

HONGKONG.
DEFALCATIONS IN THE TREASURY.

*Laid before the Legislative Council by Command of His
Excellency the Governor, on the 12th September, 1893.*

(Governor to Secretary of State.)

GOVERNMENT HOUSE,
HONGKONG, 26th April, 1893.

MY LORD MARQUESS,

I regret to have to report the occurrence of serious defalcations in the Treasury. On the 2nd of February last, the Treasurer informed the Colonial Secretary that ALVES, the first Clerk of the Treasury, had disappeared, and that the Local Auditor had discovered defalcations in the Accounts. On the 15th of February, the Local Auditor reported that defalcations amounting approximately to the sum of \$59,000 had been committed. As his report disclosed that the local Audit was itself not free from blame in the matter, I appointed a Commission on the 20th of February, consisting of Mr. ACKROYD, Puisne Judge, Mr. THURBURN, Manager of the Chartered Mercantile Bank, and Mr. BIRD, a gentleman who has acted as Auditor of the Hongkong and Shanghai Bank, to investigate and report. The scope of their enquiry is shewn in their letter of appointment, copy of which is appended to their report. On the 4th instant the Commission sent in their report. On the 18th instant ALVES was tried on a number of charges, pleaded guilty to larceny, falsification of documents, and the theft of a book belonging to Government, and was sentenced to six years' imprisonment with hard labour.

Enclosure No. 1.

2. On receipt of the report of the Commission, copies of which and of the evidence taken by them are herewith forwarded, I had it printed and caused copies of it to be forwarded to Mr. MITCHELL-INNES, Colonial Treasurer, Mr. WODEHOUSE, and Mr. MAY, with letters calling on them to shew cause why they should not be held pecuniarily responsible for the amounts misappropriated during their several tenures of the office of Treasurer. Copies of these letters, and of their replies, and of a further correspondence with Mr. WODEHOUSE and Mr. MAY on the subject, are enclosed. I also caused a separate letter, of which I enclose a copy, to be addressed to the Colonial Treasurer, commenting on his neglect of duty disclosed by the report of the Commission and the evidence recorded by them, informing him that the matter would be laid before the Secretary of State, and requesting him to furnish any explanation or statement that he might wish to be considered by Your Lordship. Copies of his reply, and of a separate statement which he has asked to be submitted to Your Lordship are enclosed.

Enclosure No. 1.

Enclosure No. 2.

April 11, 1893.

Enclosure No. 3.

April 22, 1893.

Enclosure No. 3.

3. It will be seen from the report of the Commission that the defalcations extend over the years 1888-92 inclusive, and amount to some \$62,817, that the books have been balanced and no defalcations discovered in excess of the sum stated, and that there is no reason to believe that any misappropriations have been committed by any one in the Treasury except ALVES.

4. The first question that I have had to consider has been whether the amount misappropriated or any, and what, portion of it can be recovered, and from whom such recovery can be made. It has been ascertained that ALVES is practically insolvent, his property being mortgaged for more than its full value, and as the Crown has, as I am informed, in Hongkong, no preferential claim, there is no prospect of recovering any portion of the defalcations from his estate. Mr. LISTER, who is dead, was Treasurer during the first six months of 1888, Mr. WODEHOUSE

The Right Honourable

THE MARQUESS OF RIPON,

Her Majesty's Principal Secretary of State for the Colonies,

&c.,

&c.,

&c.

relieved him till January 18th, 1890, Mr. LISTER resumed duties from that date until the 21st June of the same year when Mr. WODEHOUSE again acted until the end of the year. Mr. MITCHELL-INNES was appointed Treasurer and assumed duties on January 1st, 1891, and he has been in charge of the Treasury since then up to date with the exception of six months' absence on leave in 1892, during which Mr. MAY acted for him drawing no salary for the first four months and half salary for the remainder of the period.

5. *Primâ facie* Mr. LISTER's estate and his sureties, to the extent of the bond of \$10,000 given for the faithful discharge of his duties, are liable for the amounts misappropriated during the portions of 1888 and 1890 for which he was in charge of the Treasury. He left, I understand, no estate; but I am advised that his bond is still valid and that his sureties are good for \$10,000. There are, however, two considerations which, in my opinion, preclude the possibility of recovering at law from the sureties on the bond. The first is that although the total of the amount misappropriated during 1888 and 1889 has been ascertained, it is impossible to state the amount misappropriated during any given portion of that period in consequence of the absence of certain Books which ALVES has made away with. The second consideration is that it would not be practicable after so long an interval, and with Mr. LISTER no longer here to speak for himself, to establish such negligence on his part as would induce a Court of law to give judgment on his bond. It is important in this connection to remember that Mr. LISTER held the office of Treasurer as an adjunct appointment only, and with an almost nominal salary, in conjunction with his substantive appointment of Postmaster General.

6. The same considerations for the most part apply in the case of Mr. WODEHOUSE. I am unable, however, to accept either the conclusiveness or the relevancy of some of the arguments which he advances in his letter of the 20th instant. With reference to his letter of 24th instant I must observe that when Government moneys have been stolen in a Government Office it devolves on the officer in charge to discover and report how the theft was committed; but I am of opinion that, apart from the present impossibility of stating what portion of the total amount misappropriated between the beginning of 1888 and the end of 1889 was misappropriated during the time for which in those years he acted as Treasurer, the fact of his not only having inherited a loose system of accounting in the Treasury, but of his having also held the acting office on an almost nominal salary in conjunction with his substantive appointment, the duties of which may be supposed to have occupied nearly the whole of his time, may properly be considered as a sufficient reason for absolving him from pecuniary responsibility for those misappropriations and also for those which occurred during his tenure of office in 1890. For these reasons I have the honour to recommend that the amount of the defalcations up to the end of 1890 be written off.

7. The defalcations which have been committed since the beginning of 1891 stand in a different category. On the 1st of January, 1891, the appointment of Treasurer was established as a separate and substantive post, and since then the Treasury has always been in charge of an officer whose whole time has been available for the duties of the office, and the Treasury Staff has been strengthened by the addition of one clerk at the beginning of 1891 and of a second subsequently. Further, I am informed that from the books which exist the exact amounts misappropriated during the tenure of each of the two officers, Mr. MITCHELL-INNES and Mr. MAY, who have been in charge since the commencement of 1891 can readily be ascertained. It is also on record that the Local Auditor urged on both these officers the necessity of balancing certain books, and that if his suggestions had been complied with ALVES' previous defalcations would at once have been discovered and his subsequent misappropriations prevented. There are therefore reasons, which do not obtain in the cases of Mr. LISTER and Mr. WODEHOUSE, for enforcing the pecuniary responsibility of Mr. MITCHELL-INNES and Mr. MAY for the misappropriations which have occurred during their respective tenures of office as Treasurer and Acting Treasurer.

8. There are, however, several considerations which make strongly in Mr. MAY's favour, and which I feel it to be my duty to state, though for reasons which I need not specify he has not seen proper to advance them himself on his own account. I cannot, indeed, accept his statement, though I have no doubt that it is honestly made, that it was the Rent Roll for 1891, and not that for 1890, that the Local Auditor desired him to have balanced. The Commission are of opinion that on this point Mr. NICOLLE's statement is correct, and Mr. MAY's recollection at fault; and, indeed, the circumstances forbid any other conclusion. Nor can I admit

the validity of his technical plea that Government money which reached ALVES in the Treasury did not "reach the Treasury." But it is only fair to him to mention that when I offered him the acting appointment of Treasurer he asked to be allowed to decline it on the ground that he had never had any experience and had no knowledge of Treasury work. No other arrangement being feasible in order to allow Mr. MITCHELL-INNES to go on leave, I pressed Mr. MAY to accept the appointment, and it was under these circumstances that he consented to act. Soon after he assumed the duties of the office he informed the Colonial Secretary confidentially, for my consideration, that three out of his four principal subordinates were either past their work, or wholly incompetent, and that it was impossible to get anything approaching a fair day's work out of any of them. The result of these representations was that the three officers in question were compulsorily retired at the end of the year. He also worked very hard and with signal success in getting in arrears of revenue. Under these circumstances it is not, I think, to be wondered at that he failed to exercise such supervision in certain directions as was required to stop the system of misappropriation that had been going on unchecked for many years. I may also mention that for four of the six months of his acting tenure he drew no salary as Acting Treasurer, and for only two months half salary. In view of these considerations I would beg leave to recommend that he be absolved from his pecuniary responsibility, and that the amount misappropriated during the time that he was acting as Treasurer be written off.

9. There remain the questions of Mr. MITCHELL-INNES' pecuniary responsibility for the amount misappropriated while he was in charge of the Treasury, and of the judgment to be formed of the manner in which he has discharged, what I conceive to be, his duties as Treasurer. The two questions are, of course, more or less connected, but they are distinct questions and require to be separately decided. For when Government money has been stolen in a Treasury, it may be the case that the Treasurer may deserve to be held pecuniarily responsible, and yet that he has not, either so generally, or so culpably neglected his duties as to render him unfit to be continued in his office. I therefore directed the Colonial Secretary to keep the two points distinct, and he accordingly wrote two letters to the Treasurer, the one requesting him to shew cause why he should not be held pecuniarily responsible, and the other inviting his explanation of the fact of his never, either by checking his books, or in any other way, having taken any steps to fulfil his primary duty of ensuring that the revenue which reached his Office was all placed to the credit of the Government. The second of these letters is, as Your Lordship will observe, written on the assumption that it is the first duty of the Treasurer to check receipts. If it is his duty to systematically check receipts and of the Local Auditor to check expenditure then the Treasurer appears to have gravely failed in his duty. If on the other hand, as there appears reason to believe, the Treasurer is entitled to look to the Local Auditor for such systematic checking of receipts, concerning himself more with the checking of expenditure, then Mr. MITCHELL-INNES' conduct does not appear to me so open to censure; but I shall deal more fully with these points later on.

10. In his reply to the first of these letters the Treasurer confines himself to explaining why he did not have the Rent Roll for 1890 balanced. His explanation is that 1891 was a very busy year, and that the Local Auditor only drew his attention once to the fact of the Rent Roll not being balanced. Mr. NICOLLE, in his evidence before the Commission, states that he called his attention on several occasions; he has subsequently been questioned on the point by the Colonial Secretary and he is very positive that he did call Mr. MITCHELL-INNES' attention on several occasions to the necessity of having the book balanced. The latter, however, denies this.

11. To the second letter of the Colonial Secretary the Treasurer replies in effect that the only neglect of duty with which he can properly be charged consists in his not having had the Rent Roll for 1890 balanced, that the checking of receipts has always been regarded as the duty of the Auditor, and that in his letter of March 22nd, 1892, (copy of which was duly forwarded to Lord KNUTSFORD) he pointed out that the "systematic checking of receipts" could not be properly performed by the Treasurer with his existing Staff.

12. In the separate statement which he has asked me to submit to Your Lordship he repeats his contention that the duty of checking receipts is no part of the Treasurer's duties, but devolves solely on the Local Auditor, and he again refers to his letter of March 22nd, 1892. He expresses regret at not having had the Rent Roll balanced, and as regards the fact that ALVES habitually received

Government moneys which ought to have been received only by the shroff, he says that he was not aware of the circumstance, and that if he had noticed it, it would probably have occurred to him that ALVES was receiving the moneys on his personal account from private debtors of his own. He adds that the work of the Treasurer is heavy, that it is increased by frequent references from the Colonial Secretary's Office on financial matters, and that Mr. MAY found his work as Acting Treasurer much more arduous than he finds his present work as Acting Captain Superintendent of Police.

13. Dealing with his two replies and his separate statement together, I have to remark that looking to the amount of ALVES' misappropriations, and to the reasonable presumption that he misappropriated only a small fraction of the total moneys that reached his hands, it is clear that Government moneys were improperly received by him habitually, and the observation by the Commission that the Treasurer, if he had exercised proper supervision, would have been cognizant of the practice, is a reasonable one. Mr. MITCHELL-INNES' rejoinder that if he had noticed it, he "might well have imagined that it was a private payment from some of the tenants of his own houses," argues a somewhat strange conception of his duties, for it implies that he would, in the event supposed, have been content to allow his subordinate to transact his private money affairs in the Treasury and during Office hours. It is almost superfluous to add that the most casual investigation would have shewn him that the moneys in question were not private, but Government moneys.

14. As regards the amount of the Treasurer's work, it is not quite clear whether Mr. MITCHELL-INNES is referring to what he now does, or to what he did before the defalcations were discovered. But assuming that he refers to what he is now doing, which includes the signing of all receipts (*vide* his evidence before the Commission, pages 5 and 52), it is not, in my opinion, more than could easily be performed by an experienced Treasurer considerably within the limits of the official working day. The references from the Colonial Secretary's Office, which he mentions, need certainly not occupy more than a few minutes of his time daily on the average, and looking to the smallness of the Treasury transactions here as compared with those of some other Colonies, and to the simplicity of the Cash Book, I have reason to believe that, if his work were continuous, the Treasurer could exercise all necessary supervision and perform the whole of his daily work in the Treasury, including the signing of all receipts, within three hours per diem on the average. As his work is not continuous, he would, of course, have to be in the Treasury for a considerably longer time daily, and his surprise visits to other departments, his work in connection with the Executive Council, and his attendances in the Legislative Council, would give him occupation in addition to what I have described as his daily work in the Treasury. The circumstances under which Mr. MAY found the work of the Treasury so arduous are described above in paragraph 8.

It may be convenient here to observe that Mr. MITCHELL-INNES appears to entertain incorrect notions as to the length of time required for properly dealing with books. On page 54 of the Evidence, attached to the Report of the Commission, he states that "Mr. NICOLLE and an ordinary Portuguese clerk took three weeks to do it" (*i.e.*, to balance a certain Rent Roll), "and they did nothing else, and I believe Mr. NICOLLE is pretty quick at this sort of thing." As a matter of fact Mr. NICOLLE had nothing whatever to do with the balancing of the Rent Roll, and estimates that he could do it unassisted in 10 or 12 days. This, however, is merely by the way, as it is not necessary that such work should devolve on the Treasurer, perfect security against fraud being obtainable by the Treasurer's signing every receipt himself after personally satisfying himself that the corresponding amount has been duly entered in the collection book, and seeing on the following morning that the totals of the daily collection books have been duly entered in the Cash Book, and that the total of the Cash Book corresponds with the total amount credited to the account of Government by the bank.

15. Coming now to Mr. MITCHELL-INNES' pleas in explanation or justification of the neglect of duty which rendered possible the misappropriations committed while he was in charge of the Treasury, I feel that I need say nothing in regard to his failure to have the Rent Roll balanced, for in that particular he admits his fault and expresses regret for it. But on his general contention that it was no part of his duty to check receipts, or to take any steps to secure the placing to the credit of Government of all Government moneys that reached his Office, it is my duty to make a few observations.

16. It is so obviously the duty of every Treasurer to take some steps to prevent Government moneys being stolen in his Office that I should not have thought it possible for any Officer appointed to such a post to imagine that he was free from all responsibility in that respect. The *raison d'être* of the establishment of the post of Treasurer in Hongkong as a separate and substantive appointment, and of strengthening the subordinate Staff of the Treasury, as described above in paragraph No. 7, was in order that the late system, which had previously obtained when the post of Treasurer was held as an adjunct office in conjunction with another appointment, might be superseded, and that the Government might have the security of its interests being safeguarded by an officer whose whole time would be available for the purpose. That Mr. MITCHELL-INNES, who was inexperienced in Treasury work, should have failed to introduce all the reforms that were required in the Office might well admit of excuse; but that he should have been content to take no precautions, and that he should have considered, as he himself states, that it was no part of his duty to take any, affords ground for legitimate complaint.

On page 7 of the Evidence he states: "the system itself was supposed to be a check." But the slightest investigation would have sufficed to show him that a system which allowed receipts to be signed by the clerk who made them out, a practice which he personally confirmed in writing when it was brought to his notice (*vide* page 52 of the Evidence), was fraught with danger. And a little consideration would have made him alive to the fact that if such a system were subjected to the strain of the same clerk's also receiving Government money, it would then become perilous in the extreme.

17. In his defence he appeals to his letter above mentioned of the 22nd March, 1892, and he points out with truth that he there distinctly stated that he could not possibly, with his existing Staff, do all the work of a thorough Audit of his own books, and that if he were required to do such work, which though it was imposed on him by the Financial Instructions, he contended that the Secretary of State had not intended that he should undertake, he would require an addition to his Staff. This would be a fair defence if he were charged with not having performed such work; but as has already been shewn, this is not the case. If he had done what he is doing now, that is, if he had signed all receipts himself and taken the other precautions mentioned at the end of the last paragraph but one, he would effectually have rendered defalcation impossible without necessitating any addition to his Staff. On the whole I deeply regret that, with every desire to take the most favourable view of his case, I am unable to acquit him of blame.

18. As stated in the Colonial Secretary's letter of 11th instant, it became my duty, after reading the Report of the Commission and the Evidence taken by them, to consider whether it was necessary in the public interest to interdict Mr. MITCHELL-INNES from the discharge of his duties as Treasurer. I decided that it was not necessary. He has had a sharp lesson, the Rent Rolls have now been balanced up to the end of 1892, and he is now exercising a proper supervision over his department and signing all receipts himself; and this being so, I did not consider that there was any such risk of further misappropriations as to necessitate his interdiction from duty during the time that must elapse before the settlement of his case. In the next place, I had to consider whether it was my duty to take steps under the Colonial Regulations with a view to his suspension from office. On that point I decided that it was not, but that it would be sufficient to lay the case fully before Your Lordship for your decision as to what course should be taken.

19. My reason for arriving at this conclusion was as follows:—On the one hand it is unfortunately beyond question that up to the time of the discovery of the defalcations he neglected to take ordinary precautions for the safeguarding of the Government moneys that reached his Office, and that the result of his neglect has been that a large sum of public money has been misappropriated. On the other hand it should be remembered that when he was appointed Treasurer he had had no previous experience of Treasury work; that the dangerous system of allowing the clerk who was in charge of the Rent Roll and prepared the receipts for payments of rent to sign the receipts (which largely contributed to the facilitation of the frauds) was established by his predecessor; and that he was burdened with an incompetent Staff whom he was reluctant, out of deference for their standing and length of service, to report to Government. In view of all the circumstances, including his letter of March 22nd, 1892, his case should in fairness be judged not by the

light of the obligations cast upon him by Financial Instruction No. 2, but by the light of the ordinary obligations that devolve *ipso facto* on a Treasurer, by reason of the nature of his office, in the absence of any special instructions. It should also, in my opinion, be judged on the basis of his having honestly, though mistakenly, entertained the view that he was not responsible for the safeguarding of Government moneys in his Office. Further it should be borne in mind that there has never been the faintest question of his personal integrity; and it is also to his credit that as soon as the defalcations had been discovered and he realised the result of his not exercising supervision over his department, he set vigorously to work and has since then done all in his power to repair his previous omission. Under these circumstances I consider that it would be harsh to ruin him by dismissal, and I shall be very glad if Your Lordship concurs in that opinion. As regards enforcing his pecuniary responsibility for the sum misappropriated during his tenure of office, that would involve a punishment little short of ruin. The amount is large, and his salary is small, unduly small, I may say, for an officer in his position, and for obvious reasons it is especially undesirable that a Treasurer should be crippled with debt and under heavy obligations to others for pecuniary assistance. On the whole, I would venture to suggest that if Your Lordship concurs in the view which I have taken, the best solution of the case would be to remit his pecuniary responsibility, and if possible, should the case appear to Your Lordship to warrant so severe a punishment, to provide him with suitable employment elsewhere.

20. In addition to the points I have already dealt with, the Commission refer in their Report to the Local Auditor and Mr. CARVALHO, the late Chief Clerk, as being to blame in connection with the defalcations, and they have been good enough to make certain suggestions with a view to preventing the recurrence of frauds in the Treasury. As the Local Auditor is not a servant of this Government, and as his case is in the hands of the head of his department, I have not thought it proper to call on him for any explanation, though I consider he is greatly to blame for not having reported to the Officer then administering the Government that he could not obtain the Rent Roll of 1890 from the Treasury with a view to its being balanced. As regards Mr. CARVALHO, I hardly think that there are sufficient grounds to warrant the reduction of the pension that was recently assigned to him on his retirement. In regard to the steps that should be taken to prevent the recurrence of frauds, I propose to address Your Lordship in a separate despatch. In the meanwhile, I may mention that I have provisionally instructed the Treasurer to post up notices in conspicuous places in the Treasury warning the public that money is to be paid to the Shroffs only, and that no receipt for money paid in is valid, unless it bears the signature of the Treasurer (or, in his absence, that of the Chief Clerk) and the stamp of the shroff; to sign every receipt himself except such as may be urgently required during his absence on duty from the Treasury, in which case the receipts may be signed by the Chief Clerk; to make it his first duty, on returning to the Treasury from absence on duty elsewhere, to examine the counterfoils of all receipts issued during his absence, and satisfy himself that the corresponding amounts have been duly entered in the appropriate daily collection books; to habitually take the precautions described at the end of the 14th paragraph of this despatch; and finally to give effect to the recommendations of the Commission with regard to the form of the Rent Roll and Assessed Taxes Roll, and the keeping of his books.

I have the honour to be,

My Lord,

Your Lordship's most obedient,

humble servant,

W. ROBINSON.

Enclosure No. 2.

(Colonial Secretary to Messrs. Mitchell-Innes, Wodehouse and May.)

COLONIAL SECRETARY'S OFFICE,
HONGKONG, 11th April, 1893.

SIR,

I am directed by the Governor to transmit confidentially, for your information, the enclosed copy of the Report of the Commission appointed to enquire into the defalcations in the Treasury, and to call upon you to shew cause why you should not be held pecuniarily responsible for the amounts shewn to have been misappropriated during your $\frac{\text{tenure}}{\text{acting tenure}}$ of the office of Treasurer.

Pending the trial of ALVES, and the presentation of the Report to the Legislative Council, I am to desire you to consider the Report as strictly confidential.

I have the honour to be,

Sir,

Your most obedient servant,

G. T. M. O'BRIEN,
Colonial Secretary.

The Honourable the COLONIAL TREASURER,

H. E. WODEHOUSE, Esq., C.M.G.

F. H. MAY, Esq.

(Mr. F. H. May to Colonial Secretary.)

POLICE DEPARTMENT,
CAPTAIN SUPERINTENDENT'S OFFICE,
HONGKONG, 20th April, 1893.

SIR,

I have the honour to acknowledge the receipt of your confidential letter of the 11th instant forwarding, for my information, a copy of the Report of the Commission appointed to enquire into the recently discovered defalcations in the Treasury, and calling upon me to shew cause why I should not be held pecuniarily responsible for the amounts misappropriated during my acting tenure of the office of Treasurer.

I find that the Commissioners state that they consider that I indirectly allowed the frauds to be committed because I did not carry out Mr. NICOLLE's requirement as to the balancing of the book. By the book is meant the Rent Roll of 1890, and the Commissioners state that they think I was mistaken in saying in my evidence that Mr. NICOLLE referred to the Rent Roll of 1891 when he drew my attention to the delay in balancing a Rent Roll.

I can only repeat that I understood the Local Auditor to refer to the 1891 Rent Roll.

I did my best to get ALVES to balance that book, and as I found on enquiry that the Rent Roll of a previous year had never been balanced till the very end, at the earliest, of the subsequent year, I thought that the delay, though extremely undesirable, was not of an extraordinarily serious nature.

Mr. NICOLLE appears to be as positive that he referred to the 1890 book as I am that he referred to the book of 1891. It is unfortunate that nothing passed between us on the subject in writing, and all I can say is that had I been aware that the 1890 book had not been balanced I should have used every endeavour to have such arrear wiped off.

It was, I submit, only natural that on taking over charge in March 1892, I took it for granted that the books prior to 1891 had all been closed.

I have the honour to be,

Sir,

Your most obedient servant,

F. H. MAY,

Acting Captain Superintendent of Police.

The Honourable G. T. M. O'BRIEN, C.M.G.,

Colonial Secretary,

&c., &c., &c.

(Colonial Secretary to Mr. F. H. May.)

COLONIAL SECRETARY'S OFFICE,

HONGKONG, 21st April, 1893.

SIR,

I am directed to acknowledge the receipt of your letter of 20th instant, and to point out that it affords no reply to my letter of 11th instant calling on you to shew cause why you should not be held pecuniarily responsible for the amount of Government money misappropriated in the Treasury during your tenure of office as acting Treasurer.

Your letter under acknowledgment explains why you did not get a certain book balanced which, if balanced, would have revealed defalcations committed prior to your taking charge of the Treasury, but it is silent as to the defalcations which occurred while you were in charge.

It is the primary duty of a Treasurer to see that Government moneys which reach the Treasury are all duly credited to Government, and not stolen in his Office, and I am accordingly to request you to explain why you failed in this duty, and what steps you took with a view to discharging it.

His Excellency desires that your answer to this letter may be returned with such despatch as may be compatible with your careful consideration of the matter.

I have the honour to be,

Sir,

Your most obedient servant,

G. T. M. O'BRIEN,

Colonial Secretary.

F. H. MAY, Esq.

(Mr. F. H. May to Colonial Secretary.)

POLICE DEPARTMENT,

CAPTAIN SUPERINTENDENT'S OFFICE,

HONGKONG, 22nd April, 1893.

SIR,

I have the honour to acknowledge the receipt of your letter of the 21st instant and to point out to you that in my letter of the 20th instant I advanced the reason for which I consider that I should not be held pecuniarily responsible for the only neglect of which the Commission of Experts appointed by the Governor to inquire into, and advise him as to, the Treasury Defalcations have pronounced me guilty.

In your letter under acknowledgment you state as your opinion that it was my primary duty as Treasurer "to see that Government moneys which reached the Treasury were all duly credited to Government and not stolen in my Office," and you request me to explain why I failed in this duty and what steps I took with a view to discharging it.

In reply I beg to state that I did fulfil my duty as Treasurer in seeing that the amounts which reached the *Treasury* were credited to Government, and in support of my statement I beg to remind you that the payments on behalf of Crown rent which reached the Cashier were correctly entered in the collection books of both ALVES and the responsible shroff and were duly paid into the Bank, a fact of which I satisfied myself by comparing the monthly collectors account with the Bank receipts.

It is true that a comparison of each counterfoil receipt made by ALVES with the Rent Roll would have shewn discrepancies ; but I did not, when at the Treasury, and do not now consider that in view of the Treasurer's letter of 22nd March, 1892, such detailed comparison could fairly be considered as part of my duties.

The sums stolen by ALVES never reached the *Treasury*. They were improperly paid by the Public to him personally in his private room without my knowledge, and I fail to see how they can be said to have reached the Treasury or how I can be held responsible for them any more than if they had been paid to ALVES at his private residence.

I have the honour to be,

Sir,

Your most obedient servant,

F. H. MAY.

The Honourable G. T. M. O'BRIEN, C.M.G.,

Colonial Secretary,

&c.,

&c.,

&c.

(*Mr. H. E. Wodehouse to Colonial Secretary.*)

HONGKONG, 20th April, 1893.

SIR,

I have the honour to acknowledge the receipt of your confidential letter of the 11th instant, and to make the following observations on the report of the Commission appointed to enquire into various matters connected with the defalcations by ALVES.

2. I desire to respectfully submit that the observations of the Commission, so far as they relate to me, are not fair, and that they are not supported by the evidence.

3. In the first place, I am extremely doubtful whether in my time it was the duty of the Treasury to balance the Rent Roll other than by adding it up and totalling it, and my strong recollection is that this duty devolved upon the Audit Office and not upon the Treasury.

4. I took over the Treasury as an acting appointment from Mr. LISTER who for many years had held the permanent post, and who was a businesslike and a painstaking officer and thoroughly acquainted with the duties of the office. In explaining the duties to me he never once mentioned the matter of balancing the books as a part of those duties. Mr. CARVALHO, the permanent chief subordinate officer of the department, who gave me every assistance in mastering the details of the Office never alluded to this duty. He says himself, in his evidence, that it was the duty of the Auditor to balance the Rent Roll, and my recollection of what went on in my time is entirely confirmatory of this statement.

5. Moreover, had it been the Treasurer's duty to carry out this work, Mr. LISTER on his return would have seen that it had not been done and would have rectified the omission, and when I again resumed the office six months later would have drawn my attention to the matter.

6. Nothing of the kind, however, occurred. I expressly asked him if he was satisfied with the way in which the Office had been conducted in his absence, and he stated that he was, and did not make a single suggestion of alteration in any respect.

7. It is significant again as corroboratory of this impression, that the only signatures to the balancing of the Rent Roll are those of the Auditor General and his assistant, and that the signature of the Treasurer does not appear.

8. In other years prior to 1887 the signature of the Treasurer appears at the end of the Rent Roll undated, and in another part of the page is the signature of the Auditor General or his Assistant dated with the words "Examined and found correct." The figures are in the handwriting of ALVES, and the inference I shall draw from this would be that while the Treasury prepared the books for examination it was the Audit Office that did the balancing, and in fact that such examination was the balancing.

9. Even the Commission do not distinguish the two when bringing their charges of neglect against the Treasurer. They refer to the late dates at which the Treasurer balanced the Rent Rolls and give various dates in different years as illustrating the delay. But the dates which they give are the dates of the Audit examination and not of Treasury balancing which may have been done at any time previous to the examination, and if there was a separate balancing by the Treasurer, they show only the delay in the Audit Office, as there are no dates to show when the Treasury balance was made.

10. Moreover, as bearing out what I say about the balancing, it is very significant that the Treasury Ledger was posted by the Audit Office in a building remote from the Treasury, and a copy only of it kept in the Treasury, seeming to point to the idea that it was desired not to leave in the hands of the Treasury the manipulation of its own books, but to obtain an independent check such as would be afforded by an examination of the results arrived at by a Rent Roll addition on the part of the Treasury and a Ledger addition on the part of the Audit Office.

11. This is conjecture only and in the absence of a detailed enquiry, I am unable at this distance of time to make a positive assertion; but I think I have a right to complain that without making any enquiry into the system in force in my time, without any knowledge as to how the frauds were committed, and without any reference to the Rent Rolls which are both missing, the Commission should commit themselves to a definite accusation of this kind in a report which purports to be the outcome of a full and complete enquiry, nor do I think it is fair to emphasize that neglect by referring to instructions which did not come into force until after I had ceased to be Treasurer. They even, moreover, throw in the year 1887, the Rent Roll of which it is proved was balanced and found correct, and which cannot therefore have assisted the frauds.

12. Without therefore denying that I may have been negligent in respect of the years mentioned, I must decline in the existing state of the evidence to accept the charge, and I think that His Excellency the Governor will agree with me that before it can be endorsed I am entitled to a further enquiry.

13. Then, again, assuming for the moment that I have been negligent with respect to the Rent Rolls of 1887, 1888 and 1889, I submit that it is not reasonable to single me out as responsible for the non-balancing of the Rent Roll for the years 1887, 1888 and 1889 when by the practice prevailing for years past, such balancing would have fallen to my successors and not to me.

14. I commenced to be Treasurer in the middle of June 1888, and ceased to be Treasurer in the middle of January 1890, and therefore by the standard set up by the Commission neither the balancing of 1887 nor that of 1889 would have fallen to me, and setting this aside generally the duty being a continuing duty if not done by me would fall with cumulative obligation on my successors who nevertheless are not mentioned in connection with these years. I should certainly have thought that before the balancing of a later year was taken in hand that of a previous year would be first taken in hand, and in fact that the arrears should be brought up to time.

15. The Commission, however, appear to deal with each year as a complete cycle, and if one year was not completed to pass on to the next and ascertain whether that was completed. In this way I am made to be responsible for three years, while the other Treasurers who succeeded me are only made responsible for one year.

16. In paragraph 29 of their Report the Commission say that the defalcations commenced in my time and might have been detected by some vigilance on my part.

17. I have the honour to enquire how it is known that the defalcations commenced in my time. I have looked through the Evidence, and so far as I can see the whole of the defalcations put down to 1888 and 1889 may, for all that is shown to the contrary, have taken place in the first half of 1888 when I was not Treasurer, and under any circumstances I should think that it is very improbable that all the defalcations, that occurred in 1888, occurred in the last six months only of that year.

18. How, moreover, can it be asserted that with some vigilance I might have detected them. It is not even known in what way they were committed, and Mr. NICOLLE himself says that if they were done in the way that he suggests as most likely by the issue of false receipts, neither the Treasury nor the Audit Office could have detected them until the books came to be examined.

19. It must be remembered that I was a temporary officer with other duties that kept me away from the Treasury during the greater part of the day, and if therefore the frauds going on continuously for five years have eluded the vigilance of the Audit Office, the sole *raison d'être* of whose existence is the prevention of such occurrences, and have also eluded the observations of my successors who no longer labour under the disadvantage of combining Treasury work with other duties, I fail to see on what grounds the Commission assert that I might have detected them with some vigilance.

20. Where I do see that they might rightly have made remark is on Mr. FREIRE'S evidence.

21. In the absence of the Rent Rolls and Counterfoil books and other records it is difficult to hazard any opinion, but I must say that I think great weight attaches to Mr. FREIRE'S admissions that he did not examine the Rent Roll for 1888 nor that for 1889, that it was his duty to have done so, and that he made no complaint to me as to any difficulty he encountered in obtaining the books. In these admissions appears to me to be contained the key to the whole situation, and had he either made the examinations as he reports was his duty or reported his inability to do so, if unable to obtain the books, I do not see why these frauds should not have been discovered at an earlier date. It is impossible now to round upon the Treasury and to say that he did not report that the books were not written up because he thought that the Treasurer knew of it. Such explanations, I submit, are no longer admissible so far as they bear on the proper share of blame to be attached to particular individuals, and the time for making them has passed, and I submit that the Commission would have been more just in making particular note of this evidence than in passing it over without comment and asserting only that I could have discovered the frauds by the exercise of some vigilance.

22. It must be remembered, finally, in this connection that every month was submitted to the Audit Office the Collector's account showing the whole of the Treasury receipts and disbursements, and that these were continuously audited and were invariably signed "examined and found correct" together with the date of examinations.

23. Considering therefore that in those days the Treasurer was for the most part an absentee Officer, that his Officers were tried and valued servants, that there were no *a priori* grounds for suspecting dishonesty, and that there was no departmental machinery for the purpose of checking frauds other than what the system in force supplied, I do not think that it is surprising that their commission escaped detection, especially when it was not the duty of the Treasurer then, as it has been since, to provide his own checks independently of the Audit.

24. In the absence therefore of the books, and in the want of direct evidence to show in what way the frauds were committed and in the light of the failure of every one else to detect them, including Mr. LISTER, I submit that there is no sufficient ground for alleging that with some vigilance I could have detected them.

25. With regard to the other allegations made by the Commission regarding me, I do not admit, as stated in paragraph 27, that balancing the books is the only check. I should say that its value as a check depended upon circumstances, and

that if done by the clerk who is desirous of defrauding, as would have been the case in the instance of the Rent Roll, its value would be rather problematical. To make it of value it ought to be accompanied with an independent examination, and as such only do I consider that it would be valuable as a check.

26. I entirely deny that I did not furnish the Audit with the necessary books, and I certainly furnished them with all that they required. I do not admit that I did not see that no arrears of rent were being allowed to accumulate, and I state in my evidence that I constantly examined the books for the special purpose of guarding against this contingency. Further, I did not accept ALVES'S excuse that he had too much work, and I expressly state in my evidence, that I had no recollection of his making such excuse; and lastly, I did not repose unlimited confidence in ALVES, whom nevertheless I knew to be an old and valued servant of the Government of unblemished repute and tried integrity.

27. I have now, I think, gone over the whole of the ground traversed by the Commission in their report so far as it affects myself, and I have the honour to submit that the lines upon which the enquiry has been conceived and carried out, and the loose fragmentary character of the evidence, afford no proper basis upon which either to formulate charges of neglect or to deduce from them pecuniary responsibility. In many respects the findings of the Commission are actually opposed to the evidence and where they are not so the evidence is too inconclusive to justify their endorsement. In the present stage of the proceedings, therefore, I disclaim any blame for what has occurred and I desire further enquiry before judgment is given.

28. I have the honour to request that my letter may be published concurrently with the report of the Commission, and I desire to thank His Excellency the Governor for the opportunity which he has given me of meeting their charges.

I have the honour to be,

Sir,

Your most obedient Servant,

H. E. WODEHOUSE.

The Honourable G. T. M. O'BRIEN, C.M.G.,
Colonial Secretary.

(*Colonial Secretary to Mr. H. E. Wodehouse.*)

COLONIAL SECRETARY'S OFFICE,
HONGKONG, 24th April, 1893.

SIR,

I am directed to acknowledge the receipt of your letter of 20th instant (received on the afternoon of 21st instant) and to point out that, except in so far as it urges that while you were in temporary charge of the Treasury the greater part of your time was occupied in the duties of your other and substantive appointment, it affords no reply to my letter of 11th instant calling on you to show cause why you should not be held pecuniarily responsible for the amount of Government money misappropriated in the Treasury during your tenures of office as Acting Treasurer.

2. In your letter under acknowledgment you point out the difficulty of stating with precision, in the absence of certain books, the exact amounts misappropriated during each of the broken portions of the years in which you acted as Treasurer; and you also argue at length the unfairness of a finding of the Commission in regard to your not having had a certain book balanced. For the reasons stated in the next paragraph the Governor does not think it necessary at present to enter into a discussion of these points.

3. The question whether you should be held pecuniarily responsible for the amount of certain defalcations, or relieved of such responsibility, is quite distinct from the precise ascertainment of that amount; neither does it in any way depend on any finding of the Commission other than that which establishes the fact that Government money was misappropriated in the Treasury while you were acting as Treasurer.

4. The obvious and primary duty of a Treasurer is to see that all Government moneys which reach the Treasury are duly credited to Government, and not stolen in his Office; and the fact of Government moneys having been stolen in the Treasury while you were in charge of it having been established beyond room for question, it remains for you to explain why you failed in this primary duty, and what steps you took with a view to discharging it.

5. His Excellency desires that your answer to this letter may be returned with such despatch as may be compatible with your careful consideration of the matter.

I have the honour to be,

Sir,

Your most obedient servant,

G. T. M. O'BRIEN,
Colonial Secretary.

H. E. WODEHOUSE, Esquire, C.M.G.

(*Mr. H. E. Wodehouse to Colonial Secretary.*)

HONGKONG, 24th April, 1893.

SIR,

I have the honour to acknowledge the receipt of your confidential letter of the 24th instant, and to report that in writing my letter of the 20th instant, I was under the impression that I had dealt fully with the question put before me in your previous letter.

Admitting for the moment that the abstract question of my pecuniary responsibility for defalcations occurring in my time is answered against me, I have the honour to enquire on what evidence the Government relies as establishing beyond question that moneys were stolen from the Treasury while I was in charge, and what amounts it is considered were so stolen.

I ask this not for the purpose of evading the question of my pecuniary responsibility but for the purpose of meeting it. I should also like to know in what way it is considered that the frauds were committed.

If the mere fact of being head of the Department at the time when the frauds were committed entails pecuniary responsibility to the amount of such frauds, I can only admit that I was Treasurer from June 1888 to January 1890, and for the last few months of 1890. If, however, I can be relieved of such responsibility by showing that I exercised the ordinary prudence that could be expected from one in my position, it is material that I should know how the frauds are considered to have been committed.

I have the honour to be,

Sir,

Your most obedient servant,

H. E. WODEHOUSE.

The Honourable G. T. M. O'BRIEN, C.M.G.,

Colonial Secretary.

(*Mr. N. G. Mitchell-Innes to Colonial Secretary.*)

TREASURY, 22nd April, 1893.

SIR,

I have the honour to acknowledge receipt of your letter—Confidential of 11th instant—transmitting a copy of the Report of the Treasury Commission, and calling upon me to shew cause why I should not be held pecuniarily responsible for the amounts shewn to have been misappropriated during my tenure of the office of Treasurer.

2. I find that the Commission appointed for the purpose, *inter alia*, of reporting to what extent, if any, I was to blame with regard to the Treasury defalcations, consider that I am to blame for not having had the 1890 Rent Roll promptly balanced.

3. While deeply regretting that my failure to appreciate, on taking up office, the importance of having my predecessor's Rent Roll promptly balanced should have resulted in unduly delaying the discovery of the existence of defalcations, I would beg to call attention to the fact—that 1891 was a very busy year, there being constant meetings of Executive and Legislative Council, that my time was much taken up with the transfer of the Opium Farm and the framing of new Opium Ordinances, that every item of Treasury work was a complete novelty to me, that when the Local Auditor drew my attention to the fact that the 1890 Rent Roll had not been balanced I endeavoured to get it made up, but that, as I did not understand that he was unable to audit the accounts properly without it (as a matter of fact the correctness of the 1890 accounts was certified to by the Comptroller and Auditor General last year), I did not insist in the face of ALVES' plea of overwork, on its being at once balanced, that, to the best of my belief, no further reference was made to the matter up to the time of my going on leave when the balancing was 15 months in arrear (which, as shewn in the Report of the Commission, was no extraordinary thing in the annals of the Treasury), and that my *locum tenens* is positive that the fact of its not being balanced was not brought to his notice while acting for me, though the fact of the 1891 Roll not being balanced was.

I have the honour to be,

Sir,

Your obedient servant,

N. G. MITCHELL-INNES,

Treasurer.

The Honourable G. T. M. O'BRIEN, C.M.G.,
Colonial Secretary,

&c., &c., &c.

Enclosure No. 3.

(Colonial Secretary to Mr. N. G. Mitchell-Innes.)

COLONIAL SECRETARY'S OFFICE,
HONGKONG, 11th April, 1893.

SIR,

I am directed to inform you that the Governor has perused the Report of the Commission appointed to enquire into the Treasury defalcations, copy of which has been forwarded to you with my letter of even date, with extreme regret.

2. From the Report and the Evidence attached to it, His Excellency is unable to avoid the conclusion that you have continuously neglected the duties of your office. Quite irrespective of any obligations cast upon you by the Financial Instructions, it was your elementary duty as Treasurer not only to see that the revenue was promptly collected, but to see that when it reached your Office it was all immediately placed to the credit of the Government. This is, in fact, the primary duty of all Treasurers, and it was obviously the primary duty of the office to which you were appointed at the beginning of 1891, and for which you have since been drawing your salary. But the Governor, to his great surprise and regret, learns from the Report of the Commission, and the Evidence recorded by them, that so far as at present appears neither by checking your books, nor in any other way that could be discovered by the Commission, have you taken any steps to fulfil your duty of ensuring that the revenue which reached your Office was all placed to the credit of the Government. His Excellency further learns that the result of this neglect of duty on your part has been that misappropriations of public moneys in the Treasury, which commenced before you assumed charge, remained undetected for years, and continued on a large scale during your tenure of office.

3. In these circumstances it has been His Excellency's painful duty to consider whether it was necessary in the public interest to interdict you from office pending the enquiry into and settlement of your case. His Excellency has decided that it is not necessary. In view of the books having now been brought up to date, and

of other circumstances, His Excellency is satisfied that there is no such risk of further misappropriations of public moneys in the Treasury, during the time that will be required for enquiring into and settling your case, as to necessitate your interdiction from office.

4. The Governor has next considered whether steps should be taken under the Colonial Regulations with a view to your suspension from office. On this point His Excellency has decided to lay the matter before the Secretary of State, and I am to request you to be so good as to furnish me at your early convenience with any explanation or statement that you may wish to be considered by the Secretary of State. The nature and bearing of the case, so far as it affects you, are sufficiently indicated in the Report of the Commission, and the Evidence attached to it, and the second paragraph of this letter; but I may briefly summarise them by stating that what requires explanation on your part is your failure to discharge the ordinary and primary duty of your office as Treasurer in taking steps to secure the immediate placing to the credit of the Government of all the Government moneys that reached your Office.

I have the honour to be,

Sir,

Your most obedient servant,

G. T. M. O'BRIEN,
Colonial Secretary.

The Honourable N. G. MITCHELL-INNES,
Colonial Treasurer,
&c., &c., &c.

(*Mr. N. G. Mitchell-Innes to Colonial Secretary.*)

TREASURY,
22nd April, 1893.

SIR,

I have the honour to acknowledge receipt of your letter—Confidential of 11th instant—stating that His Excellency learns from the Report of the Commission on the Treasury and the Evidence recorded by them that, owing to neglect of duty on my part in not ensuring that the revenue which reached my Office was all placed to credit of Government, misappropriation of public moneys in the Treasury continued on a large scale during my tenure of office.

2. All moneys shewn in the daily collection book as received for Crown rent have, as a matter of fact, been placed to credit of Government, and the only means (other than the balancing of the Rent Roll) by which I could (as now appears) have discovered that these moneys did not represent the full amount actually paid in, was by checking each receipt into the Rent Roll. Apart from the fact that such checking of receipts has always been regarded as the duty of the Auditor and not of the Treasurer, reference to my letter No. 12 of 22nd March, 1892, (C. S. O. 728/92) will shew that more than a year ago I clearly stated what work the Treasury was actually performing, and pointed out that the systematic checking of receipts could not be properly performed by the Treasury with the existing Staff. To that position no exception has, so far as I am aware, been since taken.

3. I am therefore unable to concur in the statement that the misappropriation of public funds has been due to neglect on my part in this particular, nor, I may observe, has the Commission reported that such is the case except as connected with the non-balancing of the 1890 Rent Roll.

4. For my failure to appreciate on taking up office the necessity of having my predecessor's Rent Roll promptly balanced, and for the deplorable results of such failure, I beg to express again to His Excellency, as I have expressed before, my most sincere regret.

I have the honour to be,

Sir,

Your obedient servant,

N. G. MITCHELL-INNES,
Treasurer.

The Honourable G. T. M. O'BRIEN, C.M.G.,
Colonial Secretary,
&c., &c., &c.

(*Mr. N. G. Mitchell-Innes to Colonial Secretary.*)

TREASURY,
22nd April, 1893.

SIR,

With reference to the Report of the Treasury Commission I have the honour to enclose a statement to be laid before His Excellency the Governor. I shall be obliged by your informing him that I should esteem it a favour if he would kindly forward it to the Secretary of State when sending home the Report.

I have the honour to be,

Sir,

Your obedient servant,

N. G. MITCHELL-INNES,
Treasurer.

The Honourable G. T. M. O'BRIEN, C.M.G.,
Colonial Secretary,
&c., &c., &c.

*Statement of the Treasurer (N. G. Mitchell-Innes) with reference to the
Report of the Treasury Commission.*

22nd April, 1893.

On taking over the Treasury at the beginning of 1891, I found the Department in a state of perplexity as to its duties. In former years the Treasury had collected revenue and disbursed expenditure, looking to the Audit Office for the detection of errors on both sides. In charge of the various collections were trusted clerks of from 24 to 35 years' service to whom any change in the recognised practice was, naturally, distasteful, and to whom therefore it was in vain for the new Treasurer to look for assistance in introducing new methods.

2. Much difficulty was experienced by me in my endeavours to ascertain to what extent it was intended that the existing system should be modified.

3. In advocating the introduction of a home Audit the Secretary of State had drawn attention to the fact that the Colony would thereby be relieved of all audit work and would have the advantage of having in its midst a trained Auditor devoting his entire time to the checking of receipts.

4. At the same time the new Financial Instructions appeared to lay it down as an axiom that the Treasurer was to place no reliance on the Auditor, but to maintain his own checks and examination as though no such officer existed.

5. In my letter No. 12 of 22nd March, 1892, I clearly pointed out the difficulty in which I found myself. I stated that without an increased Staff it was impossible for me to maintain an efficient check on revenue, and I explained that the practice existing in the Treasury was to check expenditure and conduct occasional surprise visits to other departments, but to look to the Local Auditor to check revenue.

6. This explanation was, I believe, sent to the Secretary of State, as I was, while on leave, questioned on the subject. The reply I then gave was that, in view of the work actually being performed by the Local Auditor, I considered the practice I had described as existing as sufficient for practical purposes. As I have heard nothing further on the subject, I have understood that my views were agreed in.

7. I am still prepared to maintain that they were correct, the recent defalcations having been rendered practicable only by the examination of counterfoils by the Auditor having been a "test" instead of a perfect one, and their continuance having been permitted by the failure of successive Treasurers to promptly submit the Crown Rent Rolls for audit.

8. It is for this failure as regarded the 1890 Rent Roll that the Commission has found me to blame.

9. His Excellency is already aware that, regarding the arrear as I unfortunately did, as of a clerical nature only, I allowed myself to be imposed upon by ALVES' plea of overwork, and did not insist, as I should have done, on the book being promptly balanced and submitted for audit. I have elsewhere expressed my deep regret that, by my failure to appreciate the importance of this necessary check, the discovery of the existence of defalcations was unduly delayed.

10. As regards the receipt of Crown Rents by ALVES (the other point on which the Commission consider me to blame) I still maintain that it was perfectly possible for him to take payment repeatedly without my detecting it. Occupying a room by himself as he did, he was only occasionally under my observation, and, even had I detected him in the act of receiving money, I might well have imagined that it was a private payment from some of the tenants of his own houses.

11. With reference to my letter of 22nd March, 1892, it might perhaps have been urged that, as the Treasurer has now only Treasury duties to attend to, he ought to have sufficient time at his disposal to enable him to check revenue, at any rate to a considerable extent, irrespective of whether the same work is being also performed by the Local Auditor or not.

12. I am unable to say with what expenditure of time over their duties former Treasurers were satisfied, but, (apart altogether from the question of the utility of performing the same work twice over) I can unhesitatingly assert that, now that the requirements of Somerset House have to be complied with, and that, owing to the withdrawal of the Audit Office and subsequently the Reference Clerk from the Colonial Secretary's Office, every document connected in any way with finance is now sent to the Treasurer for his consideration, I find, so far, that the work proper of the Treasurer takes longer than that of the Superintendent of the Gaol, the Police Magistrate, or the Registrar General (as all of which I have served,) while my late locum tenens assures me that he found it much more arduous than that of the post he at present occupies—Captain Superintendent of Police.

N. G. MITCHELL-INNES,
Treasurer.

(Secretary of State to Governor.)

HONG KONG.

DOWNING STREET,
26 July, 1893.

SIR,

I have given very careful consideration to your Confidential despatch of the 26th of April last reporting upon the serious defalcations which have occurred in the Hong Kong Treasury, and enclosing copies of the Report of the Commissioners appointed to inquire into the matter, and of correspondence with Public Officers arising out of that Report.

2. It appears from these papers that ALVES, the late first Clerk in the Treasury, embezzled in the course of the five years, 1888 to 1892, nearly \$63,000 of public money, and the circumstances which enabled him to do this are very clearly explained by the Commissioners, to whom the Colonial Government is indebted for a very careful and clear Report. I concur in their conclusions as to the persons who, by neglect or omission of duty, allowed the frauds to be committed. Omitting the names of minor delinquents, the officers chiefly to blame were:—

- (i) The late Mr. LISTER, for authorizing ALVES to sign receipts, for engaging a Shroff, who could not read English, and for failing to cause the Rent Roll to be made up at the proper time, although this omission was brought to his notice by an Audit clerk.

- (ii) Mr. WODEHOUSE, sometime Acting Treasurer, for neglect in not causing the Rent Rolls of 1887, 1888 and 1889 to be made up at the proper time.
- (iii) Mr. MAY, who acted for a short time as Treasurer, for similar neglect, to which his attention was drawn by the Auditor, Mr. NICOLLE.
- (iv) Mr. MITCHELL-INNES, for not causing the Rent Rolls to be made up although his attention was similarly called to the matter by Mr. NICOLLE; for failing to make himself acquainted with the manner in which public business was being conducted in his Department, and for misreading and not enforcing the Instructions laid down for the conduct of business in his Office.
- (v) Mr. NICOLLE, for not reporting in writing to the Government the neglect of duty on the part of the Treasurer and Acting Treasurer, which prevented him from duly discharging his duties as Auditor.

3. The officer to whom the heaviest amount of blame must be attributed is unquestionably Mr. MITCHELL-INNES; and I regret to observe that he has not improved his position by the tone and temper of his defence. He, no doubt, misapprehended the relative duties of a Treasurer and an Auditor; but in considering the weight to be attached to this excuse, it must be borne in mind that, upon his appointment as Treasurer, he received special instruction as to the responsibilities and duties of his office, namely those conveyed in my predecessor's despatch No. 194 of the 11th of September, 1890; and also that in the same year Financial Instructions for Hong Kong were drawn up, which, if they had been followed with even ordinary intelligence, would have prevented the later defalcations, or at least have led to their earlier detection. Although Mr. MITCHELL-INNES had, prior to being appointed Treasurer, no special financial experience, an officer of his standing and experience must be taken to have been well aware that it is a Treasurer's duty to close and balance his books at the end of the year, and that it is the duty of every head of a department to be thoroughly acquainted with the manner in which the business of his Office is conducted, and to satisfy himself by constant personal investigation that his Staff conform in all respects to the rules and regulations. Further, it might have been expected that a gentleman who after a comparatively short service had been promoted to a new and important position, would have sought to justify the exceptional confidence reposed in him by setting himself to master and improve the administration of his Department, instead of acquiescing in arrangements made by his predecessors, which, as it happens, have proved to be defective, and assuming that those arrangements were being faithfully observed by his staff.

5. As to the action to be taken in the case, I have to observe that whilst I consider that it would be harsh to require Mr. MITCHELL-INNES to make good to the Colonial Government the full amount of the defalcation which occurred during his control of the Treasury, I must mark my sense of his shortcomings, by directing that, as a condition of his remaining in the public service, he be required to pay into the Colonial Treasury a fine of \$1,000 which may, if he prefers it, be paid in such instalments as you may think reasonable. It will also be your duty to convey to him a severe censure from me on his shortcomings in the conduct of his Department and his neglect to comply with the requirements of the Auditor.

6. Further, as he has not justified his selection for the headship of a department in Hong Kong, it will be necessary for me to arrange, if possible, for his transfer to another Colony. But such transfer will not mean a promotion, but I trust that elsewhere and in the discharge of different duties he will gain the confidence of the Government under which he serves, and thus possibly build up a claim to promotion hereafter.

7. Mr. WODEHOUSE and Mr. MAY must also be censured, but less severely for their respective shares in the responsibility for what happened. I am glad, however, to add that I regard the blame which attaches to Mr. MAY as comparatively slight, and I recognise that he showed zeal and capacity in other respects during his short tenure of the office of Treasurer.

8. As regards Mr. NICOLLE's share in the matter, I shall not anticipate the judgment of the Comptroller and Auditor General. It must, however, be recognised that his position was a difficult one, and that as a new comer to the Colony, called upon to introduce and carry out a system to which there was strong local hostility, it was intelligible that he should have shrunk from what might seem to others a needlessly rigid interpretation of his duties; and, after all, it was to him that the discovery of the frauds was ultimately due.

9. I presume that ALVES' security bond has been enforced so as to recover a portion of the amount embezzled by him, and I take the opportunity of asking whether this course was actually taken in the BARRADAS case, in accordance with paragraph 11 of my predecessor's despatch No. 194 of the 11th of September, 1890.

10. I have observed with some surprise the confusion of mind exhibited by Mr. MITCHELL-INNES and others as to the relative responsibilities of accounting and auditing officers. Mr. MITCHELL-INNES, for instance, showed a disposition to advance a theory that it is not the duty of the Treasurer but the duty of the Auditor alone to see that the Government is not defrauded of Revenue. The proper view of the responsibilities of a Treasurer was set forth more than once, viz.: (1) in Lord KNUTSFORD's despatch of the 11th of September, 1890 to which references has just been made, (2) in the Financial Instructions, and (3) quite recently in my despatch No. 70 of the 21st of April last.

I trust that it has now been made perfectly clear to the public service of Hongkong that the Audit of Revenue by the Local Auditor is intended, not to relieve the Treasurer of responsibility, but to secure the performance of his duty, that the Treasurer is responsible for the collection, receipt and safe keeping of Government money, that, if the Auditor finds that the Revenue is being defrauded by the public, it is *prima facie* evidence of neglect or laxity of duty on the part of the Treasurer, and that if the Treasury Staff ignore financial regulations and embezzle public funds, in course either of receipt or of payment, it is the Treasurer who will, unless in exceptional circumstances, be held pecuniarily responsible for the accruing loss.

11. I observe that it is stated in these papers that there is great pressure on the Treasury during the first few days after the dates at which rents or taxes become due. I would suggest that it might be possible to classify the persons liable to pay rents and taxes, and to arrange with them that they should make their payments at the Treasury during particular weeks or on particular days, within a certain limit of time after the date at which the payments fall legally due. Under present circumstances, these taxes cannot be fully collected in a shorter time than three months, and the Government would not, therefore, as far as I can judge, be seriously damnified by the proposed arrangement, which would have the advantage of obviating the pressure complained of.

12. It seems to me doubtful whether the Shroffs at the Treasury, who receive public money, should be allowed to use private chops for stamping the receipts which are given to the public, and I should be glad to know whether chops could not be provided for them bearing, in addition to their own personal device, the Royal Crown or some suitable public emblem. A die-sinker would presumably hesitate to execute such a chop if asked to do so by a private person, as the presumption would at once arise that he desired to possess himself of a forged chop.

13. It occurs to me, further, that if the Receipts for Crown Rents and their counterfoils are, as no doubt they are, numbered, and if, when a rent is recorded as paid in the Rent Roll the number of the Receipt were entered in that record, the Auditor, would have no difficulty in detecting any case in which a payment there recorded as made had no tally among the counterfoils or in the Cash Book.

14. In conclusion I note that it would seem from the evidence taken by the Commissioners that ALVES' dishonesty was traceable to building speculations on his part, and that these speculations were more or less matter of notoriety. I trust that the rules which were enclosed in your despatch No. 292 of the 12th October last are being rigidly carried out, for it cannot be too soon understood in the Government service that jobbing and speculation in real property will be assumed to be incompatible with honest and honourable discharge of public duties.

15. I am not aware that there is any particular reason why this despatch and the despatch to which it is an answer should be kept confidential but leave the matter to your discretion.

I have the honour to be,

Sir,

Your most obedient,
humble servant,

RIPON.

Governor

Sir W. ROBINSON, K.C.M.G.,

&c.,

&c.,

&c.

(Governor to Secretary of State.)

No. 175.

GOVERNMENT HOUSE,
HONGKONG, 2nd September, 1893.

MY LORD MARQUESS,

I have already communicated to Your Lordship the reply of Mr. MITCHELL-INNES, the Colonial Treasurer, to the letter which I addressed to him in pursuance of the instructions conveyed in Your Lordship's despatch of 26th July last; and I have now the honour to report that the intimations directed in the same despatch have been conveyed to Messrs. WODEHOUSE and MAY.

2. In reply to the ninth paragraph of Your Lordship's despatch, I have to state that ALVES gave no security, as in the proper discharge of his duties he had nothing whatever to do with the receipt or custody of money. BARRADAS, late of Post Office, Hongkong, gave security to the amount of \$5,000; steps were taken to put his bond in suit, and on the Attorney General's advice a tender of \$2,500, by way of satisfaction of the claim against his surety arising on the bond, was accepted by my predecessor. It is doubtful whether, if the case had proceeded to trial, the Government would have recovered anything.

3. The suggestions made in the 11th, 12th, and 13th paragraphs of Your Lordship's despatch will receive careful consideration.

4. The rules referred to in the 14th paragraph will be strictly carried out. I recently declined to sanction an application made by a subordinate officer for the conversion of a farm lease held by him into a building lease with a view to the establishment of a factory on the land.

I have the honour to be,

My Lord,

Your Lordship's most obedient

humble servant,

W. ROBINSON.

The Right Honourable

THE MARQUESS OF RIPON,

Her Majesty's Principal Secretary of State for the Colonies,

&c.,

&c.,

&c.