KENVA

dia February . - d

S. 4.5.

".S. of S S. 45

SILTUR.

SUPREME COURT

asks for ruling as to

er of State Previous Par

MINUTES

in will kindly girl.

Col. Reg. 36" [1908 Ein. ] implies that the Court accounts are not under the administration of the Treasurer is not well founded Col. Regs. Nos.357 to 368 com-

prised a rather detailed enumeration of duties which the Auditor was to earry out: and there is no more ground for alleging that Court accounts should not be under

the control of the Tressurer because they are mentioned in Col. Reg. 367 than there would be for contending that the Guetons

and Excise accounts the Covt. Hospital secounts sebounts of Court Tipes and

587/38 48m 31/25 Harro

fess

fees, Past Office socounts, and Govt. Savings to socounts, are not under the control of the Treasurer begause they were mentioned similarly In bol Regs. 561.563, 385; 866 and 368.

- 2. In the 1928 Edition of the Colonial Regulations this detailed enumeration of duties has been omitted as no longer necessary now that pre-audit has been generally abolished in the Colonies and a proper system of audit under central control under the D.C.A. has been established in the large majority of Coloniss.
- The original authorities under which Judicial deposits came into the Colonial Accounts are (1) Resolutions regarding Colonial Accounts which were adopted by the House of Commons in 1845 and (2) arising therefrom, a code of "Instructions to Governors of Colonies" prepared by the Audit Board and issued by the Treasury through the Colonial Office in 1847. The principle of the "Instructions to Governors" was to the effect that all public monies in a Colony were in the charge of a single Colonial Accountant having under him Sub-Accountants responsible for monics held in stations or districts away from the seat of Government. Monies deposited in Court were required to be paid into the common chest in the same way as all other menies received by public officers in their official capacity. The rule which has been followed in the Colonial Audit Department is that no exception to this rule is permissible without the explicit sanction of bis Secretary of State in each individual case. I pertain Colonies such sanction has been given

in connection with aerials departments styled "self accounting", but, so far as I am assars, no such sanction hasbeen given in the case of Judicial Deposits.

4. A somewhat similar question aross in 1915 in connection with the administration by the Registrar of the High Court of estates of deceased persone in Nyasaland - see 51161/15 Nyasa. and 23874/16 Nyasa. You will see that in that case it was suggested that "receipts "on account of the administration of deceased "estates should be lodged to the account of the "Treasurer and drawn against through the "Treasurer in the same way as suitors' deposits".

Para.8 of 511,61/15.

- 5. The Secretary of State's view was that "it is desirable that these operations "should be subject to some degree of control by "the Treasurer and I consider that all money "received by the Registrar in connection with "the administration of deceased persons' estates "should be paid into the Treasury, and that any "payments out of it should be subject to the "Treasurer's concurrence, the individual trans-"actions being embodied in the general accounts "of the Protectorate."
- 6. As a result Ordinance 10/1916 was passed which required the Registrar to pay into the Treasury all monies required and subjected him to regulations framed by the Treasurer as regards drawing out monies so deposited.
- 7. I think that it is clearly desirable that Court deposits should be regarded as "funds in the custody of the Government" (Coll., Reg. 325, 1928 Edn.); and that the Treasurer as

23874/16 Nyasa/and

Government, under whose general management and supervision the financial and accounting operations of the Government are placed by the Colonial Regulations, should be put in a position to exercise adequate control over the accounting operations of the Regis; There is, of course (as pointed out in .... X.2473/26 Kenya) no question of the Treasure interfering with the decisions of the Court regarding the persons entitled to receive payment out of them - and there is thus no question of the Executive interfering with the independence of the Courts in judicial matters as the Chief Justice appears to think. If such deposits were embezzled or lost and the sums in question could not be got out of the Registrar, it is not the members of the Court that would be expected to reimburse the owners, but the Executive Government, and it is for the Executive Government, through its chief accounting officer, the Treasurer, to see that the moneye are kept in safe custody and properly accounted for. What the exact degree of control to be exercised by the Treasurer in the case of Court deposits should be is of course a question the decision of which depends a good deal on the circumstances of the Colony; e.g., on the efficiency of the Registrar's Office, the standing of the Registrar and the amount of the business

x is the proper

the chief accounting officer of the Colonia

8. I have not been able to discover whether there is any legal provision in Kenya which beers on the point, though I

of the Court.

trapes

have made a short search in the C.O. Library and have consulted Sir John Risley.

9. The question raised in the last part of paragraph 7 of X.2473/26 about the method of keeping and accounting for trust moneys deposited with the Registrar General appears to be an entirely separate matter from that lealt with in the rest of the despatch, which relates to Supreme Court suitors deposits held by the Registrar of the Supreme Court and the District Delegates of that Court. I think it would be best to keep the two matters distinct and would suggest that the Governor should be promised a separate communication about section 1 of Chapter VIII.

Perhaps the papers could return to me for this purpose after action on the main question has been taken

13/12/28

Li thisley

Shared Tankoch tomake any

obsig a this

28/17/2

23/17/24

Jacque generally with the Hardine.

Juny add had the recent futication of providing to the total former and contribute to the former and contribute to the office of the Junguage Court and

(Delaces J. Colloction &

MT

Government, under whose general management and supervision the financial and accounting operations of the Government are placed by the Colonial Regulations, should be put in a position to exercise adequate control over the accounting operations of the Regi There is of course (ne cointed out in Y 040 List Kenyo's an question of the Treasu interfering with the decisions of the Court regarding the persons entitled to receive payment but of them . and there is thus no question of the Executive interfering with the independence of the Jourts in judicial matters as the dnief Justice appears to If hugh amposite were embezzled or lost and the sums in question could not be got cut of the Resistrer it to not the members of sie Jourt that would be expected to feind also the owners but the Executive dovernment, and it is for the Executive Government through its this accounting officer the Treasurer to sen that the moneye are kept in safe quotody and properly accounted for. What int exact degree of cortrol to be exercised by the Treasurer is the case of Court deposits should be is of course a question the decision of which depends a good deal on the circumstances of the Colony; e.g., on the efficiency of the Registrar's Office, the standing of the

x is the super

the chief accounting officer of the Colonia

8. I have not been able to discover whether there is any legal provision in Kenya which beers on the point, though I

Hegistrar and the amount of the business

of the Court.

have made a short search in the C.O. Library and have consulted Sir John Risley.

9. The question raised in the last part of paragraph 7 of X.2473/26 about the method of keeping and accounting for trust moneys deposited with the Registrar General appears to be an entirely separate matter from that lealt with in the rest of the despatch, which relates to Supreme Court suiters deposits held by the Registrar of the Supreme Court and the District Delegates of that lour. I think it would be best to keep the two matters distinct and would suggest that the Governor should be promised a separate summanication about section 1 of Chapter VIII.

Phaps the papers could after action on the man question has lose taken

Ly thester

Shared Tan wich branche

I acres generalis with the Harden, -I way add that the recent ful a line Act of 1625 which consoliates the statistic provision 66 to French in Court been and constitutes the Pa, office of the Sufreme Court and the Mai of Accountant - Teneral I who

. ie this

velages 1 ollococa B N. Allan itine!

At

is a perot Macen - the Clark of the Crown ), provide that the Lord Character, with the concurrence of the Treasury any wish rules regulating the defrosit for ment transfer and otherne, in into and out of Court of money and Ircurities which belong to outers and else the power and duties of the Accountant-linered with reference, to fuch women, and drow riles. [ sec 146] / stales provides that Accounts of funta is court chall to in such form so the Theoding was, Trust and shall be Examined to be combindle of Aulito Greneral - and tunt the Tresoury shall course copies of the Accounts certified by the C + A.G. for one inthe report true on to be soul to the Land Chroncellor, and to be aid before total How see of Part [SIC 145 The Consolitated trail is made beth to make good a suiter all fronts in "mit [ St. 194] -Lan som than ander HR its Endat title ! delay 31/2/28 I definit doff carsar . his I have not included to thisters refrences to the paging butil I Wale (Secalor 15507/29) 167./2007 ob the draft which

you sent me I suggest an omission in para 1 1 would

also suggest that it be useful to meorporale in the draft a reference (on the lines of Sir John Rusley's munte) 5 the system land down by the Judicalum act 1925. The powers gwin to the Treasury under that Act may unprise the C.J. is the intertion of Kenya a / Harding JAN 30 1929 of cause I dais wish to Eustai the tropped buissia from tra ? - 1 in accordance her through cherotist of have raded a new Tomas budude In Misley's Kunato. No Helen Sche. 25 p. i. K Jan 108 (Tax 15007/29 and.) Seen Thanks

of ary current

/) February, 1929.

Sir.

I have the henour to refer to Sir Sdward Grigg's despatch No.176 of the 9th february 1926, and to your despatch No.687 of the Sth Seconder 1928 regarding the question of accounting, relative to the receipt, investment and repayment of deposits by suitors in the Supreme Court.

2. I am advised that the argument in paragraph 4 of Sir E. Origg's despatch that Colonial Regulation 367 (1908 Edition) implies that the Court accounts are not under the administration of Colonial the freesurer is not well founded. Magulations Nos.357 to 356 comprised a rathor istailed enumeration of duties which the auditor wa to carry out and there is no more ground for arguing that Court accounts abould not be under the centralia of the Treasurer because they are mentioned in Colonial Regulation 367 than there would be for centending that the Customs and Expise ascounts. Covernment Hespital accounts, accounts of Court fi and fees, Post Office accounts, and Coverment Savings Bank accounts are not under the control

of the Specific Contract of Study Sales and Sa

- In the 1988 salther of the bilants

  metaltime this salther memoration of delice the

  motaltime the salther memoration of delice the

  motalt can compare this and their the

  motalt cantol of the Spream of delicate and to

  motalt cantol of the Spream of the

  control cantol
- The STAIN STREET, SA halfgiet formalis see the the findantial formation O) Produce and the control of the co and deposit to the second of the second in 1888, in withing thereines, a new of the control of CONTRACT OF STREET, STREET, ST. STREET, ST and the second second second second Office to 1807. She principle of the "Terfacet W Browner | me to the office back all picts THE R. P. LEWIS CO., LANSING, MICH. Colonial Assemblant Service Service Service -----100 in the same was to be and in the same I Service and the service and the service

of the Transfer between it was being a which and only to the last the properties section, 20, 12

- in the 1988 billion of the Colombat

  manifest the Scholler Conservation of Colombat

  manifest to be proper recommend in the

  Colombat code a proper system of model to the

  material codes of the Mirester of Colombat and/

  The Colombat and Colombat and Colombat and/

  Colombat codes of the Mirester of Colombat and/

  The Colombat and Colombat and Colombat and/

  Colombat and Colombat and
- The original employed the surfer stileto halfalet deposits onto line the Balantis America A THE RESIDENCE IN COLUMN 2 IN C artistar theretree, a code of "limiterabless to NAME OF COLUMN PROPERTY OF THE PARTY NAMED and hand by the transity through the columbs ornies to 1869 - See privation of the "Sectional W CONTROL OF THE PARTY OF THE PARTY OF THE PARTY OF with the Chief we is the days of I state AN OWNER WATER TO BE AND THE TANK THE PERSON NAMED IN Parle strike in hat distal and with

The

of the Treasurer because of their being mentioned shellarly in Colonial Regulations 361-363, 366, 566 and 366.

- 3. In the 1926 Edition of the Colonial Regulations this detailed summeration of detice has been emitted as no longer necessary new that pre-audit has been generally abeliahed in the Colonies, and a proper system of audit under the control control of the Director of Colonial Audit has been cotablished in the large majority of Colonies.
  - The cricinal sutherities under which Judicial deposits come into the Calenial Accounts an (1) Resolutions regarding Colonial Assessmin which were adopted by the Heuse of Commons in 1845, and (2) arising therefrom, a code of "Instructions to Governors of Colonies" propured by the Audit Board and issued by the Treasury through the Colonial Office in 1847. The principle of the "Instructions to Governors" was to the effect that all public monics in a Colony were in the charge of a single Colonial Accountant having under him Sub-Accountants responsible for monies held in stations or districts away from the seat of Government. Mentes deposited in Court were required to be paid into the semmen cheet in the says my as all other minion received by fublic efficers to their official capacity.

The

The view which has been consistently taken by the Director of Colemial indit is that so exception to this rule is permissible without the empiricit constitute of the Secretary of State in each individual succession Colemies such constitut has been given in commercian with cortain departments styled "self accounting", but, so far as the Director of Colemial indit is aware, no such seasotion has been given in the case of Judicial Deposits.

- in comments similar question arese in 1918 in commention with the administration by the Registrar of the High Court of estates of decembed persons in Hyacaland. In that case it was suggested that "rescipts on assount of the administration of decembed estates should be lodged to the assount of the Treasurer and drawn against through the Treasurer in the association.
  - in ruply was that "it is desirable that these specialisms should be subject to some degree of control by the Transvers and I consider that all memory received by the Hegistrar in connection with the administration of decembed persons' estates should be paid into the Transvery, and that any payments out of it should be subject to the Transvers's conservation, the individual transactions being subject in the general accounts of the Protesterate".
    - 7. As a result, the Hyaneland High Court Pragtice and Precedure (Amendment) Ordinance (No. 10

AV Japana

of 1916) was passed. Under this Ordinance the Registror is required to pay into this Transcry all solution received and he is subjected to regulations from by this Transcrur as regards descring out 10 and to a deposited.

I am advised that it is elearly desirable 8. that Court deposite should be reserved as "funds in the custody of the Government" (Golonial Regulation senson 1926 Edition); and that the Treasurer as the shief accounting officer of the Colonial Government. under whose general management and supervision the financial and accounting operations of the devorm are placed by the Colonial Regulations, should be met in a position to emercise adequate control ever the accepating operations of the Registrar. There is. of course (as pointed out in paragraph 3 of Sir H. Grigg's despatch) no question of the Treasurer interfering with the decisions of the Court regardin the persons entitled to receive payment out of them and there is thus no question of the Executive interfering with the independence of the Courte in judicial masters, as the Chief Justice appears to think. That should be the exact degree of control to be exercised by the Trescurer in the case of Court deposits is a quantien, the designer of which depends largely on the sireumstances of the Colony: e.g. on the efficiency of the Registrar's Office, the standing of the Registrer and the amount of the business of the Court.

4 64 7

of 1916) was passed. Under this Ordinance the Registrar is required to pay into the Transcry all states reserved and he to subjected to regulations France by the Transcrur as regards drawing out [1]:)

I am advised that it is clearly desirable that Court deposits should be regarded as "funds in the custody of the Government' (Colemial Regulation manual 928 Edition); and that the Frensurer as the shief accounting officer of the Colonial Gererment. under whose general management and supervision the financial and accounting operations of the Government are placed by the Colonial Regulations, should be unt in a position to emercies adoquate control ever the accounting operations of the Ragistrar. There is, of source (as pointed out in paragraph 3 of Mir E. Grigg's despatch) to question of the Treasurer interfering with the decisions of the Court regarding the persons entitled to receive payment out of them and there is thus no question of the Amendire interfering with the independence of the Courte in judicial matters, as the Chief Justice appears to What should be the smet degree of central to be exercised by the Trescurer in the case of Court deposits is a quantion, the desision of which depends largely on the sircumstances of the Colony; o.m. on the efficiency of the Registrar's Office. the standing of the Registrar and the amount of the business of the Court.

9. I may point out that in England the Supreme Court of Judicature (Consolidation) Act, 1925 (15 and 16 Geo. 5 Ch. 49) which consolidates the statutory previolens as to funds in Court here, and constitutes the Pay Office of the Supreme Court and the officer of Accountant-General (who is a legal officer - the Clerk of the Crawn), provides that the Lord Chanceller, with the concurrence of the Franciscourt Chanceller, which belong to writers and also the powers and duties of the Accountant-General Also the powers and duties of the Accountant-General Concileration (Section 146).

The Act also provides that accounts of funds in court shall be in such form as the Tressury may direct and shall be examined by the Comptroller and Auditor-General, and that the Tressury shall cause copies of the accounts certified by the Comptroller as Auditor-General together with his report thereon to be sent to the Lord Chanceller and to be laid before both Houses of Parliament, (Rection 148).

The Concelidated Fund is made lights to make good suitors all funds in Court (Section 134).

10. I shall address a farther despatch to you regarding the question raised in the last part of paragraph 7 of Sir S. Grigg's despatch as to the method of keeping and accounting for trust matter deposited with the Registrar General. This appears to be an entirely separate matter from that dealt with in the rest of the despatch, which relates

9. I may point out that in England the Supreme Court of Judicature (Consolidation) Act, 192 (15 and 16 Goo. 5 Ch. 49) which consolidates the statutory previolens as to funds in Court here, and constitutes the Pay Office of the Supreme Court and the officer of Accountant-General (the is a legal officer - the Clark of the Crown), provides that the Lord Chanceller, with the concurrence of the Transaction may make rules regulating the deposit, payment, delivery and transfer in, into and out of Court of money and securities which belong to suitors ..... and also the powers and detice of the Accountant-Gene with reference to such money and securities with reference to such money and securities (Section 146).

The Act also prevides that accounts of funds in court shall be in such form as the Treasury may direct and shall be examined by the Comptreller and Auditor-General, and that the Treasury shall cause cepies of the accounts certified by the Comptreller as inditor-General together with his report thereon to be sent to the Lord Chanceller and to be laid before both Houses of Parliament, (Section 148).

The Connelidated Fund is made liable to make good suiters all funds in Court (Section 134).

10. I shall address a further despatch to you regarding the question raised in the last part of paragraph 7 of Sir E. Grigg's despatch as to the mothed of keeping and accounting for trust mentes deposited with the Registrar General. This appears to be an entirely separate matter from that dealt with in the rest of the despatch, which relates

to Supremo Court suitors' deposits held by the Registers of the Supremo Sourt and the District Dulogates of that Court.

I have the hengur to be.

81r. |

1

Your mest ebedient.

hamble servant,

to Supreme Court suitors' deposits held by the Registrar of the Supreme Court and the District Sologates of that Court.

I have the honour to be.

Sir,

Your most obedient.

humble servant,

H.T.Allen.

X.2473/26 Kenya.

a Holder 572

Aif Miles 7/2

Streethingh Whiteham of friends.

0. D

DOWNING STREET,

DRAFT. Consen. v minutes.

Sir,

Jamery, 1929.

15/08

Wilson.

.A.G. 2473/26

15807/25

I have the honour to refer to

Sir Edward Grigg's despatch No. 176 of
the 9th February1926, regarding the
fli Sec. 1918 Regarding
question of accounting, relative to the
receipt, investment and repayment of
deposity by suitors in the Supreme
Court.

argument in paragraph 4 of the despatch

WANT TO THE STATE OF THE STATE

Edn.) implies that the Court accounts are not under the administration of the Treasurer is not well founded.

the following

Colonial Regulations Nos. 357 to 368

somer) sed a rather detailed enumeration the luties which the Auditor was to carry out and there is no more ground for are accounts should not . ... to comirci of the Treasurer wase they are mentioned in Colonial wasting 307 than there would be for "order. T. was the 'ustoms and Excise althants in hivernment Hospital accounts. . a contines and fees, Post file and who are fovernment Savings . ( . Tensu. e) um maise 🌬 t or arly to been, I sepula-Ti- to, 200, our and Job in the 15.33 suition of the

enumeration of ductes has been omitted as no longer or nessary now that preactic has been generally abolished in the belonies and a proper system of audit factories and a proper system of audit under central control under the p.c., has been established in the large majority

comprised a rather detailed enumeration of duties which the Auditor was to carry out and there is no more ground for arguing that Court accounts should not be under the control of the Treasurer because they are mentioned in Colonial Regulation 367 than there would be for contending that the Customs and Excise accounts, the Government Hospital accounts. accounts of Court fines and fees, Post Office accounts, and Government Savings Bank accounts are not under the control of the Treasurer because mentioned similarly in Colonial Regulations 361-363,365,366 and 368.

Colonial Regulations this detailed enumeration of duties has been omitted as no longer necessary now that preaudit has been generally abolished in the Colonies and a proper system of audit for a family under central control under the D.O.K. has been established in the large majority

of Colonies.

The original authorities under which Judicial deposits came into the Colonial Accounts are (1) Resolutions regarding Colonial Accounts which were adopted by the House of Commons in 1845, and (2) arising therefrom, a code of \*Instructions to Governors of Colonies" prepared by the Audit Board and issued by the Treasury through the Colonial Office in 1847. The principle of the "Instructions to Governors" was to the effect that all public monies in a Colony were in the charge of a single Colonial Accountant having under him Sub-Accountants responsible for monies held in stations or districts away from the seat of Government, Monie deposited in Court were required to aid into the commen ame way as all other monies

received

received by public officers in their official capacity. The rule which has committee taken by the Director of been followed in the Colonial Audit Department is that no exception to this rule is permissible without the explicit sanction of the Secretary of State in each individual case. In certain Colonies such sanction has been given in connection with certain departments styled "self accounting", but, so far as / am aware, no/sanction has been given in the case of Judicial Deposits. A somewhat similar question arose in 1915 in connection with the administration by the Registrar of the High Court of estates of deceased persons in Nyasaland. In that case it was suggested that "receipts on account of the administration of deceased estates should be ledged to the account of the Treasurer and drawn against through the Treasurer in the

same way as suitors' deposits".

The view expressed by th Secretary of State in reply was that "it is desirable that these operations should be subject to some degree of control by the Treasurer and I consider that all money received by the Registrar in connection with the administration of deceased persons' estates should be paid into the Treasury, and that any payments out of it should be subject to the Treasurer's concurrence, the individual transactions being embodied in the general accounts of the Protectorate". As a result the High Court Practice and Procedure (Amendment) Ordinance No. 10/1916 | was passed which will wind the Registrar, to pay into the

3874/16 Nyasaland

out monies so deposited.

Some according that do printed clearly desirable

Breasury all monies received and way

subjected him to regulations framed

by the Treasurer as regards drawing

desirable that Court deposits should regarded as funds in the custody of the Government (Colonial Regulation 325 1928 Edition); and that the Treasurer as the chief accounting officer of the Colonial Government, under whose general management and supervision the financial and accounting operations of the Government are placed by the Colonial Regulations, should be put in a position to exercise adequate control over the accounting operations of the Registrar, There is, of sourse, ( as pointed out in paragraph sonogentalphoto L fnggs 3 of Sir Mdward Denham's despatch) no question of the Treasurer interfering with the decisions of the Court regarding the persons entitled receive mayment out of them - and the is thus no question of the Executive interfering with the independence of the courts in judicial matters as the Chief Justice appears to think.

" Omit []

not be recovered from the Registrar it is not the members of the Court that would be expected to freimburse the owners, but the Executive Jovernment, and it is for the Executive . Government, through its chief accounting officer, the Treasurer, to see that the moneys are kept in safe oustody and degree of control to be exercised by the Treasurer in the case of Court deposits should be a question, the decision of which depends largely on the circumstances of the Colony; e.g. on the efficiency of the Registran's ffice, the standing of the Registrer nd the amount of the business of the

ost and the sums in question could

Moreone of the statutory

provisions

provision as to minds in Court here, and constitutes the Pay Office of the Supreme Court and the office of the Accountant - General & who is a legal officer - the Clerk of the Crown), provides that the Lord Chancellor. with the concurrence of the Treasury. may make rules regulating the deposit transfer payment transfer and delivery into and out of Court of money and securities which belong to suitors .....and also the powers and duties of the Accountant-General with reference to such money and securities, (Sec. 146):

in such form as the Pressury may direct and shall be examined by the Comptroller and Autitor-Jeneral.

That the Frescus stall cause copies of the Joseph and Auditor-Jeneral the Comptroller and Auditor-Jeneral together with his report thereon to

be sent to the Lord Chaquellor and to be laid before both Houses of Parliament. (Section 148).

(Section 134);

The Consolidated Fund is made liable to make good to suitors all funds in Court.

despatch to you regarding the question raised in the last part of paragraph 7 of Sir E. Grigg's despatch about ... (Contemporary of Sir E. Grigg's despatch about ... (Contemporary of Registrar deposited with the Registrar deneral. This appears to be an entirely separate matter from that dealt with in the rest of the despatch. which relates to Supreme Court suitors' deposits held by the Hegistrar of

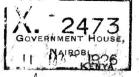
have etc.

(Signad) : ASPEN

the Supreme Court and the District

Delegates of that Court.





ebruary

Sir.

No.

I have the honour to submit for your consideration the question of accounting, relative to the receipt, investment and repayment of deposits by suitors in the Supreme Court.

- 2. The present practice is to embody the monthly transactions in the Treasury Accounts from returns submitted by the Registrars and District Delegates of the Supreme Court, but these returns are neither certified correct by the Auditor nor supported by vouchers of any kind so that the Treasury does not in fact exercise any check on the accounts.
- 3. The Treasurer holds the view that these deposits are "public money" in that they are funds held by a Public Officer in his official capacity and that in respect of these accounts the Registrars and District Delegates are Sub-Accountants of the Treasury and as such are subject to the strict supervision of the Treasurer under Colonial Regulation 218 (v).

Mr.Grannum has no wish to interfere with the directions of the Court in the matter, of these deposits, but considers that he is bound under Colonial Regulations to exercise supervision over these as over all other accounts.

LIGHT HONOURABLE
LIGHTENANT SOLONEL L.C.M.S.AMERY, P.C., M.P.,
COURTARY OF STATE FOR THE COLONIES,
DOWNING STREET, LONDON, S.W.

The Chief Justice on the other hand is of the opinion that these deposits do not in any way form part of the Government funds and cannot be regarded as public monies which are subject to Treasury control. He argues that these sums of money are credits to various causes and are the property of the parties to such causes or of the individuals on whose behalf the deposits were made; he considers, therefore, that as the sums are paid into Court under the orders of the Court, they are subject to no other control than that of the Court. In support of this contention, Sir Jacob Barth refers to Colonial Regulation 367 which in his view emphasizes the fact that these accounts are under the administration of the Court and not of the Treasurer. He is furthermore of the opinion that the Courts must be independent of the Executive. inter alie, so far as 'Suitors' funds are concerned and that it would be introducing a novel and dangerous practice to claim such funds as public revenue or to include them in the public accounts.

- 5. On examining the history of these accounts I find that prior to August 1899 the Court deposits formed part of the Treasurer's accounts but that they were then removed from the Treasurer's books. In 1916 the Auditor suggested to the Treasurer that these deposits should be included in his accounts in accordance the Colonial Regulation 344 and the Treasurer took action accordingly but only to the extent stated in paragraph 2 above.
- 6. The views of the Chief Justice and the Treasurer have been submitted to the Auditor for advice and he holds the same view as his predecessor in 1916, namely that these deposits are "funds in

- The Chief Justice on the other hand is of the opinion that these deposits do not in any way form part of the Government funds and cannot be regarded as public monies which are subject to Treasury control. He argues that these sums of money are credits to various causes and are the property of the parties to such causes or of the individuals on whose behalf the deposits were made: he considers, therefore, that as the sums are paid into Court under the orders of the Court, they are subject to no other control than that of the Court. In support of this contention, Sir Jacob Barth refers to Colonial Regulation 367 which in his view emphasizes the fact that these accounts are under the administration of the Court and not of the He is furthermore of the opinion that Treasurer. the Courts must be independent of the Executive. inter alia, so far as 'Suitors' funds are concerned and that it would be introducing a novel and dangerous practice to claim such funds as public revenue or to include them in the public accounts.
- 5. On examining the history of these accounts I find that prior to August 1899 the Court deposits formed part of the Treasurer's accounts but that they were then removed from the Treasurer's books. In 1916 the Auditor suggested to the Treasurer that these deposits should be included in his accounts in accordance with Colonial Regulation 344 and the Treasurer took action accordingly but only to the extent stated in paragraph 2 above.
- 6. The views of the Chief Justice and the Treasurer have been submitted to the Auditor for advice and he holds the same view as his predecessor in 1916, namely that these deposits are "funds in

the custody of the Government" and should be incorporated in the Treasurer's Accounts in accordance with the Colonial Regulation 344. He considers therefore that the Treasurer should be responsible for the operations of these accounts and he is furthermore of the opinion that Colonial Regulation 367 refers to an audit comparison of the Court Accounts as kept by the Treasurer with the books and records maintained by the Court. The Chief Justice is of the opinion that the Auditor's view is untenable, holding that the regulation clearly deals with the Auditor's duties in connection with the accounts of all monies under the administration of the Courts in contradistinction to those under the administration of the Treasurer.

7. I shall be glad to receive for my future guidance a ruling in regard to the method of dealing with these deposit accounts and to know whether the procedure set out in Section 1 of Chapter VIII of the draft Financial Orders submitted to you under cover of my despatch No. 876 of 9th July 1925 is approved.

yw 35696

I have the honour to be,

Sir,

Your most obedient, humble servant

GOVERNOR.