No. 4.

Right Hon. Colonial Treasurer.

It is clear to my mind that the law provides for the payment of interest on a loan represented by debentures, stock, or scrip, until the amount of such loan has been paid off or provided for under another Loan Act. Do you care to have the opinion of the Solicitor-General on the subject? The present amount chargeable to the "Unauthorised" account, supposing the Solicitor-General confirms the view of the Audit Office, is very small, but it might be as well to get an expression of opinion, as the principle involved is of importance. Jas. B. Heywood,

21st April, 1904.

No. 5.

The Solicitor-General.

Please advise hereon. R. J. S.

23/4/04.

Omitting the case where the holder neglects to present his debentures for payment at maturity or to take his money, it is quite clear that in law they bear interest until they are paid. This is one of the ordinary legal incidents of such documents, and there is nothing in the Act or elsewhere to suggest that New Zealand Government debentures are an exception to the rule. It would be odd if they were. Suppose a debenture-holder's action and the appointment of a Receiver: it cannot be seriously contended that his right to recover interest would be limited to interest up to the due date of the debentures.

Possibly the Audit Office means that, admitting the legal right to interest, the Act itself does not authorise payment for any period subsequent to the due date of the debentures—and therefore such interest cannot be paid under the Act—but must be provided for out of "Unathorised." It appears to me that subsection (3) of section 11 affords a complete answer to this. It authorises the payment of the sum of money named in the debenture, "together with all interest payable in respect thereof." This can only mean whatever interest the debentures carry in law; and in law they carry interest until they are paid.

I understand from the Treasury that in the present case the debentures were lodged with it a day or two prior to maturity (1st April), but by reason of intervening holidays, during which the Treasury Office was closed, payment was not made until the 5th April. On these facts I am of opinion that the holders are entitled to interest up to date of actual payment of the debentures, and that payment of this interest is authorised by the Act.

Fred. Fitchett, Sol.-Genl.,

25/4/04.

For information of Right Hon. R. J. Seddon. Jas. B. Heywood,

26 Apl., '04.

No. 6.

The Auditor and Controller-General.

The Solicitor-General having advised that debentures are legally entitled to the interest up to date of our actual payments I hope you may see your way to pass the payments.

R. J. S.

Received, 28th. 26/4/04.

No. 7.

The Hon. the Colonial Treasurer. Audit Office, 3rd May, 1904.

Authority for Payment on Moneys raised under "The Aid to Public Works and Land Settlement Act, 1900," of Interest not provided for in the Securities.

The question which the Audit Office considers here is not whether the payments should be made but only whether there is authority in the Loan Act to make them, and it does not appear to the Audit Office that there is any such authority in the Loan Act.

Subsection (3) of section 11 of the Act provides merely for securing on the public revenues the moneys raised under the Act and the interest payable in terms of the Act. If, on moneys raised under the Act by the securities by which alone the Act authorises such moneys to be raised, interest not provided for by such securities is paid for a period during which the holders do not receive the moneys after the date on which the securities entitle the holders to receive the moneys, such interest is paid on moneys *not raised for that period* by securities under the Act. The moneys raised under the Act might otherwise become an interest-bearing debt for moneys not duly repaid by the Government.

The Loan Act does not contemplate a Receiver. It does not provide for a case of default by the colony or of failure for which the Goverment is responsible to redeem the loan-securities according to the terms of them. If then the moneys raised by such securities should not be duly paid by the Government in terms of the securities, and the holders should consequently be entitled to interest, it would not be interest authorised by the Act, but rather interest at the market-rate, to be obtained by the holders for the moneys at the date on which the securities entitled the holders to receive the moneys. It would be interest chargeable, as such interest was in a recent case charged, to the Unauthorised Expenditure Account.

J. K. Warburton, C. & A.-General.