

SESS. II.—1891.
NEW ZEALAND.

REPLY TO THE “REMARKS ON THE REPORT OF THE COMMISSIONERS ON THE PUBLIC TRUST OFFICE.”

Presented to both Houses of the General Assembly by Command of His Excellency.

MEMORANDUM by the Commissioners appointed by His Excellency the Governor to inquire into and report upon the condition and working of the Public Trust Office in reply to the remarks by Mr. James Edward FitzGerald, Controller and Auditor-General, on the Report of the Commissioners.

THE Controller and Auditor-General of this colony has endeavoured, in a Memorandum just submitted to Parliament, to criticize in an adverse spirit the report made by us to His Excellency the Governor in reference to the Public Trust Office.

In the exercise of the grave responsibilities committed to us by His Excellency, it was incumbent upon us to ascertain in what manner the Audit Department had performed its duties in connection with the Public Trust Office. It was a matter of the deepest regret to each member of the Commission that the investigation revealed the fact that the daily examination, as conducted by the Auditor-General and his officers, was in no sense an audit, and, in the words of the report, “has been in reality a delusion.”

It is an unusual experience for the Auditor-General to find either himself or his officers the subject of investigation and criticism by a Royal Commission. The Auditor-General's long tenure of office, his age, and the fact that by Act of Parliament he is free from the control of Ministers of the Crown, and responsible only to Parliament, has created in his mind a feeling that he is above all criticism, has made him autocratic to a degree, and rendered it almost impossible for him to realise the startling facts respecting the audit of the Public Trust Office without a feeling of irritation and annoyance which has completely clouded his judgment.

So strongly do we recognise the latter fact that we should have refrained from replying to the remarks of the Auditor-General, leaving the evidence of himself and officers, as recorded in the report, to speak for itself, had we not been informed that Parliament would expect the Commissioners to make a full and complete reply to his strange and misleading statements.

The Auditor-General has, in his remarks now under review, deliberately stepped out of his official line of duty to discuss matters foreign to his department. He has thereby invited criticism. He has himself to blame if that criticism on our part is of a most searching character, and reveals the weakness of his department and its utter uselessness as an office of audit.

Let us examine his contentions in the order in which he has attempted to deal with them.

THE DUTIES OF THE AUDIT OFFICE.

We are told by this great authority that the duty of the Audit Office is confined to the following points: (1) To ascertain and to certify *that all the money received* by any department is duly accounted for; (2) that such money is charged to the proper account; and (3) that it has been paid out of such account to the persons entitled to receive it.

This is the whole duty of the Audit Office, as defined by its responsible head, and from him conveyed to his subordinate officers. Not one word about that most important duty of every audit—to see *that all the money that was due and owing* has been properly charged and accounted for as arrears or otherwise.

One of the Audit Department officers, in his evidence, as disclosed in the questions and answers numbered 2225 to 2245, admitted that the audit consisted practically in merely checking the cash receipt-book; that no record had ever been kept of the amount of money the Public Trust Office ought to receive per annum in the shape of interest upon mortgages, rents, &c.; that he had no means of checking such amount at present; and, further, that he did not know that it was the duty of the Audit Department to refer to or make inquiry as to arrears of interest or otherwise.

The Auditor-General himself admitted, in answer to question numbered 5439, that "it would not be one of the ordinary functions of the Audit Office to inquire into the realisation of assets."

Such a limited conception of the duty devolving upon an Audit Department implies a complete ignorance on the part of the Auditor-General of one of the most important functions intrusted to him, and enables any person accustomed to business to understand why the Audit Department has for years been so ineffective and unpractical.

THE CHARGES AGAINST THE AUDIT OFFICE.

The Auditor-General states that it is distinctly untrue that the officers of the Audit Department were ignorant of the existence of any book *which could have thrown light upon or in any way assisted in the fulfilment of their duties*. The evidence teems with illustrations of the fact that the Auditor-General and his officers were alike ignorant as to the existence of many books actually in use for purposes of money entries in the Public Trust Office. With the Auditor-General's conviction that an audit should only consist of an examination of the actual receipts and expenditure, it is not a matter of surprise that he should be absolutely indifferent about any books of account outside of the cash-book. He is evidently unaware that no professional accountant of any standing would for a moment undertake the audit of the accounts of a business unless he had placed before him every book in use in connection with that business, and had mastered their contents. The Auditor-General is, however, in the happy position of being a law unto himself. It is a matter of supreme indifference to him what the whole professional world of auditors consider to be absolutely necessary conditions for a complete and satisfactory audit. The Commissioners may, however, be pardoned if, in the consideration of the facts respecting the ignorance of the Audit Department as to the books in use in the Public Trust Office, they have preferred to rely upon the judgment and experience of professional auditors of great knowledge rather than upon the *ipse dixit* of a gentleman of no commercial or business training, and whose sole qualifications for the high office of Auditor-General was his supposed literary and oratorical ability, an academical acquaintance with mathematics, and the more important fact that his appointment would remove a troublesome opponent from the political arena.

The Auditor-General denies that it is any part of the duty of an auditor to inspect "the legal validity of the security given by the mortgage." The Auditor-General does not know his duty. If an auditor is unable to comprehend, when he makes an inspection of securities, whether they be good and valid bonds, conveyances, mortgages, or aught else, he is unfit for his post. The confession by the Auditor-General that the Audit Department is unable to do this is a proof of its incompetency for the work intrusted to it by Parliament and the country. The special pleading by the Auditor-General respecting the foreclosures of the Public Trust Office is not only childish but beneath contempt. What reasoning, however specious, can justify any man, charged with the grave responsibility of examining securities held by the State on behalf of a number of its widows and orphans, passing year after year as a good and valid security for thousands of pounds an old mortgage-deed, when the property named in the deed had years before been sold by public auction by order of the Registrar of the Supreme Court, and the deed had become so much waste-paper? What a lurid light such a fact throws upon the inspection of securities by the Audit Department! Were the Commissioners not more than justified, in the face of such facts, in stating that such a kind of inspection was "careless and perfunctory"?

THE STATEMENT OF INVESTMENTS IN THE BALANCE-SHEET OF THE TRUST OFFICE.

The Auditor-General thinks "it may become a matter for consideration whether prospective or possible losses on investments should be shown" in the balance-sheet. He gathers that it is the opinion of the Commissioners that such losses should be charged against the annual income of the office. He states that he is not aware that such is the custom with large commercial houses. He is also under the impression that commercial houses write their

actual losses off their trading capital, and provide for their prospective losses by insurance or by setting aside a reserve; but he is absolutely certain upon this point: that the Public Trust Office, so far as it is a trading "concern, is trading without capital, but upon a guarantee by the Consolidated Fund, *and therefore no loss—even real, much less prospective loss—can be written off its books without the consent of Parliament;*" and, moreover, he adds, with great solemnity, "it would have been my duty to prohibit any such dealing with the accounts." Happy Mr. FitzGerald! Encased in a triple armour of contempt for all ordinary and regular systems of audit, ignorant of commercial usage, and with a blind belief in the omnipotence of his own office, he is supremely unconscious of the folly he utters.

The Expenses Account of the Public Trust Office is similar to the Profit and Loss Account of an ordinary business. Such an account in every commercial house, in every trading and finance company, and in every bank is debited not only with each ascertained loss, but with an estimated amount for each prospective loss, incurred during the year, in order that a true and faithful account of the result of the year's trading may be arrived at. If the Profit and Loss Account shows a balance to credit, that balance is carried to the Capital Account, which is increased by the amount; if, on the other hand, the year's trading has resulted in a loss, the account appears in debit, and the amount of such debit is the amount by which the capital of the concern has suffered. It is impossible in any accurate system of commercial or banking book-keeping to write off any amount for losses, real or prospective, without first passing such amount through the Profit and Loss Account.

The Auditor-General has, however, a convenient if not a defective memory. He states that it is his duty to prohibit the writing-off of losses without the consent of Parliament. He has forgotten that, without any vote by Parliament, he altered the balance-sheet of the Public Trust Office, dated the 31st December, 1890. *Vide* his answer to question No. 5457: "I think you told the Commissioners that you altered the last balance-sheet?—That is quite true. We required the losses in Hatfield's estate to be carried into the balance-sheet. *All the losses when they have occurred are brought into the accounts*, but not the prospective losses likely to occur." He has also forgotten the fact that the accounts of the Public Trust Office for the year ended the 31st December, 1890, and which have been presented to Parliament, have the following entry:—

Public Trust Office Expenses Account.

Disbursements.

On account of transactions of previous years—		£	s.	d.
Expenses in connection with confirmed leases	...	824	9	3
Interest paid to E. Hackett	...	20	17	7
Amounts paid on account of estates	...	164	14	11
Unauthorised—				
Judgment and costs, <i>Hatfield v. Public Trustee</i>	..	942	1	7
Deficiency on sale of realty mortgaged	...	181	7	0

What does all this show? That the Auditor-General knows practically nothing of the accounts of the Public Trust Office, and has committed himself to expressions of opinion respecting matters upon which a profound silence on his part would have been far more becoming. As to the particular case which he instances of a property mortgaged to the Public Trust Office for £4,000 being foreclosed and purchased by the Public Trustee for £500, and his contention that the Public Trust Office has a right to regard that as a good investment for £4,000, is he aware that, instead of £4,000, the security has actually cost the Public Trust Office £5,300? Is he aware that it was leased for three years at a rental of £50 per annum, and has just been re-leased for another three years at the same rental? Is he aware that the Public Trust Office is only getting 1.136 per cent. per annum in lieu of 7 per cent. per annum on the money originally advanced? Is he aware that the Public Trust Office was so ashamed of their conduct in connection with this very matter, and so afraid of its being investigated, that they actually, after the sale of the property, out of their general office funds, paid back to an estate £2,088 of Trust moneys which they had taken from the estate to lend upon this very property? Is he aware that the property would not under any circumstances bring the sum of £1,000 if put upon the market to-day? And will the Auditor-General calculate what this particular property will have cost the Public Trust Office if held, as he suggests, for a few years, seeing that its capital cost is £5,300, that interest ought to be charged against it at least at the rate of 5 per cent. per annum, and that the revenue for some few years from it will be, if regularly paid, the munificent sum of £50 per annum?

The table of investments which the Auditor-General gives shows a possible loss on mortgages of £7,577. From the evidence brought before us we should think the amount would reach nearer £20,000; but, admitting, for the sake of argument, that the Auditor-General is correct, why did he not make provision in the balance-sheet for this £7,577? Why did he allow Parliament and the public of the colony to remain under the delusion that the investments of the Public Trust Office were sound and satisfactory when he now admits to a possible loss of many thousands of pounds sterling? Why? Comment is needless.

THE PAYMENTS TO THE CONSOLIDATED FUND.

The Auditor-General excuses himself for authorising in the year 1888 the payment of £18,000 to the Colonial Treasurer on the ground that he was compelled by law to do so. The gravamen of the charge made against him by the Commissioners is this: that, had he exercised even ordinary care in the carrying-out of his duties in connection with the Public Trust Office, he would have known that it was necessary to make provision for probable losses; that, if such provision had been made, the Public Trust Office would not have had £18,000 available up to the present time as surplus profits; and that neither the Colonial Treasurer, the Parliament, nor the public would have been deluded into a belief that the colony was £18,000 richer than it really was. The Auditor-General was, to put it mildly, guilty of a grave error of judgment in this matter.

THE STATE OF THE BOOKS.

The Commissioners and the Auditor-General come into direct conflict of opinion upon this point. The Auditor-General complains that the Chairman of the Commission had evidently, before the examination of the witnesses commenced, made up his mind that the books had "been kept in a careless and unfinished manner." As the Chairman had spent some three weeks, from 10 a.m. to 5 p.m. each day, in laboriously examining every page in every book in the Public Trust Office, it would be a matter of the gravest astonishment if he had not made up his mind as to their condition. When the witnesses came before him it is not surprising that his examination was of a most complete and exhaustive character. The Auditor-General, as he states, came himself under the harrow of examination, he grew restive, he became irritating and offensive, and, as the evidence attached to our report details, he convinced the Commissioners that he knew comparatively little about book-keeping generally and about the relations of the Audit Department with the Public Trust Office.

As to his statement that because the Public Trust Office has received and disbursed some three millions of pounds sterling during its career, its book-keeping must be accepted as perfect, the Commissioners cannot say whether or not "a farthing" has gone wrong or been expended otherwise than "as provided by law." What they are aware of is this: that many thousands of pounds sterling out of the three millions has been lost to the beneficiaries entitled to receive it, and that the indifferent book-keeping, as well as the bad management, has been no inconsiderable factor in producing this result. For the Auditor-General, who admits that he had "not for some years personally inspected the books of the Trust Office," to put his opinion against that of the Chairman of the Commission, who had just given nearly four months special and persistent attention to the work, is an absurdity. On the one hand, there is banking, commercial, and public experience of a most extensive character, coupled with an intimate acquaintance with the books in question; on the other hand there is an officer, although high in the Civil Service, with no experience outside of his special department, and defective in that, and who has, by his own admission, practically no knowledge of the books of the Public Trust Office.

INVENTORIES OF PERSONAL EFFECTS.

This is the only matter in which the Auditor-General frankly admits that the Audit Department "has been in error in overlooking this duty," and it therefore needs no remark at our hands.

BUYING PERSONALTY OF INTESTATE ESTATES AT AUCTIONS.

Mr. FitzGerald has constituted himself the champion of the officers who have taken part in this improper and illegal practice. He says that it has not even been alleged that "any estate has suffered the loss of a farthing by this irregularity." Mr. FitzGerald has clearly not read the evidence. Let us look at one or two cases. When the heir-at-law requests that the personalty of an estate shall not be sold, when he states that he will pay all the debts due in connection with the estate, and when it is admitted that the estate is not only solvent but

possessed of a surplus, why should the personalty be sold, contrary to his wish, for a mere fraction of its real value? Why should the natural and affectionate request of a son to obtain his mother's jewellery and personal effects be treated with contempt and insult? And yet all this has been done by the chief officers of the Public Trust Office. And, more than all this, after refusing, without the slightest justification in law or in equity, to hand over to a son his mother's watch, what can be thought of the action of the Public Trustee, who, not long after such refusal, sent this watch and other jewellery into the auction-room, and purchased the very watch as a birthday present for his daughter? Is this an evidence that no "estate has suffered the loss of a farthing by this irregularity"? But why pursue the unsatisfactory topic? The revelations on this subject to be found in the evidence are of the most heartrending character, and conclusively prove that the chief officers of the Public Trust Office had become so demoralised by the practice of such "irregularities" as to be incapable of understanding the gross impropriety of their conduct. It is very curious that they should have found a solitary defender in the officer charged by Parliament with the duty of control and audit, and who of all men in the Civil Service should have held high the standard of honour and good conduct.

THE CHARACTER OF THE EXAMINATION.

Mr. FitzGerald is good enough to discuss the manner and method adopted by the Chairman in connection with the examination of the witnesses. That manner and method has not commended itself to Mr. FitzGerald. The Commissioners had no expectation that it would. As has already been stated, Mr. FitzGerald grew angry when he personally was under examination. He winced terribly when exposed to the pertinent fire of questions connected with his neglect of duty, and endeavoured to shelter himself behind a barrier that he raised by saying that the Commissioners were hostile to every one who came before them. The very opposite was the case. The Commissioners had no hostile feelings towards either the Public Trust Office or the Audit Department. Every officer that came before them and gave his evidence frankly and honestly was treated with the greatest courtesy and consideration. When the Commissioners, however, found a witness prevaricating, and indisposed to assist the investigation, they knew how to act with him, and acted accordingly.

The Commissioners are not responsible for the wretched character of the book-keeping in the Public Trust Office; Mr. FitzGerald is. He now admits, "There is no question that the scheme of book-keeping in the Public Trust Office is unsatisfactory." It should not have been left to a Royal Commission to ascertain that fact, and to get it admitted by the Audit Department. Had Mr. FitzGerald, as Auditor-General, done his duty, and personally inspected the books of so great a department, instead of leaving them for many years without examination, he would have seen the necessity for calling attention to a reform in the method of keeping the accounts, and this grave scandal would never, in all probability, have arisen. His neglect in this respect is the more inexcusable as he visited the Public Trust Office once a week, and went through the form of signing his name to the correctness of the cash-book and the accuracy of the cash balance, when he had never personally examined either the one or the other.

Now, with respect to the special incidents in connection with the examination to which Mr. FitzGerald refers.

The Commissioners knew nothing of Mr. Hamerton's illness. They were aware that Mr. Hamerton was naturally a good deal worried towards the middle and close of the examination, in consequence of the complete *exposé* of the weakness of his administration. Was Mr. Hamerton incapacitated from daily attending to his duties in the Public Trust Office? Did he ever consult a doctor with a view to obtaining a certificate of his inability to give evidence, and was the certificate granted? If so, the Commissioners know nothing of it. They are, however, not surprised to now learn that Mr. Hamerton has suffered in health from the nature of the inquiry. The marvel would be that he should be strong and robust after he had learnt the full history of his management of the Public Trust Office as revealed in the evidence. While the Commissioners regret that Mr. Hamerton's health appears now to be impaired, there was no apparent evidence of weakness in that respect while the investigation was proceeding.

As to the statement that either Mr. Hamerton or any other witness was refused an opportunity to revise his evidence, it is absolutely untrue. A proof-slip of the evidence given by each witness was forwarded to the witness, with a request that he would revise it. In no single instance was this practice departed from with respect to officers in the Civil Service. A reference to the minutes and correspondence will prove this fact. It is a matter of regret

that Mr. FitzGerald should have misunderstood some question, and given what he terms an absurd answer. Looking at the peculiar character of the whole of his evidence the particular blemish to which he refers will in all probability pass unnoticed.

Mr. FitzGerald is very annoyed at the balance-sheet of the Public Trust Office being termed a "cooked balance-sheet." That term, as ordinarily understood, means an inaccurate balance-sheet—one that fails to disclose the true position of the accounts. Does Mr. FitzGerald mean to contend that the balance-sheet of the Public Trust Office for the past three years has been a true and faithful record of the position of that office? Let him read the evidence. Let him examine the Accountant. Let him ascertain what the dissection of the accounts, in order to prepare the returns ordered by the Commissioners, revealed. When he has done all this, if he is capable of doing so, he will be better able to estimate the true value of the balance-sheet, and to understand the farce of his so-called audit, and the reason of the Chairman's expression.

Mr. FitzGerald admits for the first time, in connection with the estate of Mrs. Dallon, that "Mr. Hamerton's action was harsh, and even cruel," but as a counterpoise for such admission he abuses the Commissioners for reporting the facts. This would be amusing if the transaction itself was not of an exceedingly painful character. Mr. Hamerton and Mr. De Castro together tried to fix upon the son of Mrs. Dallon the brand of illegitimacy, and concealed the papers which told the story of the young man's parentage and history. The Commissioners, in the proper exercise of their duty, unearthed the whole matter, and discovered that the imputation of illegitimacy was absolutely unwarranted. They have put an end for ever to a disgraceful aspersion the responsibility of which lies at the door of the Public Trustee and his Chief Clerk, and upon them it must rest.

As to the confidential letter written by Mr. Martin, solicitor, of Christchurch, to Mr. Hamerton, and found among the papers relating to the Christchurch agency, a reference to the letter will show that it related solely to the Public Trust agency, and that its contents largely guided the Public Trustee in making changes at Christchurch. Had the letter contained any matter of a private character unconnected with the Public Trust Office, it would not have been dealt with by the Commissioners; but, being officially filed with the other papers, and its contents being of public importance, why should it be concealed? That the letter was in itself a secret and most improper attack upon the character of the Christchurch agent was unfortunate alike for the writer and the agent. The Commissioners were not responsible for that fact. If the letter was a private one to Mr. Hamerton, why did he file it as an official document? Is it to be contended by Civil Servants high in office that they are to conduct their departments by means of secret correspondence, and that, because such correspondence is discovered, and both writer and receiver are ashamed of the position they occupy in connection with it, a Royal Commission is to be abused because the correspondence is necessarily included in the evidence? The heads of departments in the Civil Service of this colony should be taught that every transaction in their departments must bear the light of day, and that neither the Ministers of the Crown, the Parliament, nor the public will submit to a single iota of correspondence relating to the public service being kept secret on any plea whatsoever.

Mr. FitzGerald apologizes for having introduced into his "remarks" references to matters foreign to his own department. He has indulged in such references because he believes that, by making a strong personal attack against the Commissioners, alike as to their judgment and their sense of honour and fair play, he will obtain sympathy. It is very necessary for Mr. FitzGerald to apologize. The Auditor and Controller-General of the Colony of New Zealand has a perfect right to reply to strictures upon his own department; but, when he leaves the affairs of that department, and, under cover of its shelter, takes upon himself the role of general critic, and steps out to abuse the members of a Royal Commission, he ceases to be Auditor-General, and becomes Mr. James Edward FitzGerald. Dealing with him in that capacity we have no hesitation in saying that, in indulging in such offensive criticism on matters entirely foreign to himself, and in utilising a State paper as Auditor-General for that purpose, he has been guilty of a gross breach of decorum; that his conduct is improper in the highest degree; and that he has shown that advanced years has destroyed that sense of fitness and propriety of which it is to be presumed he had, in his younger days, an ordinary proportion. More especially are his observations illogical and foolish to the last degree when it is remembered that the Commissioners are in no sense responsible for the publication of an atom of the evidence. That duty devolves upon His Excellency's Ministers and the Parliament of the

country, and it was upon the express order of the House of Representatives that the whole of the evidence taken at the inquiry has been published to the world.

THE AUDIT CONTROL TO BE REMOVED.

The Auditor-General admits that the work of the Audit is not all that could be desired, but objects strongly to the recommendation of the Commissioners that the Public Trust Office should be removed from the control of the Audit Department.

Has the Auditor-General forgotten that almost the same arguments were used by him to retain the control and audit of the Customs and Railway Departments? These departments discovered the work of the Audit Department in connection with their affairs to be not only ineffective but a positive deterrent to business, and their representations were of such an unanswerable character that the Audit Department was swept out of their path. Has any injury arisen to the public service from the change? Has the Railway Department, or the Customs Department, failed to take the proper precautions to safeguard the interests of the public in connection with their receipts and expenditure? Has the colony been startled by the account of great defalcations in these departments, or even of "grave irregularities"? No. These departments have controlled their finance with the greatest care, and their system of check will stand the most searching inquiry. Can the Auditor-General say the same of the departments over which he exercises the duty of control and audit? Has he not had some painful experiences recently in connection with the funds of at least one Harbour Board in the colony?

The Auditor-General may not be aware of the fact, but there is not a department of the public service of the colony that is not convinced that the system of control and audit as pursued by him is ineffective, irritating, and comparatively valueless. There is not a Minister of the Crown who has had any lengthened experience of public administration who has not made up his mind that the Audit Department fails in many of its most important functions. And yet the Auditor-General is surprised, even amazed, at a Royal Commission, aware of all this, and who, in addition, have had brought before them in the clearest possible manner the utter want of value of his department in connection with the Public Trust Office, recommending that the latter should be disassociated from the Audit Department for the future.

We are not concerned in discussing with Mr. FitzGerald the value or otherwise of our recommendations as to the future management of the Public Trust Office. He has no right to obtrude his opinion upon Parliament in that connection unless it is sought by Parliament itself; and in so doing he has, as one of the chief officers in the Civil Service of the colony, been guilty of a grave impropriety—an impropriety which, if allowed to pass without comment, would prove most injurious to the whole *morale* of the Civil Service.

W. J. M. LARNACH, Chairman.

A. LOUGHREY.

T. KENNEDY MACDONALD.

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