 1898, for about two or three years back—out of what vote could the Government pay the money to the local bodies? Is there any vote?—I should say none. I do not know of any.

57. Could the Government pay moneys without appropriation?—Not without appropriation, unless as “unauthorised,” and “unauthorised expenditure” is appropriated.

58. Unless it was out of “unauthorised expenditure”? It could not be paid in any other way?—It would have to be appropriated to be paid.

59. Is there anything under any statute which would empower the Government to make good the money?—All that I can say is that, as Auditor, I must surcharge the Receiver who negligently fails to collect Crown revenue.

60. Suppose I do not ask Parliament for a vote: I ask, is there anything in statute law under which the Government could pay the local bodies any moneys which are uncollected?—I am not aware of anything. Appropriation would be necessary to paying.

61. In a case of surcharging, suppose the Minister removes the surcharge: in that case there is no necessity for the money being voted. That would wipe it off, would it not?—That is not a matter with which the Audit Office is concerned. The papers in a case of disallowance must go before the House.

62. The question was raised here that if the surcharge were removed by the Minister the House would have to vote the money. I want to know whether that is so, or is it that you have simply to report the matter to the House?—Section 32 of the Public Revenues Act provides for that: “It shall be lawful for any person so surcharged to appeal to the Minister administering his department, who, upon hearing the grounds upon which such surcharge has been made, and the objections thereto, shall confirm or disallow the same. In every case in which any surcharge shall be disallowed by a Minister on appeal, a report of the circumstances shall be transmitted by the Audit Office to the Speakers of both Houses of the General Assembly within fourteen days after the then next sitting of the same.”

63. That is the end of it—it should be reported by you to the House?—That is the end of it so far as the Audit Office is concerned.

64. *Mr. Fraser.*] You were asked just now whether a local body had the right to forego any claim to moneys due to it?—To forego any claim to gold revenue?

65. Certain rents are legally supposed to be due; the local body recognises the inequity of pressing these claims, and writes to the Government or Government officials, saying, “We do not want these claims enforced.” The claims are not enforced. What would happen? Can you, as Auditor, take any steps against that local body?—I could only report that they are unlawfully foregoing the collection of what is due to them.

66. It does not lie with them to collect?—You say they forego it. They would, by foregoing, be doing what they are not authorised to do, and I report that. I do not think I can compel any local body to require the collection of its revenue or that I can direct proceedings; but I should have, in reporting on their accounts, to take exception to any sacrifice that is not to be justified.