The point of practice to which the letter draws my particular attention, viz. the impropriety of a motion for a new trial being heard by a single Judge, is one to which my attention has not previously been specifically called. I have not heard of the uncertainty caused thereby, which, it is said, has tended more than anything to the prejudice of the Court, but I shall be glad to have information on the subject. No doubt it would be very desirable that motions for new trials should be heard by more than one Judge—one, at least, not being the Judge before whom the first trial took place. In my opinion, however, it is very desirable that the Judge who tried the case should be one of the Judges who hear the motion. But I cannot see how this sort of difficulty is to be removed until fresh arrangements can be made respecting the residence and meetings of the Judges. It will certainly be desirable that the practice should be made as elastic as possible, in order that the fullest advantage may be taken of every means which the Government can command for enabling two or more Judges to sit together as frequently as possible. But no positive rules can well be made on the subject till such means are established.

I should feel much obliged for any information as to specific complaints that have been made by individuals or classes respecting cost, delay, and complication of system, in order that I may apply my mind to the task of suggesting means for remedying the mischiefs indicated.

I have, &c.,

The Hon. the Colonial Secretary. ALEXANDER J. JOHNSTON.

No. 5.

The Hon. Mr. BATHGATE to His Honor Mr. Justice JOHNSTON.

(No. 694.)

SIR,— Colonial Secretary's Office, Wellington, 29th December, 1873.

I have to acknowledge the receipt of your Honor's letter of the 23rd instant, and, in reply to express satisfaction in learning that you intend, at the earliest practicable time, to commence your preparation towards framing a Bill for the consolidation of the law affecting the Supreme Court.

In regard to the returns received by the Government referring to the Supreme Court, I append an abstract showing the number of civil cases tried in the Supreme Court during the year ended 30th June, 1873. From that it appears that, excepting at Auckland, Dunedin, and Christchurch, there has been almost no business of that kind, and even in the towns named the number of cases is far below what it was a few years ago. As an index of the falling off of business before the Supreme Court, it may be mentioned that the Sheriffs' fees in the judicial district of Otago and Southland have fallen within ten years from £1,400 to £37 per annum. The total amount of Sheriffs' fees received throughout the Colony for the year ended 30th June last was only £309, while the salaries paid amounted to £1,621. These results indicate that the public are becoming disinclined to resort to the Supreme Court; and owing to the decrease of fees, the cost to the Colony of the judicial establishments is annually increasing.

That such should be the case is not attributable in any way to the able Judges who preside in the different districts. A great deal must be laid at the door of the cumbrous, technical, and expensive system of procedure in use. It allows solicitors to multiply steps in procedure for the sake of costs, and thus the public is deterred from resorting to the Court. To illustrate this, a single case which was tried in Wellington last October may be quoted. A comparatively trifling suit for £108, the value of a horse, buggy, and harness, was tried, and the jury found for the plaintiff. The plaintiff's untaxed costs amounted to £113 3s. It may be assumed that the defendant's costs would be at least £80. To settle a case of £108, costs to the amount of, say, £200 have been incurred. This case presented no special difficulty or source of expense, as the witnesses must have been resident in the neighbourhood. From such a result it is apparent that it must be safer to pay a demand, however unjust it may be considered, than run the risk of an action in the Supreme Court. The majority of the people have not the means at present necessary either to vindicate their rights or resist an oppressive demand, and therefore they try to keep out of Court. In a recent Dunedin case the costs will, it is said, exceed £3,000. Occasionally subscription lists have been circulated in Dunedin to aid persons ruined by expensive litigation in the Supreme Court, and these could not fail to impress the citizens generally with a sentiment prejudicial to the administration of justice.

In addition to the costs, there is the feeling of uncertainty as to the finality of the result. A wealthy man has the power of damaging a poorer opponent by means of a new trial. In an Otago case a bank was sued, and a verdict given to the plaintiffs for £1,500. A new trial took place, in which the bank was successful. The plaintiffs had not the means to follow the case farther, and were obliged, against the advice of their counsel, to submit to what they believed was wrong. Few men now care to oppose a bank or wealthy plaintiff, and the majority, in the event of a dispute with moneyed parties, endeavour to effect a compromise rather than submit to the arbitrament of the Court. Some solicitors trade upon the knowledge of the existence of this feeling, and many times carry their point by sheer bullying and threats of legal proceedings.

That the present practice and procedure of the Supreme Court are not suited to the circumstances of the colony, is a fact which has gained very general credit. Indeed, the profession complain that the Court business has much fallen off. No step could be taken which would confer a greater benefit on the profession than one which, by simplifying procedure and enabling cases to be speedily and economically dealt with, would induce the public to resort to the arbitrament of the Court for the settlement of their disputes.

The matter is one of very high importance, and I feel assured the united wisdom of the Judges will devise some remedy for the evils complained of.

It has been suggested as deserving of consideration whether *ad valorem* scales of costs should not be adopted, or whether it would not be expedient to limit the amount of fees according to the sum in the verdict. The latter principle is in force in the Resident Magistrates' Courts, and also in the District Courts. It is likewise adopted in "The Immigration and Public Works Act, 1872" (No. 23,