

MEMORANDUM for the Consideration of CABINET.

To send these receipts back again to Craig can only cause adverse comment from the public generally.

Every one is aware of the strong feeling existing in the minds of the public on the subject of what is termed "red-tape."

I would suggest that, if possible, the matter be allowed to drop, otherwise I fear the action of the Audit Department will tend to impair its own usefulness if it persists in worrying at such infinitesimal matters as this.

A. J. CADMAN.

In Cabinet, 21st August, 1897.—Payment approved.—A. WILLIS, Secretary.

Forwarded to the Treasury in reply to minute of 12th August, 1897.—H. J. H. ELIOTT, 23rd August, 1897.

The Secretary for Mines.

THE action of Cabinet will not get over the difficulty—in fact, I am afraid that, in the opinion of the Audit Office, it accentuates the offence against the law, and it would not be the slightest use my sending the papers up to the Audit. You should strike the £2 15s. out of the voucher (£9 2s. 6d.) and alter schedule (£11 4s. 6d.). Mr. Perham should then pay the £2 15s. into the Public Account or to his Imprest Account, and the matter will then be settled so far as the Treasury is concerned.

25th August, 1897.

JAS. B. HEYWOOD, Paymaster-General.

See memorandum of 26th August attached.—H. J. H. ELIOTT, 26th August, 1897.

The Secretary to the Treasury.

YOUR suggested method of getting over the difficulty, while satisfactory to the Treasury, is unfair to the imprestee, Mr. Perham, who cannot be made liable for the accidental omission on the part of Craig and Co. to stamp the first receipt for £2 15s.

There can be no doubt that the duty of affixing an adhesive stamp is imposed upon Craig and Co. by section 123 of "The Stamp Act, 1882," and why should Mr. Perham be made responsible for their omission?

I may point out that the Stamp Act does not directly impose any penalties for not stamping receipts. Section 124 merely provides that where a person refuses to give a stamped receipt or divides the amount of a receipt with intent to evade the duty he shall be liable to a penalty of £10. In this case there has been no intent to evade the duty, neither has Craig and Co. refused to give a stamped receipt, as already there have been three stamps affixed to three separate receipts for the one payment of £2 15s., and any further post-dated receipt that may be required from Craig and Co. would not be correct, as it would not be signed and completed on the day on which the payment was actually made. Further, any one of the three receipts already given are good for the amount stated, unless Craig and Co. should attempt to recover payment a second time, which they are not at all likely to do. Should, however, any such attempt be made, any one of the three receipts already signed and stamped could be validated in manner provided by the Stamp Act.

Under the circumstances, I think the Imprest Account should be again forwarded to the Audit Department, together with the Cabinet minute of the 21st instant, and that it should be left to that department either to credit the imprestee with the £2 15s. which has been challenged, or for such further action as the Controller and Auditor-General may decide to take in the matter.

H. J. H. ELIOTT.

Mines Department, Wellington, 26th August, 1897.

The Audit Office.

I AGAIN refer this matter to you as requested. I do not see, however, that the Cabinet minute has helped.

27th August, 1897.

JAS. B. HEYWOOD.

The Treasury.

Audit Office, 28th August, 1897.

THE Cabinet minute expresses the decision of the Government to be no more than "payment approved"; and I do not for a moment suppose that the Government, by this approval, would have the Audit Office so far betray its trust as to pass the payment without a lawfully stamped receipt. The Government, indeed, would be the last to express any such intention.

There is nothing in the law to justify the Audit Office in passing a payment which an imprestee makes out of the imprest advance, and for which the necessary receipt is liable to stamp duty, until the receipt is lawfully stamped; and the imprestee who makes such a payment out of the imprest advance without being able to account for the money by a duly stamped receipt must make good the amount. The imprestee, in short, who fails in his duty of obtaining for his payments lawfully stamped receipts must take the consequences.

The Under-Secretary for Mines would appear, by his memorandum of the 26th instant, to be so entirely under a misapprehension as to the duties of the officer, and as to the provisions of the Stamp Act, that the memorandum may well and profitably be regarded as answering itself. The course which I think that it ought, in a just administration of the Stamp Act, to be the general rule of the Stamp Department to take in all cases like this, of a person signing a receipt liable to stamp duty without the same being duly stamped, is to proceed for the penalty when the fine and the duty are not paid. The penalty in the present case is not made subject to any consideration whether there was any intention in the giver of the receipt to evade the law or not.

The question is really not so much one of duly affixing a duty-stamp of a penny as of a compliance with the law, which has been enacted in the interests of the revenue. One bad precedent