certificate of the Registrar of the Supreme Court should be given before any costs were paid. The change was, to my mind, disadvantageous to estates, because, in effect, it prevented my making arrangements for reduction with the solicitors. That went on until one of the Registrars declined to certify upon my request, saying that it was no part of his duty to do so. The matter then came definitely before Ministers, and it was decided that the Solicitor in the Public Trust Office might certify to bills of costs, in lieu of Registrars. After this had been in vogue for some time the Auditor-General was of opinion that a return to the certificates by the Registrars would be advisable; and it was on the 13th January last that I addressed the Controller and Auditor-General, stating that "I am of opinion that the examination and certificate of my office Solicitor is much more satisfactory in the long-run, and I hesitate to revert to a system which worked the reverse of smoothly, and caused much dissatisfaction and annoyance to every one concerned." The practice in vogue before that letter therefore continues. The friction on this particular point has been very great between the two departments. The next is a case analogous to the second—a discussion with the Auditor-General as to the Public Trustee's legal position with regard to acting independently in matters of certain classes of claim. I wrote the following:—

MEMORANDUM for the Hon. the COLONIAL TREASURER.

THE question of referring bills of costs rendered by solicitors, set forth by Mr. FitzGerald in his memorandum of the 7th November, and remarked upon by Mr. Gavin, was minuted by you to the effect that the regulations should apply to the Public Trust and Insurance Offices.

But it will be perceived on reference to the origin of this matter that the regulations cannot apply, for the reason that the bills of costs were incurred before the respective estates were placed in the office, consequently they could not have been incurred by the Public Trustee, and consequently, though the regulations may bind him, they cannot of course bind the trustees whom he may succeed.

The difficulty which has arisen, in few words, is simply this: Mytton's trust and Needham's estate were placed in this office, against each of which was rendered a solicitor's bill of costs. These bills of costs, in pursuance of an Audit requirement, were forwarded to the Registrar of the Supreme Court, Christchurch, for his certificate as to reasonableness of charges. The Registrar demurred, asking whether the costs were incurred under Government regulations. Hence Mr. FitzGerald's memorandum—which appears to me to be beside the question.

I would submit with all deference that the peculiar duties of my office render it very desirable that no unnecessary obstruction should be placed in my way by the Audit Department. It seems to be overlooked by that department that in the majority of cases I act as the representative of a deceased person, bound to pay the debts of such person according to my discretion.

I submit that it is no part of the duty of the Audit to inquire as to the propriety of paying claims: that is a duty which devolves upon me by law, and consequently the responsibility is mine only, and I am liable to the next-of-kin and the Supreme Court if I exceed my powers. In the cases such as those under reference, the Audit requirement has worked disadvantageously to the interests of estates generally, is a fertile source of irritation to the profession, and causes unnecessary loss of time.

The certificate of the Solicitor in this office ought to be amply sufficient, as his knowledge of costs is at least equal to that of any of the Registrars. I do not think that the Government regulations should apply to this office. Government money does not pay the practitioners, but the funds of the estates for which the services are rendered; with which funds the Government have nothing to do except indirectly through myself, to whom the management is intrusted, and in whose judgment and discretion it appears to me the Government must place confidence and reliance.

6th February, 1888. R. C. HAMERTON.

I should like to read Mr. FitzGerald's reply, because the Treasurer immediately sent my memorandum to the Auditor-General:—

The Hon. the Colonial Treasurer.

I HAVE not seen this memorandum before. It contains the same complaint which the Public Trustee has frequently made, and which has as often been answered. Mr. Hamerton—I say it with due respect to him—altogether misstates, and does not seem to understand, his legal position. He is not, as he seems to suppose, in the position of an ordinary trustee, responsible only to the Supreme Court. When the Government of New Zealand established the Public Trust Office, and practically guaranteed the depositors therein from loss, it naturally took exceptional means for its own security, and it did this by constituting all moneys in the Trust Office "public moneys," and subjecting all its transactions to the same conditions which are provided for the rightful receipt and expenditure of the public moneys—amongst others to the statutable powers of the Audit Office. I am not concerned to inquire whether this is wise or unwise, but it is most certainly the law. And I will say further that, as a matter of experience, the scrutiny into the claims on estates in the office which is made by the Audit results in a substantial saving to those estates. That it gives a certain amount of trouble is a matter of course—all audit does so; but a record of the savings made by the Audit Office is kept, and will show at any time whether "the game is worth the candle."

20th March, 1888. JAMES EDWARD FITZGERALD.

In reply to the Controller-General's letter, I wrote the following memorandum:—

Hon. Sir Harry Atkinson.

WHETHER I have misstated or misunderstood my legal position may be seen by reference to section 43 of "The Public Trust Office Act, 1872." I adhere to the opinions advanced by me, as I am unable to interpret the law as Mr. FitzGerald does. I would that I were able to do so. I respectfully submit that the opinion of the Solicitor-General may be sought on the point. Mr. FitzGerald's memorandum is silent as to the desirability of making the regulations *re* solicitors apply to this office.

21st March, 1888. R. C. HAMERTON.

I wish again emphatically to submit to the Commissioners that so long as the Audit Department is allowed to assume the authority of saying in what manner and when the disbursements of the Public Trust Office shall be made, and in what manner and when payments pertaining solely to the Trust Office business shall be made, I cannot, nor can any officer acting in my position, be answerable as to the limit of time in dealing with estates and other financial business that may come into the Public Trust Office. In support of this contention I could quote numerous cases which I have here with me, but possibly the Commissioners will not think it necessary that I should refer in detail to them. The records are in the office, and may be called for by the Commissioners at any time. The next matter that I wish to bring under the notice of the Commissioners is the state of the law respecting the administration of what we call real estates. Real estates consist of lands which have been left by persons deceased intestate prior to "The Real Estate Descent Act, 1874," and "The Administration Act, 1879," and which estates devolve upon the heirs-at-law, who, in the cases under the Public Trust Office, are not known. I wish it to be clearly understood that the