

44. *Mr. J. Allen.*] This question of the £5,657 10s. 6d. is a question of interest. I ask Mr. Heywood whether he thinks the law is sufficient now, or whether an amendment is necessary in relation to the payment of interest?—I am inclined to think that as we have got into this difference of opinion between the Treasury and the Audit, it would certainly be better if it were straightened out.

Mr. Fraser : In No. 11 of the correspondence (page 10) Mr. Heywood says that if the Public Trustee "receives from the bank more than sufficient to meet the securities, the surplus would consequently be payable by him into the Public Account. It is true that the Act makes no express provision for this. It also makes no express provision for the disposal of the accumulation of interest on sums received by the Public Trustee from the bank as purchase money." That is the very thing I am raising just now. This No. 11 is signed by yourself, and you refer to the accumulations of interest as well as to the paying of interest. One would like to see the matter put straight, so that there should be no difficulty in the future.

The Chairman : We cannot consider that question now. Will some member move a resolution?

Mr. J. Allen : I move, "That the Committee is of opinion that it is necessary that the law should be altered to provide for the payment of the interest received by the Public Trustee on account of the £500,000 which he has received from the bank to the Consolidated Fund to meet the interest on the inscribed stock."

Rt. Hon. R. J. Seddon : I can only say that I know positively that the Public Trustee does not consider there is any necessity for an amendment of the law, and he is fully warranted in paying the interest; and if this money had been paid to him he would have simply given a cheque and paid the amount back to the Treasury. If he reckons he has power to pay the interest in the future to the Treasury, there is no necessity for an amendment of the law. If there is proved to be a necessity to make a change, we shall be justified in doing so, and I shall be only too glad to help you in making the change. In fact, it will be in my own interest as Treasurer, for if the Public Trustee cannot return the interest I shall have to find it.

Mr. J. Allen : If that opinion had been put before us by the Public Trustee I should not have raised any objection.

Mr. Fraser : The Premier says that we do not want an amendment of the law, but I think we certainly do. Let us get rid of this constant interference of the Governor in disputes between the Treasury and the Audit Office.

Rt. Hon. R. J. Seddon : I move, "That the resolution be postponed until we hear the Public Trustee."

Resolution postponed.

WEDNESDAY, 14TH AUGUST, 1901.

JOSEPH WILLIAM POYNTON, Public Trustee, in attendance and examined. (No. 3.)

1. *Rt. Hon. R. J. Seddon.*] You are Public Trustee of this colony?—Yes.

2. Some time ago you received £500,000 on account of the preference shares of the Bank of New Zealand?—Yes.

3. Are you aware that there is some money coming on that account?—There are dividends on the shares.

4. Did you receive that money?—No.

5. Are you aware where the £5,657 10s. 6d. dividend went?—To the Government.

6. Had it come to you what would you have done with it?—I would have handed it over to the Government. It belonged to the Government.

7. *Captain Russell.*] What does "belong to the Government" mean?—It belongs to the Government because if a sum of money is deposited the person with whom it is deposited holds all future accumulations in trust for the depositor.

8. *Rt. Hon. R. J. Seddon.*] Presuming that this £5,657 10s. 6d. interest had been paid to you, what would you have done with it?—I would have kept it until the Government demanded it. All the accumulations on the £500,000 belong to the Government. I am only concerned with the £500,000.

9. Presuming the money had been handed to you, you would have paid it back to the Treasury?—I would have done so. It belongs to the Government, and I informed the Treasury to that effect in March last.

10. There is interest accumulating on that £500,000?—Yes.

11. What would you do with that interest?—Pay it to the Government. It belongs to the Government. If they wish to leave it with me I will take charge of it.

12. On what authority?—The Act does not say what is to be done with the accumulations; but the ordinary rule of law is that the accumulations belong to the person who has deposited the money. Any work on equity will show you that there are different sorts of trusts. If, for example, I convey a property to a trustee to meet a future claim, or to do something with that property in, say, twenty or thirty years' time, all the net accumulations on the property, in the meantime, come back to me. The law is so clear on that point that every lawyer knows it.

13. Could you quote any authorities on the subject? We want to know the legal position?—I may refer you to Lewin: "Law of Trusts," page 155, 2nd edition, where it is laid down: "Resulting trust—where an estate is devised to A and his heirs to pay testator's debts and there is a surplus, this surplus results to testator's heirs." Again, in Story, "Equity Jurisprudence," 2nd edition, pages 824, 825, the words are: "Another form in which a resulting trust may appear is where certain trusts . . . are fully executed and yet leave an unexhausted residuum. In all such cases there will arise a resulting trust to the party creating the trust." In the same book, at