

the price"—that is to say, at a price equal to £500,000, *plus* the amount in question of £5,657 10s. 6d. But, though the section requires that "all moneys received for the said repurchase of such shares shall be paid to the Public Trustee," the amount only of £500,000 has yet been paid to him. The amount of £5,657 10s. 6d. remains to be paid to him. It should, indeed, have been paid to him as soon as it was received by the Treasury, and the Audit Office understood that it was the intention of the Treasury to pay it to him in December last. It cannot legally be transferred by the Treasury to "Miscellaneous revenue."

10th April, 1901.

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

No. 21.

REFERRED to the Solicitor-General for his opinion.—J. G. WARD.

11/4/1901.

No. 22.

Hon. the Colonial Treasurer.

As stated by the Audit Office, the price of the shares repurchased under section 8 is £500,000, *plus* £5,657 10s. 6d. (the latter sum representing the dividends accrued and unpaid at the date of the repurchase), and the section directs that all moneys received for the repurchase of shares shall be paid to the Public Trustee. The section, however, goes on to declare that the moneys so paid to the Public Trustee shall be applied by him to the redemption, when due, of the securities issued under section 7. The capital sum represented by these securities is £500,000, and they will not fall due until 1st January, 1940. The £500,000 have been paid to the Public Trustee by the Crown, and he is thus in a position to fully comply with section 8 by redeeming the securities when they fall due in 1940. The £5,657 10s. 6d. are thus surplus moneys, and if paid over to the Public Trustee by the Crown they would, in my opinion, be subject to a resulting trust in favour of the Crown—according to the well-established rule as to resulting trusts—and the Crown could require him to straightway pay it back. In these circumstances I think the Colonial Treasurer is justified in putting the money to the credit of the Consolidated Fund in the first instance, instead of paying it over to the Public Trustee and forthwith requiring it back.

It is to be observed that the Public Trustee does not pay the interest on the securities. The Colonial Treasurer must pay it out of the Consolidated Fund as heretofore. The Act contemplates that the dividends received from the shares will enable the Colonial Treasurer to pay the interest on the securities, but makes no provision for his receiving from the Public Trustee the interest earned on the repurchase-moneys lying in his name, possibly because when the Act was framed the contingency of repurchase was considered too remote to need provision. It is, however, absurd to suppose that the Act intended that for the next thirty-nine years the accumulations of interest on half a million of repurchase money are to remain with the Public Trustee, while during all that time interest on the half-million of securities is to be paid by the Colonial Treasurer out of the Consolidated Fund.

The Banking Act is, in the language of the Interpretation Act, to receive such fair, large, and liberal construction as will best insure the attainment of the object of the Act according to its true intent, meaning, and spirit. Applying this rule, section 8 is, I think, to be read as if the words "to the extent of the total capital sum represented by all the securities issued under section 7 hereof" were inserted between "such shares shall" and "be paid to the Public Trustee." On this construction all repurchase-money (including accrued and unpaid dividends), and all interest thereon, would remain with the Public Trustee until the total amount in his hands was £500,000, but everything beyond that amount would be payable to the Consolidated Fund. In this way the £5,657 10s. 6d. of accrued and unpaid dividends, and also all interest earned on the half-million lying in the Public Trustee's hands, will be available towards meeting the interest on the securities during their currency, and at their maturity they will be redeemed by him with the half-million which he holds for the purpose.

Crown Law Office, 15th April, 1901.

FRED. FITCHETT, Solicitor-General.

No. 23.

The Audit Office.

FOR reconsideration of the proposed transfer as attached, having before them the opinion of the Solicitor-General on the subject.

19th April, 1901.

JAS. B. HEYWOOD.

No. 24.

THE judgment of the Audit Office is that the money in question must be paid to the Public Trustee in accordance with the clear, unqualified, and indisputable direction expressed by the Act; and, whatever the Administration may be justified in thinking, the Audit Office would not be justified in assenting to the proposed evasion of such direction on the ground that the Act may mean what it does not express.

19th April, 1901.

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

No. 25.

GET the Governor's order.—R. J. S. 20/4/1901.

No. 26.

Wellington, 30th April, 1901.

HIS Excellency the Governor is respectfully advised to sign the attached determination, under the provisions of section 9 of "The Public Revenues Acts Amendment Act, 1900," of a question