
Opinion: No. 233

Subject: *CUSTOMS DUTY*
WHETHER PROPER TO PAY DEPOSIT FOR DISPUTED DUTY INTO REVENUE

Author: ISAACS Isaac Alfred

Key Legislation: *AUDIT ACT 1901, s. 29 : CUSTOMS ACT 1901, s. 167*

Date: 15 February 1906

Client: *The Treasurer*

Related Opinion: --

Opinion text: The Treasurer asks to be advised whether it would be legal to credit in the first instance to revenue deposits made under section 167 of the Customs Act 1901, with a view to refunding them afterwards if necessary-the amount of such refunds to be voted (see Attorney-General's opinion dated 3 November 1902⁽¹⁾).

I understand that at present the deposits are held for three months by the Collector in his Trust Account; are then, in accord with section 29 of the Audit Act, paid into the Trust Fund-and are ultimately then refunded or paid into revenue as the case may be.

Section 167 provides for the deposit of the money with the Collector, and imposes an obligation on the Collector, in certain events, to refund the money with interest.

In my opinion the money is not revenue until the liability to refund is at an end, and until then it would not be legal to pay it into revenue-which would necessitate a Parliamentary appropriation before payment could be made.

[Vol. 5, p. 173]

⁽¹⁾ Opinion No.105.

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