Mr. Lundon.
2nd September, 1869.

the Court House, Auckland. There were three licensed interpreters present, and Mr. Young, Clerk to the Court at Shortland, was present, Mr. Edward Davis was present, and Mr. Hector. It was signed at half-past 9 o'clock in the morning, before they went into the Native Lands Court. I did not care much for No. 24, as there was no road to it. The Natives begged me to take it, and the others came a long distance to sign the deed. The Natives told me that Mr. de Hirsch would not take the land, and begged me to take it from them. The Natives kept following me about, one especially, asking me to take the ground, because he could not get any rent from Mr. de Hirsch.

FRIDAY, 3RD SEPTEMBER, 1869.

Mr. Frederick Alexander Whitaker in attendance.

Mr. F. A. Whitaker.
3rd September, 1869.

56. *The Chairman.*] I presume you wish to make a statement in reply to the allegations of Mr. de Hirsch?—I do. The first point to which I would draw the attention of the Committee is precisely the same as I spoke upon yesterday, namely, the deeds for No. 24. The affidavit runs thus:—

"That I, this deponent, leased by deed dated the 30th day of June, 1868, certain lands at Waiotahi aforesaid, known as Kauaeranga, No. 24, by which the surface rights only were demised, the said lands being portion of the lands referred to in paragraph five of this my affidavit.

"On the 15th day of February, 1869, the mining right on the said lands, with the residue of the surface, was demised to me, the Native owners not having conceded any rights whatever to the Government.

"The proceedings with respect to these leases were conducted on my behalf by Frederick Alexander Whitaker and John Edwin Macdonald, solicitors, carrying on business as Whitaker and Macdonald. I consulted Mr. Frederick Whitaker, of Auckland, solicitor, upon the steps I should take to secure the rights which the said leases purport to create, and he advised the course which was subsequently taken. The said Frederick Alexander Whitaker is a son of the said Frederick Whitaker."

Although it is actually true that both the surface deeds for No. 24 and the mining deeds for No. 24 were prepared by Frederick Alexander Whitaker and J. E. Macdonald, yet the deed relating to the surface of No. 24 was prepared by J. E. Macdonald, notwithstanding that both the surface and the mining deeds are asserted by me to have been drawn up by F. A. Whitaker and J. E. Macdonald when they were carrrying on business as Whitaker and Macdonald. As I pointed out yesterday, the deed for No. 24 was drawn by John Edward Macdonald, not only before I entered into partnership with him, but before I arrived in New Zealand. I have never disputed the lease for mining which comes at the end of the second deed. I have never got the mining lease from the Natives for any part of the flat. I may show the Committee this plan which will be found to correspond exactly with my statement in regard to the portion I obtained. [Plan produced.]

57. *Mr. Brandon.*] Is your deed subsequent to the deed of the 15th February, 1869?—It is.

58. *Mr. Richmond.*] Then under the deed to Mr. de Hirsch, of the 15th February, you had notice of the existence of the deed to Mr. de Hirsch of the 30th June?—I am presumed to have had notice. Although I had not actual notice of any deeds, it was well known that parties had obtained leases from them.

59. *The Chairman.*] Is not the first deed recited in the second?—No, it is not "recited," because that means "set out," but it was referred to. It merely states that such a deed was in existence. With respect to the advice of Mr. F. Whitaker, senior, I am not in a position to say what was done or what was not done, but I think it is hardly possible that Mr. de Hirsch can have put the facts fully before Mr. Whitaker, as it must have been before that time that he considered mine was not a good title on the flat. In reply to question No. 10, he says:—

"I might myself have taken up the right of mining by miners' rights, but acting under the advice of the said Frederick Alexander Whitaker and John Edwin Macdonald, and of the said Frederick Whitaker, of Auckland, obtained such lease as aforesaid."

He is alluding to the advice given at the time he obtained the second deed, at the end of which there is a mining clause. These facts are palpably wrong, because his affidavit implies that the Golden Gate claim was pegged off, and, after he had obtained the lease from the Natives he could have taken it up under a miner's right. I happen to have been solicitor for the Golden Gate for a long period of time, and I happen to know that the claim was pegged out in December, two months before the February, and it was pegged out with my sanction and advice, and I am prepared to swear, before any court of law, that I never gave Mr. de Hirsch that advice, because the Golden Gate claim was pegged off, and I was aware of it, as their solicitor, in the December before the deed of February.

60. *Mr. Creighton.*] Would the effect of the deed of February be to dispossess the shareholders of the Golden Gate who held the ground under miners' rights? It would. I cannot understand what Mr. De Hirsch means by an affidavit to the effect that he could have pegged off the ground in February, when the Golden Gate was an existing fact, and every one on the Thames Gold Fields knew, and must have known, that the Golden Gate claim had been pegged off, and work had been done upon it; and it is physically impossible that he could have pegged it off under miners' rights in February, with any chance of success. In paragraph No. 12 he says:—

"The same parties having, under colour of miners' rights, taken up the ground included in the said leases to me were, by a perpetual injunction issued by the Supreme Court, Auckland, restrained from working on the said lands. Such injunction was granted against the proprietors of the Golden Gate claim, in which the said Frederick Whitaker, of Auckland, is gazetted as a shareholder holding three hundred shares of five pounds each."

That is an insinuation which I hope the Committee will consider worthy of the highest reprobation. It means to imply that Frederick Whitaker of Auckland, holding 300 shares, first advised Mr. de Hirsch that it was no good pegging off under miners' rights, and then took it up and pegged it off. A more scandalous accusation can scarcely be made against any man. All these things have been sworn to by Mr. de Hirsch in this affidavit. The mining lease was obtained in February, and the Golden