

1889.

NEW ZEALAND.

PUBLIC ACCOUNTS COMMITTEE

REPORT OF THE) ON THE KAIHU VALLEY RAILWAY COMPANY (LIMITED), TOGETHER WITH
MINUTES OF EVIDENCE AND APPENDIX.*Report brought up 16th September, 1889, and ordered to be printed.*

REPORT.

THE Public Accounts Committee having carefully considered the matter referred to them in the memorandum of the Hon. the Premier, dated the 4th day of September instant, and having taken a large amount of evidence on the subject, beg leave to report as follows:—

That, in the opinion of the Committee, it is impracticable to obtain, during the present session, such full and accurate information as would enable the Committee to recommend what course should be adopted in the matter of the Kaihu Valley Railway Company.

That it is very undesirable any steps should be taken, pending the consideration of the question by Parliament, which would lead to the land endowment of the company and the timber thereon being sold under the provisions of the mortgage held by the contractor Owens.

That, under these circumstances, a full investigation should be made into the facts by a Royal Commission which should visit the locality, and which should recommend the steps that, in the interest of the colony, it may be expedient to adopt.

That the Government should be authorised to take such steps during the recess as may be found necessary to prevent the foreclosure of the mortgage above mentioned, and to reserve the further dealing with the case for Parliament during the ensuing session.

D. H. MACARTHUR,

16th September, 1889.

Chairman.

MINUTES OF EVIDENCE, ETC.

MEMORANDUM for the CHAIRMAN, Public Accounts Committee.

By "The District Railways Purchasing Act, 1885," power was given to the Governor, by Order in Council, on receiving from the Kaihu Valley Railway Company such security as he thought sufficient to insure repayment, to authorise the company to issue debentures to any amount not exceeding £50,000, to be applied towards the construction and completion of the Kaihu Valley Railway. The debentures were to be secured by first mortgage on the railway and other works, with such other security as the Governor in Council might consider necessary, and were to be deemed to be guaranteed under the Act authorising their issue.

In March, 1887, pursuant to the Act, an Order in Council was made authorising the issue of guaranteed debentures to the amount of £47,000, and the company gave as security a mortgage over their railway, rolling-stock, plant, buildings, &c.

The company having failed to pay the interest due the 1st April last in respect of the whole of the debentures above mentioned, the coupons were presented and paid at the Treasury in accordance with the guarantee.

It now appears that the company is quite unable to continue its operations, being unable to sell any of its endowment lands.

The Government desire the advice of the Committee as to what course it will be desirable to pursue under these circumstances, and report its recommendation to the House.

Premier's Office, 4th September, 1889.

H. A. ATKINSON.

STATEMENT HANDED IN TO THE COMMITTEE BY THE CHAIRMAN OF THE KAIHU VALLEY RAILWAY COMPANY (LIMITED).

THE Kaihu Valley Railway Company (Limited) humbly submit to the Committee for Public Accounts of the Honourable House of Representatives for their consideration the following case:—

The Kaihu Valley Railway Company was entitled to select certain lands out of a block set apart for such purpose as an endowment for constructing said railway, and has been materially prejudiced by reason of such selection having been altered by the Survey Department, whereby, in place of the whole of Block XI., Waipoua Survey District, as selected, having been included in the Crown grant, a large portion, containing part of a valuable kauri forest, has been severed, the difference being made up by part of Block IX., Tutamoe Survey. A price was fixed by arbitration, below which the Kaihu Valley Railway Company is prohibited from selling any of the land granted as an endowment, such prices being part Section XIII., Tutamoe, £2 per acre; part Section IX., 15s. per acre; Section XII. and Part XIII., Waipoua, £1 per acre; Part XI., at 15s. per acre, together with an addition in all cases of 1s. 6d. for cost of survey. Yet, when sixteen miles and a half of railway had been completed and opened for traffic, the Government commenced selling the Kai-iwi Block, adjacent to the Kaihu endowments, at far lower prices, and on deferred payment, whereas the Kaihu Company is compelled to sell for cash, thus rendering the Kaihu endowments perfectly useless. In one case a lot of forty acres fronting the Hokianga Road has been sold by the Government at 10s. per acre, whereas the contiguous block of 1,012 acres, unsurveyed, has been valued to the company at £2 1s. 6d. Moreover, the very persons who have purchased in the Kai-iwi Block had formerly expressed their intention of settling on the Kaihu endowments. The memorandum of association of the company prohibits raising more than the £60,000 capital by payment of calls, debentures, or mortgage. It was therefore absolutely necessary to provide the additional sum—some £35,000—required to complete the railway and furnish rolling-stock by sale of the timber and land.

Financial Statement.

The Government have guaranteed £47,000 debentures, and have paid or are liable to pay for interest to the 1st April last, £1,175; a like sum will fall due on the 1st October: so that the Government will at that date be answerable for £49,350. The sum of £13,200 will be required to pay Fallon and Mitchelson for their contracts for the last three miles, besides which £2,000 will be needed for rails and fastenings, and, say, £3,000 for timber-trucks, &c.; making £18,200. J. Owen, the contractor for the first sixteen miles and a half, holds a mortgage over the endowments granted for the balance due to him, which, with interest to date, will be about £11,800. There is a debt to the Colonial Bank of £8,000, and other sums owing amount to, say, £1,000. The entire liability is thus £88,550; in addition, the shareholders have paid £7,000; together, £95,550. The assets against this will be the line and buildings, plant (cost £6,200), and endowments, being land valued to the company at £18,500, together with kauri timber, estimated at 60,000,000ft., worth 1s. per 100ft., or £30,000; say, £48,500. Thus, the proceeds of debentures (£45,825), the land at valuation, and timber as above (£48,500), together with the sum paid by shareholders (£7,000); total, £101,325.

It is manifest that the Government must take over the line in one or other of two ways—either as mortgagees for non-payment by the company of interest on the guaranteed debentures, or by purchase of the company's interests and taking over the company's liabilities. The traffic upon the sixteen miles and a half completed cannot pay even working-expenses. The present terminus is on land belonging to Maoris, and is not accessible from the company's or Government land. The Government must therefore complete the remaining three miles, work upon which is already about half done. To finish this section will cost about £7,000 beyond the value of work already executed; £2,000 will be required for rails, &c.; timber-trucks, say, £3,000. The entire cost of the line, then, to Government, by foreclosure, would be the amount of the debentures and interest, £49,350 + £12,000 = £61,350, but the endowments would not become the property of the Government, and would probably fall to the mortgagee for his £12,000. On the other hand, should the Government take over the company's property and liabilities, the case would stand thus:—

Debentures and interest	£
Cost of completing and stocking line, including balance now due Fallon	49,350
Debts of company, including Owen's mortgage	18,200
	21,000
	88,560
Deduct value of timber and land, as these would stand on completion of line, deducting £6,000 for value of land occupied by timber, roads, &c.	42,500
	£46,050

The sum of £7,000 paid up by the shareholders has not been taken into account.

Had the agreement with the Kauri Timber Company proved valid, the earnings by the haulage of timber would have sufficed to have met the half-yearly amounts payable for interest. As the Railway Department has the requisite timber-trucks now lying unused, no monetary outlay would be needed for these; and it is believed that the rails and fastenings could be provided by the Public Works Department. Should this be so, £5,000 less than stated would suffice. It must be borne in mind that the Government already own upwards of 300,000 acres of land, mostly available for agriculture, to which this railway provides the only means of access, whilst it also will form the best route to Auckland for the Waimamuku and Punakitere settlers.

It is not just that the paid-up capital of the Kaihu Company should be forfeited. I propose that, in the event of the Government purchasing the company's property, this sum (£7,250) should be added to the amount of purchase-money, and the total be reckoned as the cost of the line; that the net earnings, after paying interest on debentures, should be divided *pro rata*, the sums received from sale of land and timber being carried to the credit of this capital account. The directors have not received any honorarium, the office has been provided free of charge, and the secretary's salary has been almost nominal.

Estimate of Traffic.

<i>Haulage of Kauri Timber.</i> —Say, 50,000ft. per diem for five days per week, and for forty-eight weeks out of fifty-two per annum (allowing for holidays, &c.)=12,000,000ft. per annum, which, at 1s. 3d. per 100ft., including discharge (Government rate would average 1s. 4d.)	£7,500
(Mr. Knorpp's estimate of 270,000,000ft. of kauri timber to be hauled on this line would supply this rate of traffic for twenty-two years; and there are, in addition, large quantities of kahikatea, totara, puriri, tawa, &c.)	
<i>Other Traffic.</i> —Passenger, gum, stores, &c. (judging from business on unfinished line)	£2,000
	£9,500

Estimate of Expenses.

Double the amount of running one train daily sixteen miles and a half would come to £3,000, allowing a large margin for repairs beyond present cost, included in above, say	£4,000
Net revenue	£5,500
Deduct interest on debentures	2,350
	£3,150

After sale of land and kauri on endowments, the only further capital would be the sum of £7,250 contributed by present proprietors: profit on that would be over 40 per cent.

THURSDAY, 5TH SEPTEMBER, 1889.—(Mr. MACARTHUR, Chairman.)

Mr. R. C. BARSTOW examined.

1. *The Chairman.*] You are the Chairman of the Kaihu Valley Railway Company?—Yes.
 2. You have placed this printed statement in the hands of the Committee?—I have.
 3. The Committee want you, as shortly as possible, to give them information as to what the company seeks, and what its position is in respect of the Government, and with respect to other creditors; what claim they consider they have upon the colony for consideration; and what is the present position of the company?—The two grounds which we allege as entitling us to consideration at the hands of the Government are: the variation made in the selection of the land for which we applied, and also the selling by the Government of land closely adjoining the selection granted to us at a very much lower rate than we were entitled to charge. These are two grounds upon which we think we are entitled to consideration at the hands of the Government. The selection of the land was made chiefly by myself and our engineer after an inspection made in December, 1887. It was ratified by Mr. Percy Smith, then Assistant Surveyor for the Auckland District, in the presence of the Minister for Public Works and in my presence in August or September, 1888. Mr. Percy Smith very shortly afterwards left this colony for Australia to attend a meeting of an institute there. Mr. McKerrow, who was then Surveyor-General, objected to the choice which we had made on the ground that we had severed and taken parts of several sections. He sent back altered boundaries. It was pointed out to Mr. McKerrow that these would be very inconvenient, and he again altered and sent back a plan to us very much larger.

4. You have accepted the Crown grant of it?—That is what I wish to explain to you. It was shown to him that these were in excess of the land we were entitled to take, and several substitutions were made by ourselves and by the Survey Department. At last certain boundaries were agreed upon, but by some accident or mischance in the Survey Office when the Crown grant was prepared different boundaries were assigned. The very thing which Mr. McKerrow had objected to—that of cutting sections in two—was carried out in the Survey Office; whereas, there was one section of which we had no right to take the whole, the balance that we could take was given to us, and another section subdivided. The effect of that subdivision was to cut the kauri forest—our great object, perhaps, in first making the line—into two parts. This main kauri forest is situated upon the Waima River and its tributaries, and the way of bringing it down to the railway would be by floating the logs, or drawing them rather, which is done by making dams near the head-water and so sending the logs down to where they could be taken on to the railway. Now, it is evident that a man having the lower portion timber might, by erecting a dam to drive his timber, prevent the owner of the upper portion from utilising it. The consequence would be that the upper timber would be valueless to any one except the person owning the lower timber. That upper timber must be 12,000,000ft. of 15,000,000ft., and worth from £6,000 to £8,000. I remonstrated most strongly with Mr. Percy Smith, but he said the Crown grant had been prepared and it was too late to make the change; that when the line was completed we should be in a position to select the remainder of the land with the timber upon it.

5. These 15,000,000ft. of timber would then come into your hands?—Yes; it would then come into our hands. I may say that Mr. Smith, when down where this Block No. 13 would be severed, showed it very much nearer the top, and, therefore, getting very much less timber than really was the case when the acreage had been computed and we got our Crown grant. I visited the land in the early part of April, and then found scattered houses on the Kai-iwi Block. I entered into a conversation with some of the owners, and found that this land was being sold to them at 10s. and 7s. 6d. per acre; whereas by our agreement with the Government—not to sell below the valuation made when the line was commenced—our prices could not be less than £1 1s. 6d. and £2 1s. 6d. for adjoining land.

6. This is all in your printed statement?—It is. I have handed in a plan with the prices marked. It was then that I found that the land had become unsaleable. The gentleman in whose hands we had put it for sale stated that he could have sold a large quantity at 12s. or 15s. an acre, and not at the price that we were bound to ask. Our chance of completing the line was utterly gone. Those parties who had bought this land from the Government professed their intention of having bought from the company. The company had been debarred from completing their line owing to their not getting the selection of land-bearing timber which they applied for, and the depreciation in the value of their land by the adjoining land being sold at much lower prices. The effect of this is that we are unable to meet our liabilities, and that many of the shareholders will be utterly ruined by calling up the amounts necessary to pay the debts of the company. I have already handed in papers which show the value of the kauri timber as a whole: £25,000 was the price which the Kauri Timber Company were prepared to give for it. After our negotiations with them a sawmiller in the district proposed to give £24,000, and to erect a sawmill at the terminus, upon the land of the company, which, of course, would have made the nucleus of a town there—in fact, it was not for the whole of the timber, but sixty million feet; he was to pay more for any timber above that quantity. I have endeavoured to point out in the statement which I have had printed that it would be infinitely to the advantage of the Government to secure this timber by redeeming it, and that the proceeds of the timber and the land, together with the debentures, will complete the line. The line as it stands at present is utterly inaccessible from the inland direction, and only accessible from the Hokianga road by fording the river, which is always difficult, and which would be very costly indeed to bridge, as the river floods heavily and the land is low on both sides. One of the plans shows the quantity of Crown land to which this railway will give access; and the Surveyor-General informed me the other day that he hoped by this time the line to the inland waters of Hokianga and Punakitere was already surveyed. The settlers who came from Christchurch and are located on the Waimamuku say they find this much their readiest way of coming to Auckland or the South.

7. Can you tell us what the company have actually spent out of their own funds on the line—I mean outside the guaranteed debentures?—£15,000.

8. That includes your paid-up capital and the overdraft at the bank?—Yes.

9. The Trust Account: is that exhausted—the trust in which the proceeds of guaranteed debentures were placed?—Except the £250 which is a reserve to pay the Natives for some sections of land through which the line passes.

10. Is the title to the land that the railway actually occupies complete?—Not the whole of it. I can show you on the plan in an instant which is and which is not. In the Town of Dargaville the Compensation Court has made a vesting order. The next two miles, from Dargaville to Kaihu Bridge, passes through land handed over by the Government. Then from the Kaihu Bridge to Maiti, and again from Kaihu No. 2 to Maropiu, there is a vesting order from the Compensation Court. As to the piece running through Kaihu No. 1A, we have an agreement from the owner to convey to us, in consideration of having given him a loading-bank and stopping-place. Some portions of the line running through Kaihu No. 3 and No. 4 are in abeyance. A Compensation Court must be held sooner or later to deal with No. 3 and No. 4 and with the Opanake Block, which is Native land. The Kaihu No. 3 and No. 4 are reserves for a school and a church. I think the Natives granted them for these purposes. The reason for not having been able to go into the Compensation Court for the Opanake Block is that on this upper portion, beyond where the line is at present completed, it will be necessary in places to take more than a chain in width owing to the cuttings and the embanking of the river.

11. *Dr. Newman.*] For what extent of land have you paid? Have you the freehold of the land?—We have twelve miles out of nineteen freehold.

12. *The Chairman.*] And vesting orders?—We have vesting orders for that amount.

13. *Dr. Newman.*] In fact, the whole of the land is paid for?—Practically it is all paid for. The estimate of Mr. C. Y. O'Connor was that £150 would complete the title to all the land.

14. *The Chairman.*] You say that this line will open up 300,000 acres?—Yes.

15. The Railway Commissioners, in a report they have made, state that it would only serve 90,000 acres. In your opinion, would the railway serve the Waioke Plateau?—It would.

16. And the Mangakahia Valley?—Yes.

17. You complain of the differential price the Government have put on their land and the value of the land about it: was not the cost of survey and other expenses added to the land you got?—Yes; 1s. 6d. per acre upon all the land.

18. You have put £58,500 as the estimated cost for the purpose of a land-grant for the railway in your agreement with the Government?—Yes.

19. And 30 per cent. on that amount would give you a land-grant valued at £17,550: how do you account for the difference between £18,500 you have got and the £17,550 which you would be entitled to under the contract?—We have not got all the £18,500.

20. Even if you got it all you are only entitled to £17,550, and you claim £18,500?—That mistake must have been made in the survey.

21. Then, you value this land which carries timber at £18,500, and when you value it for the purpose of showing what your assets are you value the timber separately, making a total of £48,500?—That is so.

22. That is to say, the Government have given you an endowment which they value to you at £18,500, and you now value it at £48,500?—Yes; the timber was not worth a shilling without our railway.

23. Well, that is the case?—It is so; it will be so as the line is completed.

24. You stated that the alteration made by the Survey Department cut the kauri forest into two parts—that the part that was excluded from your selection would become included if the line were finished?—It could.

25. I see you mention, as contractors, Fallon and Mitchelson: is that a firm?—No; they are two separate parties.

26. What proportion of the £13,200 is owing to Fallon, and what to Mitchelson?—The balance owing to Mitchelson is about £150, and the remainder to Fallon. The present amount actually owing to Fallon is £4,400. We have paid him £600, and we are liable for 20 per cent. in addition at the termination of his contract. That is the amount for which the engineer's certificates have already been granted for work done. His entire contract was £12,469.

27. You say that Owen, the contractor, holds a mortgage over the endowments: that is a registered mortgage, I presume?—It is; it is for £11,349, bearing interest at 7 per cent., for one year.

28. There is a debt to the Colonial Bank of £8,000?—That includes interest, if it was calculated up to the present time.

29. Is that secured at all?—No; only by a lien on the unissued shares and uncalled capital.

30. The other thousand mentioned in the statement represents small debts?—Yes.

31. *Mr. Wilson.*] I want to know if the terminus at Dargaville was in the hands of the company?—Yes.

32. And the wharf and all connected with it?—Yes. There is an absolute conveyance. *Mr. C. Y. O'Connor*, I believe, saw it, and was quite satisfied; also the Law Officer of the Government.

33. *Mr. Valentine.*] If the Government had not put such an excessive price upon the land, you would have had to get a much greater area than you have got, would you not?—Yes.

34. The consequence being that if you had got that area at the same rates as they are now selling their land there you would have had a better asset at the present time for the railway company?—Infinitely a better asset. We should have had the whole of the kauri forest, and other land in addition besides.

35. Of course, this is part of your contention why the Government should come to your assistance now?—Just so.

36. Have you made any arrangement with the Kauri Timber Company?—We have not. Our first arrangement with the Kauri Company was the subject of litigation, and decided here by the Court of Appeal.

37. Against you?—No, in our favour.

38. And what was the result of that?—That we have now pending an action for damages against the Kauri Timber Company.

39. Have you any idea of what the amount would be if you did get it?—It is quite impossible to say.

40. What is the amount of your claim?—£21,000.

41. Of course, if the Kauri Company had gone on with these contracts that would have made a material difference to the railway company—I mean in the way of returns for working the railway?—We should have had no difficulties whatever. Millions of feet of kauri would have been delivered by this time.

42. What was the nature of the action?—The action that has been settled was brought against us by the Kauri Timber Company to compel us to deliver timber in accordance with the agreement, but at the same time absolving themselves from the necessity of advancing any money. The Court of Appeal held that the agreement was *ultra vires*—that the railway company had no power to cut and deliver the timber as an article of trade, but only to sell it standing.

43. Now, what is the case which is pending?—After the railway company's negotiations with the Kauri Timber Company had fallen through, and they had had due notice thereof, the railway company looked about for a possible purchaser, and found one in a *Mr. Matthews*, who after spending some considerable time inspecting the bush made an offer of £24,000 for the kauri timber up to 60,000,000ft. He was to have one month to carry out the agreement. When the Kauri Timber Company heard of this they lodged a caveat prohibiting the railway company from dealing with the timber, as they had, or professed to have, a claim upon it. *Mr. Matthews* had received in Sydney liberal promises of support, but when going to Melbourne with his friends he was notified of this caveat, and his friends withdrew from further action. The pending action is, therefore, for damages for having prevented the sale of the timber.

44. Is there any foundation for the report that the Kauri Timber Company are going to make some contract with you now for cutting the timber and bringing it down?—The Kauri Timber Company requested us to give them time to examine the bushes and see what it would cost to get the timber out. They had that time, and an extension of it owing to bad weather, but they, I may say, declined to go any further in the matter. I believe that the source of our quarrel with the Kauri Timber Company was our declining to haul their timber on the Opanake bush for them at an unpayable rate.

45. Do you think there is any likelihood of an arrangement being made?—I heard their counsel recommend them to make an arrangement at a meeting of their Board. I think the cessation of the building mania in Melbourne has had something to do with it. I may say, perhaps, that we

offered to deliver the timber to them at 3s. 6d. per 100ft.—that is, measurement logs—and they now have been paying 4s. 9d. and 4s. 10d. for logs in the river.

46. You owe the bank so much : is the uncalled capital hypothecated to the bank as security?—Yes.

47. That is the only security the bank holds?—Yes, further than the promise if we received £25,000 we would have paid £3,500 to the bank.

48. *Dr. Newman.*] Have you and three others signed a bond for £11,500?—Yes.

49. The Government can call upon you for that?—The Government can call upon me for that, I am afraid, as the others have gone through the Bankruptcy Court. It is a very pleasant position.

50. You are liable for £11,500?—I am.

51. Can you tell me at what price the Public Trustee and the New Zealand Government Insurance took over your debentures?—The Colonial Bank took the debentures over.

52. At how much?—At $2\frac{1}{2}$ per cent. discount.

53. You are aware that the New Zealand Government Insurance holds £5,000 of them : do you know what price they were taken at?—At the same rate.

54. And the Public Trustee also?—I do not know ; they were bought from the bank. I think the Colonial Bank bought them up in the first instance.

55. What security did you give to the Government that was at all equal to the £85,000 or £90,000 inserted in the clause in the Act? The Government were to indorse your paper for £50,000 when they were assured they had security for £85,000 or £90,000 : now, what security did you give the Government?—We gave the Government security as far as these debentures were concerned, that they should only be used—the proceeds of them only should be used, by paying at the rate of 94 as to 117 per cent., as the work progressed, and the two bonds of £11,500 each.

56. What do you want us to do?—I made a proposal that the best thing is for the Government to take the whole line as it is, and discharge all liabilities, and take the land.

57. *Mr. Rhodes.*] That is, without enforcing the guarantee against you?—Without enforcing the guarantee against me. I am certain it would be the most profitable thing for the Government to do.

58. *Dr. Newman.*] Have you ever paid any interest on these debentures?—Yes ; three half-years.

59. Out of capital?—Out of capital, of course ; there have been no net earnings.

60. Why is not more capital called up, as is usual in companies?—For this reason : our borrowing powers are limited, together with the called-up capital, to £60,000. When it became evident that £60,000 would not complete the line it was determined, as soon as we should get our Crown grant for the section already completed, to sell the timber—in fact, we bargained to sell the timber beforehand to pay off the mortgage, and then to borrow £5,750—deficiency between the amount of the debentures and paid-up capital and the nominal capital of £60,000—and then to make calls to the extent of £500 each.

61. What other interest induced you to sign your name to such a bond as this—to put your head in such a noose as this?—I had no other interest, except having seen the land and the timber to know that with fair treatment the whole thing was perfectly safe. Of course, I had no notion that the other gentlemen who put their names down with mine were going to file their schedules. I believed at that time that they were perfectly solvent.

62. *The Chairman.*] Who were the others to the bond?—(Witness mentioned the names, but did not wish them to appear in evidence.)

63. You stated that you could only borrow up to £60,000?—Yes.

64. And if you called up the remainder of the capital—the £5,750 of uncalled capital—you could not borrow that amount?—Yes.

65. After you had borrowed you could call up the capital?—Yes.

66. *Mr. Turnbull.*] If you attempted to call up capital, would it be likely to come?—I am afraid a great deal would not be likely to come.

67. And you would be in no better position, because the Colonial Bank would have a first claim upon it?—Just so. It would be of no service in advancing the railway in the least to call up the capital.

68. In reference to the severance of the land which you complain of, has the land between the severance been sold?—No ; it is a reserve for us to select from as yet.

69. You are not injured by that?—Yes ; because we cannot sell the timber. We have not got the timber to sell.

70. That would be your own fault for not completing the line?—No. If we had had the selection we applied for we should have had the timber.

71. If this 29,000 acres were handed over to you, would the company be in a position to finance to finish the work?—I could not give an answer to that question. Probably it could, but I really cannot say.

72. You stated that your agent said that he could have sold the land under certain conditions?—Yes.

73. Were these statements verified? Did he state the persons who were likely to buy?—There was only, to my knowledge, one *bona fide* offer for land at the price which we were allowed to take. There was an offer for 100 acres at £1 5s. an acre.

74. Then, there would be no warrant for that statement any further than that?—Well, he is a man of the highest character, *Mr. Ewington*. Ten or twelve people who had been up to see the land objected to the price, but would have given 12s. or 15s. an acre. I know they went, for they got free passes to go by the line.

75. Would that be for the whole block, or only just small portions?—Oh ! not for the whole block, but I understood him for considerable quantities—200 acres and 300 acres—as the land is cut up.

76. *Mr. Barron.*] In view of the favourable statement that you have presented before the Committee, have you made any effort to try to raise the necessary capital to get you out of your difficulties from capitalists?—We have no capitalists in Auckland.

77. Has this printed statement been presented to the Bank of New Zealand or the Colonial Bank, and have they been asked whether it would be possible to make further advances to get the company out of their difficulty?—This statement was written in Wellington.

78. Has any similar statement been presented to the Colonial Bank or to the Bank of New Zealand?—No.

79. And they have not really been asked to consider the position of the company, and to consider whether it was possible to help the company out of its difficulties?—I think that both banks are thoroughly aware of the position of the company. I have discussed the matter repeatedly with the managers of both, but I may say I feel sure that they would not give any further assistance.

80. And suppose the Government took no steps just now to interfere in the matter, what would be the result?—That, first of all, some creditor would at once get a liquidation order. Those shareholders who could pay would be made to pay to the last penny, and those who could not would be made bankrupt. And then, in January, the 14,500 acres already granted, with the timber upon it, would pass to John Owen under the mortgage.

81. And the line?—To the Government.

82. *The Chairman.*] And you would be liable for £11,500?—Yes, and certain other amounts—my contribution to the bank.

83. Are there any other private guarantees besides the £11,500?—No.

84. *Mr. Moss.*] You contemplate the entire loss of the company's capital?—No. In the proposal I have made in that printed paper I think it should stand in abeyance until the line is paying, and then should be taken into consideration by the Government.

85. At all events, there is no immediate refunding of that capital?—No refund at all. The Government should have the right, if they like, to buy us out at that time. I do not think we are in a position to ask for any refund.

86. When this company was formed things were looking rather bright in Auckland?—Yes; and more shares could have been taken up then by responsible people, but we thought that, really, we had capital enough.

87. And you went into it without any collateral consideration—you believed in the company and in the thing itself?—I believed in the thing itself.

88. Can you say whether many of the shareholders now are able to meet their liabilities—any of the large shareholders?—I think not.

89. Then, £12,000 of available capital is still uncalled?—Oh, more! seventeen thousand some hundreds.

90. And do you think that much of that capital could be called up?—I do not think more than a fourth.

91. At the time when this company was formed, was not one of the inducements held out to those who were asked to take shares in it the fact that the Government were to give the guarantees and large endowments?—The endowments, certainly; that was the inducement.

92. *Sir J. Hall.*] I only wish to ask you for an explanation on two points in the memorandum which do not appear to me to be quite clear: first, with regard to Owen's mortgage—that is a mortgage for what amount?—A mortgage for £11,349.

93. Over the freehold of the company?—Yes.

94. If he were paid the amount of his mortgage, would he have any claim upon the rest of the land?—No.

95. Because I see that in your statement of the result of the alternate proposals you say that if Owen foreclosed he would take the endowments?—Yes; that is, the entire endowments as they now stand.

96. But on the other hand, in estimating the result to the Government of taking the property over, you estimate this land at £42,000?—The land and timber when the line shall have been completed.

97. Do you think that at present the endowments would not fetch more than £12,000, the amount of Owen's mortgage?—I think it would be difficult to find any one purchaser. I think there would be no competition. It would not fetch more than that mortgage.

98. You say that the Government have sold land immediately adjoining the company's endowments at much lower prices?—Yes.

99. Did that land bear kauri timber the same as your endowment?—There is a little kauri timber on some of it, but out of the 14,500 acres I should think that all the kauri timber stands upon less than 2,000 acres. I think that a ring of 6,000 acres would enclose all the kauri trees, except a few scattered ones. The ground actually occupied by the kauri would not exceed 2,000 acres.

TUESDAY, 10TH SEPTEMBER, 1889.

Mr. C. Y. O'CONNOR, Under-Secretary of the Public Works Department, examined.

100. *The Chairman.*] You have visited the Kaihu Railway?—Yes.

101. We wish you to give us your opinion as to the value of the railway, as to the way in which it has been constructed, and also the probabilities as to the amount of traffic there would be upon it?—From all information I have been able to obtain, I have reason to think that the statements that are made as to the actual cost of the line by the District Engineer are correct. He says, altogether, the first section, sixteen miles and a half, has cost £65,700. The only doubt there can be as to the correctness of this is as to a sum of £10,000, which is included in the £65,700, and which covers the cost of the preliminary works, the floating of the company, and the acquisition of cer-

tain lands, and the surveys. There cannot be very much room for doubt, I think, seeing the number of things it includes, that £10,000 would be about reasonable for these items. The other items are quite clear—there can be no question about them, I think; it may, therefore, safely be accepted that the cost has been for the first section about £65,700.

102. The line was inspected by a Government engineer?—Yes; Mr. Hales has had charge of the funds. I should also explain that we have a good check on the cost of this line, because when the issue of the debentures was authorised by the Government, by Order in Council, the proceeds of these debentures were lodged in a trust account, and Mr. Hales had to authorise the drawing upon this account from time to time in a certain ratio—that is to say, the amount to be drawn from time to time out of the trust fund would be in proportion as the total amount of guaranteed debentures was to the total estimated cost of completing the first section of the railway—namely, as 94 to 117. Mr. Hales issued sums out of the trust account, which was placed under his control accordingly, from time to time, in conjunction with the directors of the company; so that, I apprehend, there can be no doubt about the cost of the work since the trust fund was created.

103. Was there any standard of excellence fixed for the railway?—Yes; the plans had to be approved by the Engineer-in-Chief, and they were so approved.

104. The plans and specification?—Yes.

105. That is to say, the railway of its class would be quite equal to the Government railways of that particular class?—Yes; I think so. It seemed to be very substantially constructed.

106. *Mr. Valentine.*] What is your opinion, Mr. O'Connor, as to the value of the railway as a working-railway? Is there any likelihood of its paying at an early date?—I am not in a position to give an opinion on that phase of the subject. I do not know anything of the country beyond the end of this railway. I have been told that the land beyond the end of the railway for twenty or thirty miles up towards Hokianga is good land, and that there is room for large settlement there; and, of course, if settlement were to ensue on this land there would be traffic independent of the timber-traffic.

107. As to the timber?—There seemed to be a good deal of timber in the district, and it struck me as being very good timber. I should say it would run probably 30,000ft. to the acre, or something like that. I cannot say, however, how many acres there are of it.

108. *The Chairman.*] Have you read Mr. Knorpp's report of 1885?—I did read it a number of years ago, but not lately.

109. *Mr. Valentine.*] If the line were completed for the additional three and a half miles would that assist the success of the railway in bringing it into the fertile country you are talking of?—I take it that the settlement of the country cannot be expected to go on rapidly unless where it is clear. The line now gets to the timber-country.

110. Is there not fine country just beyond that?—I do not know. The Surveyor-General, Mr. Smith, can give you much better evidence on this subject than I could, as he has been over the ground. The traffic is mainly contingent upon there being a demand for the timber.

111. *Mr. Rhodes.*] What are the shipping facilities?—Sufficiently good, I believe. I saw pretty large ships in there. They go aground at low water, but there is a large rise of the tide there. I should say that ships of from 500 to 600 tons, or something like that, could get up to Dargaville.

112. *Mr. Moss.*] What sized vessels can get there?—From what I saw—I did not ask particularly—I should say vessels of 500 or 600 tons.

113. *Dr. Newman.*] How much would it take to finish the line?—I believe it is reckoned it will cost £16,000 to do the other three miles: but some of that has been already expended. I believe there is a good deal of it done; but the company owe money to the contractor. The estimated cost is £16,000.

114. Without any work being done?—Yes.

115. How much will it take to finish it?—I could not tell you. I understand that all the money that has been paid on account of it up to date is £1,500, but I understand the value of the work done is considerably over that.

116. We should want, then, £12,000 or £13,000 to finish the line?—I take it, if the Government took over the line, they would have to pay the contractor; that is to say, that I presume that whoever takes over the line, they would take over the responsibilities of the company. Of course, that is only a matter of opinion.

117. Supposing the colony forecloses, is the advance of £47,000 secured? will the Government get on that line over £47,000 of work?—Yes; a good deal more than that.

118. How much?—At least £67,000, that I know of.

119. We will get £17,000, then, for nothing?—I make it £20,000.

120. *Mr. Moss.*] When you said £16,500 as the cost of the second section, you meant that would be the value of the work when finished?—Yes.

121. You include in that what the contractor had already done?—Yes; that is so.

122. The contractors are said to have £13,200 owing to them: is that on account of the three miles and a half?—I do not really know. I should not have thought they would have that amount owing to them. If they had that owing to them on account of the three miles and a half, it would go to show that the line is all finished.

123. *The Chairman.*] The company's statement shows it will take £7,000 to finish the line. At that rate, they will only owe the contractors £9,000. Could you find out by to-morrow, Mr. O'Connor, how much it will take to finish the line?—I do not think I could obtain the information by to-morrow. I could find out, but I do not know how long it will take to obtain the information. Our engineer is not in charge of the works; the company's Engineer is in charge now.

124. Could you find out from that Engineer?—Yes, I think so; but, of course, that will be merely giving the company's Engineer's estimate, which, I presume, the Committee has before it already in Mr. Barstow's statement.

125. The company's statement says: "To finish this section will cost about £7,000 beyond the value of the work already executed; £2,000 will be required for rails, &c.; timber-trucks, say, £3,000." To actually complete the work and finish the railway would cost £12,000. I suppose all you could get would be the opinion of the company's Engineer as to whether £7,000 is a correct estimate or not?—Yes; but I know Mr. Holt, the company's Engineer. He is a thoroughly trustworthy man, and I should have no hesitation in accepting his statement. I will telegraph to him if you wish.

The Chairman: What I wanted to point out is that the £7,000 stated by Mr. Barstow is information derived from the company's engineer. If Mr. O'Connor wired to Mr. Holt he would simply get a repetition of what has already been stated.

Mr. O'Connor: There is one point which I have not been questioned on, and as it is certain to arise, perhaps I should explain it. The Act of 1885 provides that Government is to guarantee debentures to the extent of £50,000, and is to have security over a railway to cost between £80,000 and £90,000. The question has been asked as to how it is that the whole of the proceeds raised by the debentures has been expended and yet Government have not got security over a railway of the value of between £80,000 and £90,000. The ultimate arrangement was that Government should advance up to the total proceeds of these debentures on the first section of the railway—sixteen miles and a half—and receive as additional security a joint and several bond from certain persons, whose names I have got here, to find the amount of money necessary to do the additional three miles and a half; and therefore, in accordance with the arrangement made, we have got what we were instructed to get.

126. *Dr. Newman:* You mean a worthless bond?—That is not what I meant to express. What I meant was that the department has carried out what it was instructed to carry out—that is to say, we have got the first section of the railway completed entirely for the amount of the proceeds of these debentures. That is what we were instructed to get.

127. I take it the Act is distinctly clear. The Act says that Government shall have between eighty and ninety thousand pounds' worth of railway as security. It is quite clear that Government did not get between eighty and ninety thousand pounds' worth of work as security for these debentures?—Well, if I remember aright, the Act said the Governor was to exercise his discretion about the securities. Anyhow, what we have got is a bond for the completion of this second section, and we have got the entire completion of the first section, which has cost £65,700, for the £47,500—that is to say, we have got works to the extent of £20,000 over and above the amount of the debentures, and in addition to that we have got a bond for completion of second section.

128. I take it this "mess" has been occasioned through the slackness of the Government, who wrote their name across forty-seven thousand pounds' worth of paper without getting proper security?—I do not think that quite explains it, because, as a matter of fact, the debentures were floated under the control of the Government, and the proceeds were placed in a bank as a trust fund, to be operated upon only by the joint signatures of two of the directors and the Government District Engineer; and the Engineer was desired to permit drafts on this trust fund only *pro rata* on the basis of amount of Government contribution as compared with total estimated cost. The certificates for progress-payments upon the contracts all came to the Engineer, who was authorised to sign a cheque to the amount of 94-117ths of the amount certified as due, and the trust funds were entirely under his control during the whole procedure.

129. *The Chairman:* Then this payment of ninety-four to twenty-three would represent the proportion between the proceeds of the debentures and the value of the railway as it now stands?—Yes, that is so.

130. *Mr. Turnbull:* In valuing the railway at £65,000, you say £10,000 was to cover costs of preliminary works and the promoters' expenses: how much of that would have been incurred by Government had Government done the line themselves?—Well, I should think the greater part of it. It includes surveys, preliminary expenses of various kinds, and certain works.

131. What were the preliminary expenses as connected with the work or connected with the directorate?—They include the amounts expended in forming the company, and also engineering surveys and first-formation contracts. I am not in a position to say what the first-formation contracts mean: evidently; some works are included.

132. What expenses would be connected with the formation of the company?—I do not really know. It means, I suppose, the advertising of prospectuses, secretary's salary, and share commissions, &c., &c.

133. That expense would not have been incurred by Government in making the line?—No.

134. *The Chairman:* That would include the discount on debentures?—No; that is stated in a return laid before the House some little time ago. The amount realized was considerably less than £47,000—about £45,500, I think.

135. *Hon. Mr. Larnach:* Is the grade of the Kaihu Railway an easy one?—Yes.

136. Right through?—Yes; the grades are all very good and the curves also.

137. *Mr. Turnbull:* The three miles and a half runs up to the head of the valley?—Yes; it runs right up the river.

138. *Hon. Mr. Larnach:* The culverts and bridges are well constructed?—Yes; the railway is altogether of the usual type of Government railway. They have, I think, used our standard drawings.

139. Altogether, the work done is substantial?—Yes, it is.

140. *Mr. Rhodes:* Is the additional three miles necessary for the working of the railway?—I should not have thought it absolutely necessary at present. It seemed to me they had got into kauri country where they were, but it has been represented that it is necessary to go further, as the kauri could thus be got to the railway more cheaply. There is plenty of kauri about where they are now, but it is not so easy to get at as at a point further up. The line for the three miles and a half seems to go through timber country the whole way.

141. *Mr. Moss.*] The Railway Commissioners say *if* the timber is conveyed by rail—as it was assumed it would be—is there any possibility of timber being conveyed by other means: by water, for instance?—Not that I know of. The river is not, I think, of the character that you could float timber economically.

142. *Mr. Barron.*] One point I wish to ask a question about. I heard some one ask a question, the result of which was that Mr. O'Connor replied that if Government undertook this operation they would get £16,000 or £20,000 practically for nothing; of course, that is assuming the railway can be profitably worked. I am speaking only of the intrinsic value, not of the commercial value?—I think I said I was not in a position to give an opinion as to the commercial value of the railway. Practically, we have sixty-seven thousand pounds' worth of work, which has been paid for, irrespective of what has not been paid for, as against forty-seven thousand pounds' worth of debentures, which leaves us £20,000 to the good.

143. You are satisfied the work is really worth £67,000, assuming the railway would be commercially good?—Yes; I should say it was quite worth that money.

144. In that £67,000 you include the expenses of floating the company and secretary's salary, and so forth, which would not be represented in the value of the railway to the Government?—As against that the company has a considerable area of land for which they have not paid anything—I mean lands on which the line is constructed, not endowment land. There is one piece of land in the Township of Dargaville which Mr. and Mrs. Dargaville conveyed to the company. I do not think the company paid anything for it. It was, I believe, conveyed free of cost, and its value is represented at £1,000 an acre.

145. *Mr. Valentine.*] I think Mr. Barstow states in his evidence that to complete the title of the railway company to the land upon which the line is made a sum of £150 had to be paid?—I think it will take between £200 and £300: that is the amount we retained. The state of the case is this: The issue of debentures was for £47,000, and they realised £45,610. Of this amount we have paid £45,340 for works, and retained £270 to pay for land which is not yet transferred to the company.

146. Will that quite cover it?—I estimated it would when I was there.

147. Of course, you know the only security Government have is the land upon which the railway stands?—Yes; but Government has that security whether the land is paid for or not. It is rather intricate to explain, but it is so. The Railways Construction and Land Act authorises the company to go in upon the land and take it.

148. This £270 has been reserved out of the proceeds by the Government to pay for portions of the land?—Yes.

149. You have to pay for a portion of it?—We will have presumably to pay for all not already paid for: but, as a matter of fact, the title of the company to the land occupied is quite good, even though the land is not yet paid for.

150. *Mr. Rhodes.*] You say Government get £67,000 for £47,000. As far as I can see, Government have paid for the whole thing. They have to pay £49,000 for these debentures, including £2,000 interest, and give £18,000 worth of land which they have no claim over. Practically, the Government have paid for the whole thing, and the only capital that these people have put into the section is the preliminary expenses. Is that not so?—I did not understand it so. I was not aware that the company had sold any of this land at all.

151. We have lost our claim over it. They have got the money for it. As to the value of this land, can you give us an estimate?—No; I have no personal knowledge of the value of this land at all.

152. *Hon. Mr. Larnach.*] Perhaps you are hardly in a position to give an opinion about it?—I do not know the value of the land at all.

153. You are aware there has been a certain amount of paid-up capital by the company?—No; I do not know about that either.

154. *Mr. Barron.*] If Government entered into this transaction, you say they are getting sixty-seven thousand pounds' worth of work for which they had only paid £47,000. You did not take into consideration the fact that Government had given to the company certain areas of land?—I am only speaking so far as the Public Works Department is concerned. We have paid in the shape of guaranteed debentures £47,000, and we have work to represent £20,000 more than that.

155. In addition to the cash, there were certain areas of land?—There were certain endowments.

156. *Dr. Newman.*] Taking the land endowment into consideration, do you think the clause of the Act was fulfilled which said Government ought to have security to the value of between £85,000 and £90,000 before they advanced this money?—I take it they have security in a way: they have sixty-seven thousand pounds' worth of work, and a bond for the completion of the remainder.

157. That is not £85,000?—No; but as a matter of fact the work was eventually estimated to cost only £80,000; the final estimate was £64,000 and £16,000. That is what it was supposed it would cost, £80,000, and that was the most we eventually expected to get as security, and we have as security the first section of the line, which cost £67,000, and also a joint and several guarantee to the extent of £23,000 (in two bonds of £11,500 each) to secure the completion of the second section.

Mr. Turnbull: There is only one of these bonds current.

The Chairman: One has been released. One was against the first section, and the other against the second section. Will you look at Mr. Knorpp's report, Mr. O'Connor, of 1885, D.—56.

Mr. O'Connor: You wish me to find out the value of the work done on the second section, and the estimated cost of what remains to be done?

The Chairman: Yes.

158. *Dr. Newman.*] Have you got any evidence, or can you get any evidence, as to whether it is worth while for Government to finish this line?—That is the commercial aspect of the thing.

I think the Railway Commissioners would be the proper persons to give an opinion on that point. I do not know enough about the country to offer an opinion. Possibly by combining the knowledge I have got of railway matters with the knowledge Mr. Smith has got of the land we might between us be able to come to some conclusion. I myself do not know enough about the country to give an estimate of what the traffic would be.

159. *The Chairman.*] I see in this paper, 198-D., 1889, the value of the land upon which the railway runs is given as £4,074, but that includes three acres in Dargaville, valued at £3,700?—It is valued at £1,000 an acre, but I think it is over-valued. These are the only estimates we have got. They were made up by Mr. Williams for the company.

159A. The £270 covers the “not known” items?—Yes.

S. PERCY SMITH, Surveyor-General, examined.

160. *The Chairman.*] You valued this land on behalf of the Government?—Yes; on behalf of the Government originally.]

161. What price was it valued at for the company? It is stated that the area of land handed over to the company was 14,301 acres: what was that valued at?—It was valued at various sums. Part of the land which was withdrawn from sale for railway-endowment purposes was valued in blocks, and the blocks, parts of which were granted to the company, were valued thus: 15s., £1 7s. 6d., £1, and £2 an acre.

162. What was the total value?—The total value was about £14,000. I am speaking from memory now.

163. In Mr. Barstow's statement he says that the Government have been offering land of equal quality in the same neighbourhood at very much lower prices, and thereby prevented the company from realising on their endowments at the prices at which the Government valued them to the company?—Well, that statement is not quite correct. I think you have the plan of the land before you. Will you allow me to show you. This Block XII., of Tutamoe, was valued—a certain part of it at £1 an acre, and some portions at 7s. 6d. an acre. The lands which were withdrawn for endowment purposes are the lands immediately adjoining those which were sold by Government at 7s. 6d. an acre, and were valued to the company at the same price of 7s. 6d. an acre. One section was sold at 10s. an acre. A small block in the corner of the endowment was valued at £2 an acre, because it has a considerable amount of kauri upon it.

164. One complaint Mr. Barstow made especially was that a section had been sold at 10s. an acre, while the land on the adjoining block was valued to the company at £2 5s. an acre?—The difference in the price would be accounted for by the amount of kauri on the land.

165. You think, generally speaking, Government have been selling land—taking the kauri into consideration—at no lower price than the price at which the endowment was valued to the company?—I think not. The value of these blocks was arrived at in this way: the quality of the land varies very considerably; in some parts the land is open land, and in some parts it contains kauri. The presence of kauri, of course, makes the land very valuable; but, in arriving at the value, a mean value was taken for each block. Some parts were not worth perhaps more than 7s. an acre, while others were worth probably £2 per acre or more.

166. Mr. Barstow made another complaint, that, in sketching out the endowment land, the line was made lower down, thus cutting off a large quantity of kauri country; that instead of leaving out less valuable land, the kauri bush had been severed in half?—That is the case. My predecessor objected to the line suggested, because it left a large portion of the country without any frontage, to the disadvantage of the Government. The line was therefore altered several times, and, as finally settled, it necessitated the leaving-out of a large quantity of fine kauri.

167. *Dr. Neuman.*] In view of Government taking over the railway, can you tell us if there would be any chance of Government within twelve or eighteen months selling their lands—I mean the lands the produce of which would be drawn into and would benefit this railway?—Yes; but to a very small extent only, and for this reason the roads, necessary to precede settlement have not been commenced in the district. I refer to lands outside the endowment.

168. Are not people buying large areas of land there?—Not very large quantities. There are about thirty settlers who have taken up land there.

169. Could you sell one-half of the Crown lands?—No.

170. Could you sell one-quarter?—It must be remembered that there is a very large area of Crown land there—over 120,000 acres. No; I do not think you could sell one-quarter of the Crown lands there within any short period.

171. You are aware that one-third of the proceeds of the sales would be ready for road purposes at once; would that facilitate sale?—It would, by providing more means of settlement; but I apprehend even then you would not get one-quarter of the Crown lands there settled in two years.

172. How much Crown land altogether do you reckon would be drawn into this railway?—I do not think you would have more than 80,000 acres affected by the railway.

173. *The Chairman.*] Without roads?—Even with roads. I think the country which will eventually—say, in the course of ten years—be affected by the railway will not be more than 80,000 acres.

174. At present that country is tapped by the road to the Mongonui Block?—Yes, to a limited extent; it is a bridle-road.

175. If the railway is completed to the terminus would not there be easier access by the railway?—Yes.

176. The Commissioners say 90,000 acres, and Mr. Barstow 300,000 acres will be opened up by this railway?—I do not think the produce from more than 80,000 acres would come down that railway. There are two blocks—the Waoku plateau and the Mangakahia Blocks. The Mangakahia

will not be opened up, but the Waoku plateau will. The physical features of the country will always prevent the produce of the land, other than that in the immediate neighbourhood, from coming down by the railway. You would have to go over a plateau 2,000ft. high to get to the railway from Mangakahia, and it is not likely any one would do that when there was easier communication, though longer, by road.

177. *Mr. Valentine.*] I see the Commissioners say there are 7,000 acres surveyed ready for sale, and that the land is good and readily taken up for settlement: when he says readily taken up for settlement, is that at your prices or the railway company's prices?—I apprehend that meant at our prices.

178. The effect of this is, of course, the railway company are unable to sell lands at the prices you valued them at at the time they took over the land?—I am aware that is so. It arises out of the manner in which the lands were valued. They were valued in blocks. In some cases the land was very good, and in other cases it was very bad; but a mean price was taken right through. Seven thousand acres is said to be fairly good land.

179. What do you think that would fetch?—It would fetch from 10s. to 25s. per acre.

180. Probably on an average 12s. 6d. per acre?—Yes; excepting, of course, kauri timber land.

181. That is exactly what Mr. Barstow stated in his evidence. He thought they could sell a considerable quantity at 12s. 6d. per acre, but you admit the fact of your putting on a restrictive price has prevented them from making sales?—Yes, certainly.

182. *Dr. Newman.*] Is there any absolute restriction as to their selling the lands at a certain price?—I believe they are not allowed to sell at a lower price than the land is valued at.

183. What is your opinion about the railway as a commercial venture?—Well, my opinion is this: as long as the kauri is there to come down, the line will pay, but as soon as that gives out there is not sufficient land to create enough produce to make the line a profitable one. The railway cannot be carried on any further. It stops at the foot of an immense range, and therefore, of course, I feel this: the only produce which will come down will be by roads which will lead down to it. You cannot include the valley on the other side of the plateau, because to get to the railway one would have to ascend 2,000ft. and then descend 2,000ft. on the other side.

184. It is your opinion that when the timber-traffic is exhausted there will not be sufficient produce to make the railway pay?—Yes.

185. *Mr. Perceval.*] How long will the timber last?—That depends upon the amount of timber.

186. *The Chairman.*] Mr. Knorpp says it will take ten years to exhaust the timber. Do you think that excessive?—I think it is excessive, and I will tell you why. I know that place fairly well, and I know Puhipuhi Forest, which is acknowledged to be the finest forest in New Zealand; and comparing them together, now that we know the amount of timber in Puhipuhi, I think Mr. Knorpp's estimate is above that of the timber in the Puhipuhi Forest, and therefore I think it is excessive.

187. Two hundred and sixty million feet he estimates it at. Can you give the Committee any idea as to how much it is excessive?—Well, no estimate has ever been made. I should hardly like to say.

188. *Mr. Turnbull.*] Has not Mr. Monk made an estimate of it?—He may have done; I do not know.

189. *Mr. Valentine.*] I think you said you valued the endowments which the company have got at £14,000?—I think, if I recollect right, they were entitled to select £14,000 worth of land.

190. You know there is a mortgage over that of £12,000? Well, no; I was not aware of that.

191. If this were abandoned to the mortgagee, it would be better for Government to pay the £12,000 and take it over?—Unless the value of the timber would bring it up. In valuing this land originally, eight years ago, the value of the timber then was really nothing at all. The value of the timber has been enormously enhanced since the railway has been put there.

192. In fact, the timber, without the railway, would be of very little or no value?—Of very little value.

193. *The Chairman.*] In valuing the land the value of the timber was taken into account?—To a certain extent only, at a very low figure, simply on account of the difficulty of getting out the timber at that time.

194. That accounts for the difference between the prices at which you have been selling Government land and the values put upon the company's land with timber on it?—That accounts for the difference.

195. *Mr. Valentine.*] You valued some of the company's land at 25s. per acre with timber on it. Now the railway and the timber are on the land you are actually selling the land at 12s. 6d. when the timber is of value. What can be the value of the land?—You ask me on the average?

196. Yes.—Well, yes. Some of the land would sell very much higher than that.

197. Practically, the land you are now selling at 12s. 6d., with the timber on it and the railway there, is of no value. Really it is the timber you are selling at 12s. 6d., and you are giving away the land.

198. *Mr. Barron.*] You know this kauri forest there; would that bring traffic to the line?—Yes. I have been through parts of it.

199. Is there much of it burnt?—Not a great deal when I saw it last.

200. What would probably be the result of fire? Would it destroy its value?—It would undoubtedly deteriorate its value very much—undoubtedly so.

201. Would you venture upon giving an opinion as to the commercial value of this undertaking if Government took it over?—I do not think that I ever considered it in that light.

202. *The Chairman.*] It would perhaps be better if Mr. O'Connor and Mr. Smith hold a consultation, and give an answer to-morrow than giving a reply off-hand.

203. *Mr. Barron:* What I wanted to know is whether Mr. Smith would venture upon giving an opinion on this point, as the opinion of Mr. Smith would be very valuable on account of his having considerable local knowledge.

204. *The Chairman:* Really it is a matter for a railway expert rather than a surveyor. Perhaps you might like, Mr. Smith, to consult with Mr. O'Connor on the matter, and give your reply to-morrow?—I would, Sir.

205. *Mr. Rhodes:* In reference to the value-question, you say a number of settlers have gone on the land; have they taken kauri land?—No.

206. The land you sold to them had no particular value as kauri land?—None whatever.

207. Mr. Valentine seemed to be labouring under a mistake. He took it for granted that the land you sold had just as good kauri on it as the other land?—Oh, dear, no!

208. *Mr. Valentine:* At the time you first valued the land for the railway company you counted the timber as of little or no value at all because there was no railway?—That is so.

209. *Mr. Turnbull:* That can hardly be so, because at the time the land was valued it was valued for the railway.

210. *Mr. Valentine:* I will repeat the question. At the time you valued the land for the railway company you valued the land as land, and not as timber-land particularly for the value of the timber? You considered the timber then of little or no value?—I think the answer I gave is quite right. The value of the kauri was taken into consideration to a certain extent.

211. Government has valued these lands so high, then, that really you are selling in the market now both open lands and lands that have kauri on them, similar to the land in the endowment, at an average of about 12s. 6d. per acre?—We are not selling kauri land an average of 12s. 6d. per acre.

212. Was there not any kauri land open for selection there?—Not in that neighbourhood.

213. Not in some of those lands?—No.

214. Have the thirty selectors taken up no land with timber on it?—No; no timber.

215. As a matter of fact, you would have valued them very much higher than that with timber on them?—I should.

216. How much?—It varies according to locality.

217. Near the railway?—Some of that land would be valued at £4 or £5 an acre.

218. Close to the railway?—Close to the railway.

219. But the average would be 12s. 6d.?—I suppose it would be all through.

220. That is mainly on account of the value of the timber, and not on account of the land?—Yes.

221. *Mr. Turnbull:* There is no restriction on the value of this land literally. If the mortgagee took the land on account of the mortgage, he could sell it for what he likes?—That is a question I can hardly answer. The company themselves are restricted to prices. Whether the mortgagee is or not I do not know. I suppose the mortgagee would take the mortgage, subject to the conditions upon which the company had the land.

222. *Mr. Moss:* If this kauri land were sold now under the mortgage, do you think it would bring much money?—Certainly, if Government were going to complete the railway.

223. Supposing Government were not going to complete the railway, do you think there would be many purchasers at the present moment?—I think so.

224. Without reference to the railway?—Well, it can hardly be without reference to the railway. They have got sixteen miles of the railway already finished, so that you can hardly consider it without the railway.

225. If that land is left for the mortgagee to sell, do you not think it would be a very great sacrifice? The Government would have to construct the railway, and the mortgagee would derive the profit from the land?—I do not think there would be buyers for an extensive block like that. The market is to a certain extent limited as to buyers—buyers of a large extent of kauri country.

226. At this particular time, if that land were sold by the mortgagee, it would practically fall into the hands of this large company, and Government would have to complete the railway to carry off the timber, and the company would have the profit?—Yes.

227. At about what price per acre would it sell? Do you think this kauri reserve would sell over which the mortgage is held—the kauri part of it?—I can only answer that question by telling you this: the quantity of kauri varies within each acre: some of it would be worth £4 or £5 an acre, while other parts would only be worth £1 an acre: it depends entirely upon the value of the kauri.

228. If sold in one block?—Well, no; I would not like to say.

229. *Hon. Mr. Larnach:* Mr. Smith, you say there is good land near the terminus?—Yes; a little beyond the terminus there is very good land. There is also some good land in the neighbourhood of the Mongonui Bluff.

230. On the Dargaville side of the Mongonui block?—Yes.

231. What area is there?—Well, four thousand or five thousand acres of good land.

232. Do you think it would take ten years to get the kauri off that?—Oh, no! There is a good deal of kauri on that land, but the kauri does not principally lie there. It is more to the right and nearer to the terminus.

233. Referring to the country round about the terminus, and what has been given over to the company, would it take ten years to get the kauri off that land?—Well, of course it could all be got off in ten years. It is a question of market.

234. I understood you to say you thought the railway would pay during the time kauri was being carried to market?—Yes.

235. When no kauri was being carried it would not pay?—No, I think not.

236. Assuming a large amount of settlement took place on this land while taking the kauri

off, would not permanent settlement be established that would create a paying traffic for the railway over all time?—I think it is questionable whether there would be sufficient produce from these lands to keep up the traffic.

237. From 80,000 acres?—Well, 80,000 acres; what would that be as a feeder to a railway, if I may be allowed to put a question to you?

238. I am only putting the minimum holding of small settlements of 150 acres each. The Railway Commissioners say there are 90,000 acres which would be opened up by the railway?—Well, according to my idea, there is a very much less area which will be affected by the railway, and the produce of which will come down to the railway.

239. What area?—80,000 acres at the very outside.

240. Fit for settlement?—Fit for settlement in one shape or another.

241. Fifty thousand acres if settled in small holdings may produce sufficient traffic to make the railway continue to pay?—If all settled in small holdings, but the country is such that you could not put all the land up in small holdings. Some of them would require to be holdings of considerable size.

242. The railway when finished will be about twenty miles in length?—Between nineteen and twenty miles.

243. Is there much clear land?—At the proposed terminus there is a good deal of clear land.

244. Not any large area?—Not any very great area.

245. There is a good deal of Maori settlement at the top?—The Maori settlements are down below again, along the portion of railway already formed.

246. What was the reason of the Government fixing differential prices between the Government sale-price and the price fixed on the land given to the company?—I think there is a little misconception about the Government sale-price. Government would have sold these open lands at from 7s. 6d. to £1 5s. per acre, which, as has been mentioned, was an average price of 12s. 6d. per acre. I may say that some of the lands will sell for very much more than that—at £4 or £5 per acre where there is kauri on them.

247. Do you mean to tell me that the land given to the company was better at the price put upon it by the Government than the lands sold at lower prices to the public?—Yes; because the lands open to the public are open lands. There is not a stick of timber on those lands, with the exception of a tree or two here and there.

248. They adjoin other lands?—They adjoin the company's lands. I should like to tell you this: that the lands valued for the company adjoining those sold by the Government are valued at the same price, as the Government have just sold their land—namely, 7s. 6d. per acre.

249. You have not made quite clear to my mind the reason of these differential prices for lands adjoining those offered by the Government to the public, and those given by the Government to the company. I would be glad if you could elucidate it a little more?—It arises in this way: the country is divided into blocks of various areas. Take the block which happens to be adjacent to that which the Government have opened for selection. The values put upon the land by Government varied from 7s. 6d. to £2 per acre, but the price valued to the company of the land adjoining is the mean price, which happens to come out at 15s. per acre.

250. Much above the price Government are offering their land to the public?—If Government were offering this portion of the block, valued at £2, the company they would value it at £2 too.

251. *Hon. Sir J. Hall.*] What is the amount of sawn timber which can be got off this endowment block?—I am afraid I could not tell you that. No valuation has been made by the Government as to the amount of timber.

252. It has been stated to the Committee to be 60,000,000ft.; do you think that is within the mark?—I should say there is not 60,000,000ft. there. I merely offer this as an opinion.

253. With regard to the question of Mr. Larnach's as to the comparative value of the land given to the company and that immediately outside it, do you think that land given to the company is unfairly valued as compared with the price at which the land immediately outside the endowment has been recently sold by the Government?—No; I do not think it is. The land which the Government have been selling is of a different character to that which the company have. Would you allow me to show you on the map? I think I can make my meaning clear then. [Map produced.] The southern part of Block XIII., of Tutamoe, was valued at 7s. 6d. an acre, and these lands adjoin Government lands. The lands just north of this, which are part of the same block, and which the company have taken up, were valued at £1 an acre. The reason it comes to be £1 an acre is because it is the mean value of the whole of that block. The northern part of it contains a good deal of kauri, and therefore the price is very greatly raised.

254. Are the company precluded from selling land owing to the price at which it was valued by the Government?—I believe they are.

255. If some land in this block were valued at £2 an acre the company could not sell it at less than £2 an acre?—I believe that that is the case.

WEDNESDAY, 11TH SEPTEMBER, 1889.

Mr. JAMES MCKERROW, Chief Commissioner of Railways, examined.

256. *The Chairman.*] I understand you have visited the Kaihu Valley, Mr. McKerrow, and know something of the country there?—I visited the Kaihu Valley about nine years ago, before the railway was projected.

257. Can you give us any idea of the quantity of timber there?—No, I cannot.

258. As to the quality of the land which is contained in the endowment to the company, do you know anything of that?—The land is very good. Five or six thousand acres of open and bush

land about the Maunganui Bluff is excellent. It would have been readily taken up if we had only been allowed to offer it to the public, but this railway-claim came up, and we were instructed to withdraw it from sale, which was done.

259. Can you inform the Committee why the land was valued at such a high price to the company, and why the Government are selling land at much lower prices there?—The land valued for the company is much superior to the land sold by the Government; and, moreover, the land valued for the company contained a great deal of kauri-timber, while the land that was sold by the Government was mostly open land of a very inferior quality. Another thing that has to be taken into account is this: the land valued for the company was valued in blocks—the good land and the bad land were taken together and an average price struck.

260. You think, quality for quality, the price fixed upon the endowment-land to the company was equal to the price Government put upon the lands which they have sold?—Yes, I think so.

261. In fact, no injury was done in that respect?—None whatever. You are aware a valuation was made of the endowment-land by the present Surveyor-General, Mr. Smith, on behalf of the Government, and Mr. Nicholson, on behalf of the company.

262. The company say the land was valued to them at £18,500. Are those figures correct?—Well, I should say approximately they are. There was an area of 39,000 acres set apart, valued at £37,652, out of which the company could select what they were entitled to when the time came. They were entitled to land of a value of £900 per mile, but as the railway was only 19½ miles altogether, they were not entitled to the whole of the land; and, when the selection came to be made, it was a matter of adjustment between the Lands Department and the company.

263. The valuation was fixed before the railway was carried out: it was the valuation of the land without the railway?—Yes.

264. Now, the railway being constructed, or nearly so, the land is worth very much more?—Yes.

265. Both as land and with the increased value of the timber?—Yes. The timber was of little or no value without the railway.

266. The company estimate the amount of timber on the land at 60,000,000ft.: can you say whether that estimate is correct or not?—No, I cannot say whether it is correct or not. I saw, of course, lots of kauri-trees; but I should not like to give an estimate.

267. Was any estimate made when Government valued this land of the timber?—No; no estimate was made of the amount of timber.

268. That would be an important factor in the value of the land, would it not?—Yes. A general view of the country was taken by Mr. Smith and Mr. Nicholson; but they did not go into exact calculations. It would require a very careful survey to do that.

269. Mr. Knorpp estimated that there were 260,000,000ft. of kauri in the Kaihu Basin?—I do not know on what data he went.

270. *Mr. Wilson.*] So many trees to the acre?—I presume so.

271. *The Chairman.*] As Railway Commissioner, can you give any opinion upon the value of the railway from your knowledge of the country?—If the kauri is there to the extent Mr. Knorpp estimates, or even approximately, and if there be at all a fair demand for timber, it would pay very well for a series of years; but without the timber the railway would be a very losing concern, because the amount of settlement there could only be comparatively limited, seeing that there are only 5,000 or 6,000 acres of open land and all the rest is dense forest. The railway does not lead very well into the country. It terminates in a *cul de sac*, as it were. The end of the railway is in a gorge, and the land rises immediately, or in a slope of a mile or two, to fully 1,000ft., so you cannot expect the settlers beyond to make use of the railway. They are half-way between the railway and the Hokianga Inlet, and it is quite likely they will rather go to the Hokianga with their produce and send it by sea than send it by the railway.

272. *Hon. Sir J. Hall.*] They will get down to the mouth of the Hokianga?—Not quite to the mouth; there is an inland road which will take them to within five or six miles of the mouth.

273. *The Chairman.*] The Government are in this position: they have guaranteed nearly £50,000 worth of debentures to the company, and for that they hold as security the railway; and, assuming the company will be wound up, as it will be, they must take over the railway to cover this. I should like to know from you your opinion as to what is the most advantageous course for the Government to take—to take over this railway, leaving the endowment to be dealt with by the company or the mortgagee, or whether, assuming we are pledged to take over the railway, it would be politic to take over the endowment as well?—I think the Government should take over the entire responsibility.

274. The endowment as well?—Yes; they should have the land back again to deal with.

275. Do you know how much it is mortgaged for?—I read the financial statement of the company; they owe one contractor £13,000 if I remember aright, and they owe another contractor money, Mr. Owen, who holds a mortgage of £12,000 over the endowments.

276. The endowment, since it was valued nine years ago, has very much increased in value?—Yes.

277. The company give the value at £48,500; assuming that is exaggerated, the endowment is evidently good security for £12,000?—Yes; I think the scheme from its very inception was not a mad scheme, but a pretty wise scheme, assuming there was a market for the timber, and that is a reasonable assumption. Of course it is very dull at present, but matters will no doubt change. It is one of those undertakings which will only be worked out successfully by a company which has good credit and plenty of money. The existing company, it is well known, are thoroughly out of funds and credit, and cannot go on. I think, under the circumstances, it really comes to this: the Government should take it over, and not take it over in a half-and-half way, but take it over *in globo*. I believe, in the hands of the Government, it would pay ultimately, that is, presuming there is the amount of timber stated in Mr. Knorpp's estimate.

278. *Hon. Sir John Hall.*] What is Mr. Knorpp's estimate?—260,000,000ft. in the Kaihu Valley altogether, not on the endowment-land alone. There is a large private estate there, on which there is kauri-timber, belonging to one of the companies in Auckland—the Kauri Timber Company, I believe. There is this also to be taken into account: The ordinary way of getting kauri to the mills is by floating it down the rivers, but the Kaihu River is very meandering in its course and sluggish, and I believe practical millers say kauri could not be floated down that river, so that the railway affords the only means of getting the kauri down.

279. *Mr. Wilson.*] You said the line would pay if there was a large quantity of timber brought down for a few years. When the timber was cut off would there not be an increase of settlement?—There would be a certain amount of settlement, but I do not think that settlement would be large enough to make the railway pay.

280. If Government were to take over the whole concern, do you think it would be advisable to hand over the land to the Lands Department or to the Railway Commissioners?—I think the Lands Department should have control of it.

281. Would not settlement go on more speedily if the Railway Commissioners had control of the land, seeing that they would be anxious to get the land settled and the timber brought down?—No; I think not. The Lands Department has got all the machinery for working out the settlement of the country, and it is quite in sympathy with the Railway Commissioners. The Lands Department is always very eager to advance the settlement of the country, and it would be better that the land should be under its control. The department would be willing to do anything in reason. Whatever the Government said it would do, and Government would have a strong interest in wishing to make the line pay.

282. *Mr. Samuel.*] As you anticipate there would be a loss on the railway after the kauri is cleared off, you would, in your management, see that the rates would be sufficiently high at the present time so as to make up for the anticipated loss in the future?—Yes.

283. Would not that be very embarrassing in respect of the management?—Yes. Still, if Mr. Knorpp's estimate is at all near the truth, the railway would pay so very well that by the time the timber was taken down it would have redeemed itself pretty well.

284. You would have to keep that in your mind?—Yes.

285. You have not gone on the whole of these rates mentioned at the present time?—The railway-rate quoted by Mr. Knorpp is about the ordinary timber-rate; the rate for white-pine for export is just half that.

286. *Mr. Valentine.*] The valuation put upon the company's lands was £2 per acre in some instances, and they were restricted to sell at these prices. Since then Government have gone into the market, and are selling lands at an average of 12s. 6d. per acre, and some less; would not that have a prejudicial effect on the interests of the company, so far as their lands are concerned?—I think not. The land changes very quickly there. The land is excessively poor if you except that volcanic belt of 5,000 or 6,000 acres which I have alluded to; the rest of the company's land is dense forest.

287. And the land the Government are selling is excessively poor?—Yes; without the railway I do not think it would have sold at all. There is no road up this valley—nothing but a mere bridle-track; you cannot take anything along it. When I visited there I went down to the sea and along the beach and up a spur, and got there that way.

288. *Mr. Moss.*] Supposing that kauri-bush were to fall into the hands of the Kauri Company, for instance, they would be able to dictate the terms almost on which you should carry their timber?—I should think not.

289. In this sense, I mean the railway would be useless if you did not use the bush?—Yes; but, on the other hand, the Kauri Company is not the only party that can sell timber. It would be open to the public to take it up, and some other party might go into the venture.

290. I am asking you the question because it has been said that practically it would fall into the hands of the Kauri Company through the mortgage they hold over it?—Remember I was proposing in the earlier part of my evidence that Government should take over the whole thing: they should take over the whole concern or have nothing to do with it.

291. If they took over the railway without the bush they would be at the mercy of the owners of the bush to a great extent?—Yes.

292. That is your main reason for suggesting they should take over the whole concern?—Yes, so that it would be entirely under the one management.

293. *Mr. Barron.*] In the memorandum submitted to the Public Accounts Committee by the Railway Company there is this passage: "It must be borne in mind that Government already own 300,000 acres of land, mostly available for agriculture, to which this railway provides the only means of access." Well, now, does the Government own 300,000 acres of land mostly available for agriculture there?—They own 300,000 acres of Crown land thereabout, from Kaihu Valley to the Hokianga, but it is not available for agriculture in the common sense of the term, because it is all under bush, with the exception of the 5,000 or 6,000 acres I have referred to. The railway would have very little bearing upon the greater part of that land, because it happens to be over the range. When I say range I do not mean a mountain. It is more a table-land, and is called the Waioku plateau. In the report which the Railway Commissioners gave the Government, they took care to inform the Government there were only 90,000 acres that would properly lie into this railway as being served by it. I spoke to Mr. Smith yesterday on the matter, and he thinks the area is about 80,000 acres. He has made a careful perusal of the maps.

294. Instead of 300,000 acres you have 80,000 acres available for agriculture?—No. There are 80,000 or 90,000 acres covered with forest, which lie into the railway. The most valuable part is the kauri-timber. That has to be cleared off before it is available for agricultural land. It will not be agricultural land for the next quarter of a century, that is, land fit for tillage by the plough.

295. *The Chairman.*] Mr. Barstow states, with regard to these 300,000 acres, that a new road was being opened up by Government from the Punakitere River to the terminus, which would bring the total traffic of most of the land to the railway; do you know anything about that?—No; I do not.

296. *Mr. Barron.*] As to the 90,000 acres you speak of, is there any other means of access to it except by this railway?—No; it is virtually sealed up at present. Virtually there is no access to it except by foot or on horseback.

297. The memorandum says the railway “will form the best route to Auckland for the Waimamuku and Punakitere settlers.” Is that so?—Yes; that is true. For instance, the settlers at Waimamuku, known as the Canterbury settlers, if they wished to go to Auckland, they would go through by the Kaihu Valley, take a steamer at Dargaville for Helensville, thence by rail to Auckland. That would be their route, unless it were possible for them to take a steamer from Herd’s Point, Hokianga. Speaking generally, the Kaihu Valley Railway would be the best route to Auckland from Waimamuku.

298. *Mr. Rhodes.*] Are these settlements important?—It is likely to be. The Canterbury Settlement is a great success so far. There are only between twelve and twenty settlers of them—that is, heads of families.

299. Whose settlement was it?—Well, it was a party of men who saw Mr. Ballance in Christchurch when I was with him there. We arranged to open land there for them on the village-settlement plan, but they received no assistance in the way of money. They were gardeners and people who worked about the suburbs. They received no assistance from Government, except paying part of the freight up, I think. They have really worked wonders during the time they have been there. There were only twelve of them originally, but I think others have joined them since. Around them, ordinary village-settlements under Mr. Ballance’s scheme have been started; but, of course, these settlers have been assisted according to regulations.

300. *Hon. Sir J. Hall.*] Are these Canterbury people?—No; simply people from Auckland.

301. *Hon. Mr. Larnach.*] They have done nothing?—They have done well, I believe, but the Canterbury people are decidedly greatly superior, and no doubt set an example to all the rest. The Canterbury people were thoroughly respectable men, and they said things were so dull in Christchurch that they would have to clear away somewhere, and unless Government opened up some land for them they would go to Australia. They were thoroughly decent, hard-working fellows. You could see that in their looks.

302. *Mr. Barron.*] You said you thought it would be necessary that Government should take over this line, and, if they did so, it would be well if they took over the whole concern?—Yes; the main purpose is for Government not only to have the line, but to have the land and timber, and work it as one interest, directed from one head.

303. You would propose to make this line pay by taking over this timber-land, and putting men upon it, and felling it?—I would not have Government to put men upon it, but offer it to the public on the usual terms—so much royalty. As regards the settlement of the land, it has to be borne in mind that at the present time the land is tied up, and these companies can never deal with land as well as the Government, as they always want the cash. Government could sell the land on the usual land-settlement conditions—on deferred payment or perpetual lease—and, if offered on these conditions, these 6,000 acres would be settled. It was a matter of great regret to the department that this land was withdrawn. They took great trouble to get this land surveyed, and they made a road through all at a cost to the Government of £3,000; and the maps were lithographed, and everything was ready, when in comes this scheme, and the whole thing was blocked and stopped. If that land had not been given away, it would have been settled eight or nine years ago.

304. *Mr. Moss.*] The Maunganui Bluff?—Yes.

305. *Mr. Barron.*] You do not think private owners would be likely to take the same means as the Government to develop settlement?—No; they would simply sell the land for the price they could get for it. They would probably sell the whole 5,000 or 6,000 acres to one man.

306. Do you not think it would be to his interest to deal with it just as the Government would?—The Government interest is not so much to get money as to get the people on the land; they look to the ultimate result. Supposing you get 100 settlers there: they would till the land and grow potatoes, and so on, and a splendid market is offered for their produce at Dargaville and Aratapu. There are something like 1,000 men there, and these people at the present moment are actually fed from Canterbury. If you had a local farming community there, they would produce and send down their produce by this railway to feed these people.

307. *Hon. Sir J. Hall.*] What would they send?—Potatoes, eggs, butter, poultry.

308. *Mr. Rhodes.*] They would not grow wheat?—No.

309. *Hon. Mr. Larnach.*] On which side of the Maunganui Bluff are these Canterbury people?—On the northern side away from the railway; on the Hokianga side of the Maunganui Bluff—have you been there?

310. *Hon. Mr. Larnach.*] Yes.—Do you remember after passing the bluff riding along the beach and coming to a place where you would be warned to take care of the quicksands?

311. *Hon. Mr. Larnach.*] Yes.—Well, that is Waimamuku. The settlement is inland from that about 3 or 4 miles. That is where the Canterbury people are.

312. I understand the land the railway company has at present is not the original selection they made?—Yes, it is; as I explained already.

313. Let me put it in another way. I think the first selection was approved by the then Chief Surveyor of Auckland with some gentleman appointed by the company. It was referred to the Lands Department, and afterwards the boundaries were altered by the Lands Department?—No; it was this way. There were 39,000 acres originally set apart, out of which the company were to get their endowment when they had earned it. This 39,000 acres was valued by the then Chief

Surveyor and the company's valuer, Mr. Nicholson. They valued it in blocks. This was approved by the Government, and it was then simply withheld until the time came for selection some two years ago. The company then made a selection of what they wanted out of this 39,000 acres, but they were going to take out of some of the blocks the nice portions and leave the comparatively inferior land. This was referred to me as Surveyor-General, and, as I could not advise the Government to agree to that, I marked out what we would agree to, modifying their proposed boundaries. They made other proposals, and, as it is very difficult to carry on these things by correspondence, and Mr. Smith being then in Auckland, I advised the Government to leave the matter in his hands, and gave him instructions not to prejudice the public estate by giving them any undue advantage in subdivision of blocks. The land had already been valued in these blocks. They got several entire blocks as valued, but, as the land set apart was a much larger area than the endowment they were entitled to, we had to cut through some of these blocks; and that is where the difference came in. They wanted to cut it up a certain way, and we said, No. Mr. Barstow refers to a block being cut through so as to cut out the bush, but the actual fact is it was cut in the way the company wanted it themselves. They did not know as much about it then as they do now, and the through line which runs east and west happens to leave out the most valuable portion of the kauri. It was not design on the part of the Government to do them out of the kauri. As I pointed out to Mr. Barstow, when speaking to him, the company have got the gateway to this land, and nobody else can go on to it but by a road through their land. And I said to him, "If the company care to buy, we are quite willing to sell you the land or sell the timber by royalty."

314. You say the land the company has got is superior to that which is alongside, owned by the Crown?—Yes.

315. Do you mean to tell me that on the one side of the line the land is good and on the other side it is inferior land?—We were speaking of an entirely different part of the country. This land we have been speaking of is under kauri-bush. The principal part of that belongs to the Crown.

316. The reason, you say, the prices of the company's land were higher was because the land was superior to the land of the Crown. This particular part of it, was that superior?—That was valued to the company. The company themselves sent down a map of the land they wanted to be reserved. After some adjustment between the Lands Department and them, we fixed the area out of which their selection was to be made. That comprehended 39,000 acres. At this stage the land had not been valued, but it was well known that, at any rate, 39,000 acres would be ample for all purposes. It turned out, on valuation, to be double the quantity that they were entitled to. The portion which the Government sold since was never within this area at all; it was outside of it altogether. Just let me bring the localities to your recollection. You remember riding up the Kaihu Valley? [Mr. Larnach: Yes.] On your right were the wooded ranges; on your left, the country was comparatively barren, miserable land. Well, that is the land the Government sold at 7s. 6d. per acre.

317. Yes; but now I will ask you: Was the fact of Government putting land in the market in the neighbourhood of the company's land at very much lower prices than the company's land was valued at—was that not likely to prevent the sale of the company's land at that particular time?—Well, yes, it might have that effect.

318. *Dr. Newman.*] Is the line open at all now?—It is open for sixteen miles.

319. Is it not running?—It was running. It is still in the hands of the company. It is not running regularly. They did run for two or three months.

320. Supposing you took it over, could you make it pay expenses?—It would pay more, while the timber-traffic lasted. Afterwards, I doubt if it would pay working-expenses. In working-expenses there is not only the payment of wages to guards and engine-drivers, but the maintenance is a serious thing. The maintenance of nineteen miles of railway would come to over £2,000 a year; probably not the first year, but very shortly it would be that.

321. If the three and a half miles were completed, you would not expect it to pay more than working-expenses?—Not without the timber.

322. You say you would advise that, in the event of Government taking over this line, the endowment-land be also taken over?—Yes.

323. Do you know how much that land is mortgaged for?—It was stated at £12,000, I think.

324. Do you think, in view of the fact that one-third of the money must go elsewhere to local bodies, and taking the expenses of surveys and things, that Government could get that £12,000 back again?—Government would not open that land for settlement where the kauri is. It would be first opened for the cutting-down of the kauri. It would not be opened for settlement at all until the kauri was cut off.

325. Are you aware that the people who own it have tried to sell it and failed?—They did not fail to sell the timber. Mr. Barstow told me he had arranged to sell the timber for £25,000, and the reason the sale was not effected was because it was found that his company could not legally complete the sale as agreed upon.

326. *Mr. Rhodes.*] £25,000 for the land?—For the timber only, not for the land at all.

327. *Dr. Newman.*] Are you aware they have not sold this timber?—I am aware they have not.

328. Is it your opinion, in the present glutted state of the kauri-market, Government could sell this timber for the amount of the mortgage?—I think it would be very unwise to offer it if the market is so glutted. I think it would be extremely unwise to offer such a valuable property while the market is glutted. It is only a question of a very short time when a revival of the market will take place. Kauri is getting, I notice, into places where it was not known before. The other day I saw from the newspapers that it had found its way to Glasgow, where it is being used now.

329. Are you in hope of this line paying working-expenses for five or six years?—I have stated already, it depends entirely on the timber-traffic. If the timber-traffic is rapidly developed it would pay very well from the start.

330. Pay working-expenses and 5 per cent?—More, if we can send down 50,000ft. per day, as Mr. Barstow says we might.

331. For how many years would that thing last?—About twenty years, taking Mr. Knorpp's estimate as correct.

332. *The Chairman.*] I see this estimate of 260,000,000ft. is not Mr. Knorpp's own estimate?—It is only quoted by him as given to him by some other person.

333. *Mr. Rhodes.*] Upon what mileage of railway was the land given to the company?—Sixteen and a half miles. They got land of a value of £900 per mile.

334. You do not hold that they are entitled to any more until they have finished the railway?—No, I do not.

335. Is there much kauri-land in the hands of the Government still?—Yes, all this 300,000 acres which has been mentioned. There is kauri in the valleys, but not very much on the heights.

336. Do you think it advisable to work that out before the Government buy more?—No; the land given to the company is just around the end of the line, and the timber on this would first go to market.

337. Do you not think it advisable they should first work out their own kauri-land before speculating in other kauri-land?—I do not call it speculating when the Government are getting back their own.

338. You would have to take over the land with all the liens and other equities affecting it. Do you think that a serious thing?—If Government are in £48,000 already, I think the wisest thing is to take over the whole concern. You see, Government get all this land back again.

339. Not without paying all the equities?—No, certainly not. The whole thing is simply this: Government has to face £90,000, speaking in round numbers; or, in other words, an additional £40,000 to the existing liability.

340. Why not the other—have you considered the proposal of simply taking over the railway?—Yes.

341. As to the three miles of railway, what is your opinion as to the completion of that?—It is required, to make the railway of much account. That three miles takes you right into the kauri-bush.

342. What would be the effect of fire?—Very disastrous if it burnt the kauri.

343. It would make the whole thing worthless?—It would go very far towards doing so.

344. Practically, the whole concern would be worthless, land and everything?—Well, it would not be worthless. You would have to convert the burnt kauri within a short time, and send it to market.

345. If it pays to run kauri, why do not the company do so?—They have not been able to sell. They arranged to sell the kauri, but subsequently discovered they could not do so, as already explained.

346. They could sell the land in small blocks?—Well, I may tell you this: it is a vast affair, a kauri-mill company; it is a very great business indeed, and requires a very large amount of capital and a large area to operate upon. It cannot be carried on, to pay, on a small scale. You might just as well talk about taking up 500 acres in Canterbury in the back Mackenzie country, and starting a sheep-farm. It is just as absurd. The only way to work these forests is to do it on a large scale, extending operations over many years.

347. *Mr. Turnbull.*] With regard to the three miles of railway, do you think Government should be bound to take over that three miles, and pay the claim of the contractor, Mr. Fallon?—I think so. I have already stated that if the Government took the thing over at all they should take it over *in globo*—everything in connection with it—and make it one business. There should be no half-and-half measures in the matter at all. It requires to be handled by the Government, or a company which has a good financial bottom.

348. It will cost £60,000?—It will cost more. It will cost £90,000.

349. What other expenses are there?—They owe contractors a lot of money.

350. But they have bush as security?—I am going most distinctly on this basis that Government should take all the land back. Government should simply take the place of the company.

351. There would be this to consider: Mr. Owen, the mortgagee, having this bush as security, would realise it, and Government would get the profit of carrying the timber?—I do not think that would work.

352. *Hon. Sir J. Hall.*] In recommending the Government to take over the whole concern, I presume you have formed in your mind a statement of assets and liabilities in connection with the concern?—Yes.

353. Will you be kind enough to say what you reckon the liabilities to be?—The way I come to it is this: Government is already involved to the extent of £49,000. There is 5 per cent. on this which the Government is paying—say, £2,500 a year. The company are totally unfit to go on. That is assumed, and does not require any proof, I presume. No other company is likely to take it up; and, if Government do not take it up, the line will go to waste, and become useless.

354. I was asking for a list of the liabilities?—I have said if Government took it over they will really be liable for a total of close on £90,000.

355. How do you make that up?—From the statement given by the company of their liabilities. They owe £25,000 to two contractors, £8,000 to the bank, and other lesser sums.

356. *Mr. Turnbull.*] The bank have security for that on the uncalled capital?—The liabilities will be reduced by that, then. Well, say £80,000.

357. *Hon. Sir J. Hall.*] What are the assets against that?—All the land returned we have given away.

358. What is your valuation of that?—The valuation of Mr. Smith and the other arbitrator is, as near as may be, 19s. per acre.

359. About £15,000?—Yes: £15,000 from £80,000 brings you down to £65,000. The interest on that is £3,250 a year.

360. Are there no other assets?—There is the railway itself.

361. That is all?—That is all. Well, there is an annual payment, as I stated, of £3,250, which represents 5 per cent. interest. The whole thing being in the hands of the Government, and the timber being converted into a marketable commodity, I think the proceeds would be £7,000 or £8,000 a year; that is, the railway receipts.

362. *Mr. Rhodes.*] Is that the net profit?—No. The gross return would be £8,000. That leaves, roughly speaking, about £5,000 for the working of the railway, which would just about do.

363. Have you included the cost of completing the railway?—That is included in the £80,000. I may tell you this: that before Government would go into this matter they, no doubt, would send an officer to carefully examine the whole thing, and give his opinion as to what it was worth.

364. *Hon. Sir J. Hall.*] I want to get at the grounds of your recommendation, and upon what figures it is based. I also gather that you estimate Government will make £5,000 a year profit?—No; I should say not. There is £3,000 odd to be paid for interest at 5 per cent. on the amount of money sunk in the railway.

365. That is what has to come off the gross receipts on the railway. The thing has cost the Government £80,000. Off this has to come £15,000 for the land, which will revert to the Government, so that the Government has to set against the railway £65,000. On that we are assuming interest should be paid at the rate of 5 per cent., which amounts to £3,250.

366. *Mr. Rhodes.*] We are not going to get £15,000 cash?—You are going to get property worth £15,000.

367. That is timber?—No; the land is deemed to be worth that. The timber, according to the estimate of the company, is worth £30,000 additional.

368. *Hon. Sir J. Hall.*] £8,000 of gross receipts—is that £8,000 of gross receipts irrespective of the royalty on the timber?—Yes, railway receipts. I think myself it would work out satisfactorily, always on the assumption that we work out the timber, and the timber is there to sell.

369. If anything happened in the way of fire?—Of course the thing is then destroyed.

370. *Mr. Moss.*] Do you know of any case where absolute destruction has occurred?—The Puhipuhi Forest is a case; but the Puhipuhi is different to this. The country surrounding the Puhipuhi is covered with fern, and the fern at a certain time of the year takes fire, and this was the cause of the fire at Puhipuhi. In this particular case, however, I do not think it is likely fire would originate in the surrounding country, and the only danger would presumably be the spreading of fire from some camp-fire in the bush itself. I do not think it is such a serious risk as to be taken very much into account.

371. *Hon. Sir J. Hall.*] Do I gather that the returns from the railway would pay 5 per cent. on liabilities and leave £3,000 profit?—No.

372. It will pay 5 per cent?—Yes.

373. For how long?—Fifteen or twenty years, always taking that estimate of timber as mentioned.

374. Of 260,000,000ft.; say, half that?—Well, at half that, of course, it would be very doubtful if the railway would pay. We cannot tell. After fifteen years the country may have gone on to such an extent that it might prove a very good thing.

375. *Hon. Mr. Larnach.*] You speak of Government taking it over as a whole. Do you mean by that to relieve the shareholders of any liabilities in connection with their bank, and also to relieve them of called-up capital paid up in their shares, because, if you remember, there is some £15,000 included in what is paid up by shareholders and what is owing to the bank—£8,000 and £7,000—which would make a very large diminution in the cost of the railway to the Government, the recognising of that or not?—I would not for one moment think of giving credit to the shareholders for anything until the railway was paying.

376. You would give them a kind of reversionary interest on it to be recognised at some future time?—Yes.

377. At the terminus there is a store, a Government store, below the plateau, owned by a black man. Where is the terminus situated from that?—Mr. Smith will know better than I do. (After consultation with Mr. Smith, who was present:.) Mr. Smith says half a mile down the valley from there.

378. When the three miles of railway is finished?—*Mr. Smith:* Yes.

379. *Dr. Newman.*] Do you know how far these endowments are mortgaged?—£12,000, I think.

380. Do you think that is the only mortgage on them?—I do not know.

381. Supposing they were mortgaged for £30,000, do you think it would be worth while for Government to take them over?—I think it would require a little consideration.

382. Supposing there was only half the timber which is estimated by somebody who told Mr. Knorpp, would it still pay the colony to take over these endowments?—Well, it certainly would not work out as well as under the larger estimate.

383. *Mr. Rhodes.*] In your scheme do you mean the shareholders to get off free as far as future calls are concerned?—Yes.

384. You think it just that they should be allowed to speculate in a railway, and then get off calls?—I am not thinking of speculation. I am just looking at the position Government are in, and the best way possible to get out of that position in the public interest.

385. The best way for the shareholders?—No, for the Government. I certainly should not give the shareholders anything until the scheme had worked out properly and the thing was paying.

THURSDAY, 12TH SEPTEMBER, 1889.

Mr. R. MONK, M.H.R., examined.

386. *The Chairman.*] You have had a good deal of experience in the kauri-industry in Auckland?—Yes.

387. How many years?—From my childhood I have been one way and another connected with it.

388. You know the Kaihu Valley District pretty well?—Yes.

389. You went there for the purpose of examining the timber?—Yes, for the Sash and Door Company.

390. The Committee wish you to give any information you can as to the quantity and value of the timber in the Kaihu Valley. Mr. Knorpp, in his report to the Government in 1885, estimates the quantity of timber in the Kaihu Valley at 260,000,000ft. Do you think that a fair or excessive estimate?—I think it is excessive.

391. What would be your estimate?—If you will allow me, Mr. Chairman, I think I had better make a statement to the Committee. In the first place, a number of years ago, I leased for the Sash and Door Companies, from the Natives, a block of land called Opanake. I estimated at the time it contained about 140,000,000ft. of timber. I may mention, Sir, that the railway which is now constructed would not be able to command the whole of that timber. I do not think it would obtain more than 110,000,000ft. of it, in part for the reason that the railway swerves to the left where it should keep to the right. Some ninety years ago—perhaps a little more than that—the Natives diverted the Kaihu Stream, because it was flooding a portion of ground that was very fertile for the growing of a particular kind of kumara they had. The chief called his people together, and with mangumangu, a kind of wiry stuff that grows in the bush, they performed a most interesting feat in the way of diverting the stream to the right. Looking up the valley this diversion has caused a series of lagoons and swamps to intervene between the line and the kauri ranges to the east, and, unless a costly branch of the line is made from the railway, you will have to reckon about 25,000,000ft. of timber will be excluded from what the railway should command.

392. *Mr. Wilson.*] You could divert the creek again?—No, you could not. This diversion has permanently altered the face of the country. It was a most peculiar achievement, and known only to very few.

393. *The Chairman.*] Keep as much as you can, Mr. Monk, to the question of the quantity of timber?—Well, I think, 110,000,000ft. of timber would be obtained from what is known as the kauri-timber purchases of the Opanake Block. At the head of the present line there is a block of land containing altogether, as I estimated, 60,000,000ft. It was offered to the Mercury Bay Company, with which I was then connected, and I was sent up to examine it as to the quantity and value.

394. Would that be the timber in the endowment of the Kaihu Valley Railway Company?—That is the timber two-thirds of which is comprised in the endowment that was given to the railway company. I may mention that at the time I went up there, I was told the whole of it belonged to the company. It was from information afterwards received that I consider about 40,000,000ft. is in the endowment, and about 20,000,000ft. outside of it. If you have the map I could point it out to you, Mr. Chairman.

395. The position is this: An endowment has actually been granted, and a block of land has been laid off, out of which the company can select more land if they finish the railway. What we want to know is, whether the whole of the 60,000,000ft. is on the land which can be granted to the railway company, supposing they complete the railway. [Mr. Monk pointed out on the map where the 60,000,000ft. of kauri-timber was situated.]

396. That block of timber is all within these coloured lines on the map?—Yes.

397. The land within the coloured lines is the land which the company can select from if they finish the railway. If they completed the railway, and had all their endowment of 30 per cent. on the cost of the railway, they would have all that 60,000,000ft.?—I do not know anything about that. The Committee would be in a better position to judge as to that than I am. I only know the land marked at present leaves about 20,000,000ft. on the outside.

398. It is the same thing. It is all within the coloured lines?—All within the coloured lines.

399. Would that include all the kauri in the Kaihu Valley—is there any other kauri besides that belonging to the endowment, and the 110,000,000ft. you have mentioned?—There is a block of timber on the slope; it is not a very large block. I have not been through there, because it was unnecessary to go there. It cannot be made valuable because it slopes down to the west, and the timber cannot be brought out to the railway because of a high dividing range.

400. What we wish to know is the quantity of timber that would be brought down to the Kaihu Railway. You estimate 170,000,000ft.?—170,000,000ft.

401. What do you think would be the value per 100ft., the royalty you would get on this timber which would serve this Kaihu Railway?—You mean on the 60,000,000ft.

402. On the 60,000,000ft. especially?—I estimate at the time when kauri was in demand the outside price would be 6d. per 100ft.

403. The Kaihu Valley Company state that they had an offer of £24,000 for the timber in their endowment. Mr. Barstow in his evidence says, "I have already handed in papers which show the value of the kauri-timber as a whole; £25,000 was the price which the Kauri Timber Company were prepared to give for it. After our negotiations with them a saw-miller in the district proposed to give £24,000, and to erect a saw-mill at the terminus," &c. Do you think that is an excessive price, £24,000 or £25,000?—I should not be inclined to give it myself. I do not think the one who got it for that money would find that he had made a satisfactory purchase.

403A. I presume when that offer was made kauri was in more demand than it is at present?—I do not know that I think kauri-timber now is in fair demand, and is estimated rather above than below the value at which it has been ruling for some years back, on account of the Kauri Timber

Company having bought all the timber that they can lay their hands on, with the expectation of having secured a monopoly. The balance of the timber has risen in public estimation thereby.

404. You think 6d. per 100ft. is higher than the ruling royalty for some years back?—Yes. I regret I have not got my papers with me. I did give a price, and I considered at that time, about 1884, that 6d. was too high for it all round.

405. At the present time you think it is worth 6d.?—I think that would be rather above than below the value. I should not like to give 6d. for it all round. For a portion I would willingly give 6d. and more, but for the other portion I should not be disposed to give that price.

406. Mr. Barstow in his statement says this: "Timber is worth 1s. per 100ft." That would be excessive in your opinion?—Altogether, I think so.

407. Mr. Moss.] With the railway?—With the railway. It was on the prospective construction of the railway that my estimate was based when I made the inspection. An offer was made to the Mercury Bay Company by the railway-people, and I then went up and examined the bush with the object of making an estimate.

408. The Chairman.] Your value of 6d. per 100ft. as royalty is the value for the timber with the railway constructed to carry it?—Yes.

409. And the estimate of the Kaihu Valley Railway Company of 1s. per 100ft. is, under those circumstances, excessive—nearly double what you consider to be the ruling value?—I think so.

410. Mr. Moss.] It is stated in one of the reports that there is a great deal of valuable timber of other descriptions besides, kauri, tawa, puriri, &c. I would like to ask, what would be the value of that description of timber?—There is a quantity of tawa and kohekohe; but I attach no commercial value to such timber. The only timber of value I know that grows there would be the puriri and totara. As far as I saw, when I travelled through the bush, such growths were all scattered, and consequently would be of a value to which no person in buying would give consideration or make any moment of. In bringing out that timber from the Kaihu Valley, I might mention I had an idea of bringing it out by erecting a portable mill in the bush, and in that case the haulage to the railway would be diminished by at least 25 per cent.

411. The Chairman.] The haulage to the railway?—The haulage of the railway—that is, the income which the railway would derive by hauling the timbers would be diminished by 25 per cent.; the loss in slabs, waste, and that sort of thing would be 25 per cent., and would make it 25 per cent. under the quantities I have named to you. If that were done, and I believe it more economical than bringing out the whole logs to the mills on the river, the loss in haulage would be 25 per cent.

412. Mr. Perceval.] It has been stated that with an average output it would take about ten years to exhaust the timber, and that during that ten years the line may be expected to pay. Now, do you consider that the character of the country is such that after the timber is removed there will be sufficient settlement, and produce from that settlement, to make the railway payable?—Well, there is a great deal of good land up there that would be attractive for settlement-purposes, and I have the opinion that the railway in the main is cheaper than a road. Of course it is for you to form your own opinion—it may differ from mine—but that is my impression. With regard to the railway, the line up the Kaihu Valley would afford convenience to what I believe will become an important settlement. The land is attractive for settlement-purposes, especially round the Maungani Bluff I know the soil to be excellent. The Opanake Block of 15,000 acres, which I leased from the Natives, the freehold belongs to the Natives at the present time.

413. Mr. Turnbull.] You have still that lease?—The Kauri Company have it; but it is simply a lease of the timber, and does not exercise any right upon the land, except for the purpose of getting out the timber.

414. Mr. Barron.] We may gather this from your evidence: that, whereas the company, in their memorandum to the Committee, estimated the timber at 60,000,000ft., worth 1s. per 100ft., your estimate is considerably less than half of that quantity, and you think 6d., instead of 1s., would be a fair price?—I think so; that is, taking the whole of it and averaging it. I think that would be its full value.

415. Your estimate is then less by half the quantity, and less by half the value stated by the company?—I do not know what is the quantity which is estimated to be in this particular block of land, the endowment.

The Chairman: 260,000,000ft. is the estimate for the whole of the district served by the Kaihu Valley Railway. Your estimate for that is 170,000,000ft. Two hundred and sixty million is Mr. Knorpp's estimate.

416. Mr. Rhodes.] This 60,000,000ft. is the estimate for the whole of the land put aside for the endowment, not for the land already given to the company?—That is so. The 60,000,000ft. is within the boundary pointed out to me by the Chairman on the map, and of which I understand the company have only 40,000,000ft., the other 20,000,000ft. being in the hands of the Government. I may mention to you that the 20,000,000ft. held by the Government is depreciated, if they do not own the front part of the endowment now held by the company, because it is the key to a certain extent to the 20,000,000ft., and no mere road through would facilitate the getting out of this 20,000,000ft. to the extent of the actual ownership of the front portion of block.

417. Mr. Perceval.] That block being mortgaged for £12,000, you think it would be in the interests of the Government to acquire that mortgage, to get that property if they could, in the event of their taking over the railway?—I think that this 60,000,000ft. can be worked much more profitably and effectively by having the ownership of the block upon which the 40,000,000ft. is growing.

418. You consider there is a margin of value over the amount of the mortgage of £12,000?—That is, if you take the whole block.

419. The endowment?—Yes; I think so.

420. *The Chairman.*] Mr. Barstow says in his evidence that the company had offered to deliver timber to the Kauri Company at 3s. 6d. per 100ft.—that is, measurement logs—and the Kauri Company now have been paying 4s. 9d. and 4s. 10d. for logs in the river. I do not know whether you can tell the Committee what proportion of 3s. 6d. would be the royalty?—*Mr. Monk*: Can you tell me what would be the railway freight?

421. The railway company say the freight would be 1s. 1d. Mr. O'Connor estimates the freight at 1s. 3d. Take 1s. 3d. the highest estimate.—*Mr. Monk*: Well, there would be—freight 1s. 3d., royalty 6d., and the average putting of it to the station would, I think, be not less than 1s. 9d. to 2s. per 100ft.

422. *Mr. Wilson.*] The cutting and labour?—Yes; that has nothing to do with the loading and unloading. I think the timber would cost them 3s. 6d. per 100ft.

423. *The Chairman.*] With the royalty of 6d.?—Yes; I think that would be a profitable bargain for the Kauri Company. In fact, I may mention this: I was asked with regard to the price, and I said I thought the Kauri Company had effected a remarkably good transaction.

424. Taking the prices the Kauri Company were paying—4s. 9d. and 4s. 10d.—assuming this offer of 3s. 6d. was not accepted, there would be a good margin for the company, especially when the royalty is excluded, at 4s. 9d. and 4s. 10d. for logs in the river?—Yes; a very fair profit would be obtained, no doubt of it. Timber has been sold, square baulk, at 5s. and 5s. 6d., and in some cases at a higher price.

425. In Auckland?—No; on that river. Of course, squared timber diminishes the output of the forest.

426. You have reckoned the cost of squaring in your estimate?—No, Sir; round logs only.

427. They offered measurement logs?—That is round logs.

428. *Hon. Mr. Larnach.*] Three shillings and sixpence is too cheap?—Too cheap. I considered the Kauri Company had made a remarkably good bargain. It was reckoned to be cheaper than they could get it themselves.

429. *The Chairman.*] It is evident that 3s. 6d. was very much under what would be the ruling market price?—Yes. I think the logs brought out from that forest—green logs as they certainly would be—should be worth from 3s. 6d. to 4s.

430. That would leave 1s. 6d. royalty or profit?—Yes. I consider that, for some years to come, that is a high price stated by Mr. Barstow, because the Kauri Company have tried to buy up all the logs from small concerns for the purpose of hardening the supply of timber; but, if put into a corner, they could supply timber from their own bushes at lower prices than those mentioned by Mr. Barstow.

431. But allowing a margin for high prices—take, say, 6d. from the 1s. 6d.—it would then leave 1s. of royalty or profit?—This is the way to look at it: supposing you and I were working the Kauri Company's mill up there, we would not give the Kaihu Valley Company more than 3s. 6d. until we had exhausted the whole of the Opunake timber belonging to us, and therefore the commerce to the Kaihu Railway Company would be put off until such time as it suited the convenience of the Kauri Company to buy from them at the higher price they sought to obtain. Of course, I think it is right, if you are seeking information upon the actual position of the whole operation in the Kaihu Valley, to inform you that there is one agency, you must bear in mind, which may at any time affect the position—that is, fire sweeping through the kauri forest; especially when they have started to open the bush. A very destructive fire took place in the Kaihu Valley about two years ago, and has brought a destructive process upon a large portion of the forest, and if another fire should start in there it would bring very serious loss to the owners of the forest.

432. *Dr. Newman.*] If the Government bought these endowments, would the timber on them be readily saleable, considering the large quantities owned by syndicates and people up there?—I think so. I feel, speaking with some practical knowledge, that if I had command of that timber I could convert it into money in a manner profitable to the Government, and that I should do it as speedily as possible, for fear of its being destroyed by fire.

433. Will not the present holders of the forests do that themselves?—Yes, at some time; but I am assuming your question is put with the idea of Government owning the railway.

434. Supposing the colony merely takes over the railway, and leaves the endowments to those to whom they are mortgaged, would not the mortgagees set to work to realise?—I should think they would naturally try to convert their dead security, as it were, into some remunerative form.

435. *Mr. Moss.*] Might there not be a dispute as to the rate Government would charge for carriage on the railway? Might not the timber company dispute the rate for carriage of timber, and successfully dispute it, and for years dictate to the Government pretty well what they should charge for the carriage?—They could keep operations, without doubt, in such abeyance that the railway would be lying unemployed. The owners of the bush would not be under a necessity to cut timber in that bush to carry on operations.

436. *Mr. Wilson.*] Because they have timber elsewhere?—Yes. If I may be allowed to offer an opinion, in the way of affording the Committee as much information as possible, I think that they would very likely benefit the district more by having the whole of that endowment in their hands than if they were simply to throw it back on the mortgagee.

437. *The Chairman.*] That is, the Government?—Yes; for it might so happen that nothing would be done with it if Government did not take it over. For instance, most likely he would sell it to somebody who might hold it as a speculation, and in that manner it would block the progress of the district.

438. *Dr. Newman.*] Do you know how much it would cost the colony to buy this timber?—I suppose, exercising the right to pay off the mortgage of £12,000.

439. *The Chairman.*] I think you said that any one holding the endowment mortgage would liquify as soon as possible?—I should naturally think so; but not necessarily to work it. If he

made arrangements with the Kauri Company to sell to them on condition of their meeting the interest on the capital, they could keep it for the purpose of hardening prices; and, in that event, a very small advance on the output of their mills would be sufficient to pay interest on the £12,000.

439a. The effect of that would be for the railway to lie useless?

440. *Hon. Mr. Larnach.*] Is there the same risk of fire in these forests as there was a few years ago, now that settlement is going on?—I think the risk will be increased now there is settlement.

441. Do you think the risks will be increased where roads are cut through the forests?—I think the roads have very little to do with affording security to the forests, because the roads mean increase of traffic; and increase of population without restrictive regulations in the matter of fire would only increase the liability as to fire.

442. As the timber or bush gets thin that lessens, week by week, the risk of fire?—No, Sir; it increases it. The more dense the vegetation, the more damp will the ground remain, and the less facility is there, therefore, for the spreading of fire. What causes great loss in kauri bushes is the lighting of fires amongst the ferns upon the adjoining ranges in the most dry season of the year, and these fires run up to the edge of the forests and catch hold of the dry vegetable humus which is just about the foot of the trees, commonly known by the name of pukahu; and, spreading in this vegetation, it will creep away for great distances without being seen at the time. You will fancy the forest is not being destroyed, but in the course of time you will behold only the outlines of bleaching trees and weird trunks standing up; and the next fire that comes destroys that timber so effectually that you would not suppose a kauri forest had grown there; and it follows the resinous roots so deep down into the earth that every particle of humus is burnt out of the soil. Not only has the country lost the forest, but a sterility is inflicted on the soil that is to punish generations to come.

443. That produces kauri-gum?—No; it destroys it. Kauri-gum I believe to be more the result of forests' growth in ages past, the gum exuding from the roots and tops of the trees being buried under the earth, and gradually formed at the time the forest is growing.

444. How do you account for gum country being so bare?—Well, a kauri forest will itself disappear in some instances from the face of the earth. I cannot tell the ages of these fossil deposits of gum, but I know this: that the gum is even like a gold-diggings—it is known to have travelled down in the earth till it lay in gullies actually in leads, even in small degrees, just as alluvial gold is found. That gum in these gullies was not the result of growth actually there, but had exuded from trees grown up on the ranges. To show what fire does, I may mention that where a fire has destroyed a forest you can always tell it by the appearance of the gum. The gum is charred, and actually useless and unsaleable. Whenever a forest is destroyed by such fire as I have described the gum is destroyed at the same time.

445. I was going to ask you, in reference to the price of kauri, if this kauri on the company's land could be delivered from the railway for 3s. 6d. per 100ft.?—Oh, yes; it could—that is, I take the average of the whole block.

446. That is not baulk kauri?—Round, not squared kauri. The squared kauri would not be much more—it would not be more than 9d. to 1s. per 100ft. more—but the quantity for haulage to the line would be diminished by taking off the slabs, waste, &c., as against the round timber. If the timber were sold as squared timber—and probably it would be, especially as the railway is not owned by the Kauri Company—there would be a diminution in the haulage on the railway.

447. And less waste of the logs, having them squared instead of round?—There would be less waste to the owner. It depends upon the manner in which he is going to use the timber.

448. What is the price of kauri now in Auckland, free on board?—You mean squared or sawn?

449. Say, squared?—Squared timber is 5s. 6d. on the river.

450. Are you aware what it has been selling at in Melbourne?—I forget the price, but I know it was low. I know some friends of mine connected with the kauri business sent over some kauri to Melbourne, and it proved an unprofitable speculation; but some time before that kauri was fetching a very good price there.

451. Do you remember the figures—20s. or 25s.?—Oh, no; 12s. or 13s. per 100ft.

452. What freight do you pay to Melbourne?—I have not been in the trade for some time, but I believe it is 4s. or 4s. 6d.

453. Even with the freight at 5s., there is a fair profit in sending it there, paying 5s. 6d. for it here: there is a good margin there even then?—There is a close margin.

454. *Mr. Rhodes.*] What is the duty on kauri?—There is no duty on baulk.

455. The freight is 5s.; 5s. 6d. is a good price for the timber; that is 10s. 6d.; you are then left a margin of 2s.?—Two shillings will not cover the charges that come under the head of incidental expenses—the commission and other charges. I may say I do not wish the Committee for a moment to question that the prices I have given would be realised. I have put them at what I consider low prices.

456. Have you been up the Kaihu Valley and seen the railway since it has been made?—No.

APPENDIX.

MEMORANDUM for the Hon. the MINISTER for PUBLIC WORKS, Wellington, *re* Kaihu Valley Railway (19½ miles).

SIR,—

Railway Department, Head Office, Wellington, 10th June, 1889.

In compliance with the verbal request made by the Hon. the Premier, the New Zealand Railway Commissioners have the honour to report, for the information of the Government, as follows:—

This railway is constructed from Dargaville up the narrow valley of the Kaihu for sixteen miles and a half, and is partially formed for other three miles. The land rises rapidly beyond this point to a table-land, at least 1,000ft., which forms an expensive obstacle to further extension of the line. It will, therefore, serve only the Kaihu Valley proper and the country for ten or twelve miles beyond, in the direction of Hokianga; also any through passenger-traffic from that place.

According to Mr. C. B. Knorpp's report there is a quantity of kauri timber on the slopes bounding the valley estimated at about 260,000,000 superficial feet (see Journal, House of Representatives, 1885, Vol. II., D.—5c). To convey this timber to Dargaville the railway was constructed. Mr. Knorpp estimated it would take ten years to do so, and would give a gross railway revenue of £14,625 per annum to that period.

The traffic on the railway at present is very trifling, as will be seen from the returns of Mr. T. H. Barstow, Manager, and they are for periods when the construction of the upper portion of the line gave traffic to the opened portion.

The land along the line is either Native or freehold; but at the terminus the line enters the Crown lands, and there are about 90,000 acres which would be served by the railway—not 300,000 acres, as stated by the Chairman of the company. It is quite true that there are 300,000 acres of Crown lands, if we include the upper portion of the Waioku Plateau and the Mangakahia Valley, but the Kaihu Railway would not serve that area conveniently. Of the 90,000 acres referred to, about 7,000 has been surveyed by Government into sections, and a road run through to the beach beyond the Maunganui Bluff. The soil on this surveyed land is fairly good: about one-half the area is open. It would be taken up rapidly if offered for settlement. At present it is Crown granted to the railway company as part of the endowment.

If the timber is conveyed by railway, as it was assumed it would be, it seems likely that the revenue realised would pay not alone working-expenses, but interest on the cost of the railway. These results were estimated on the assumption that the whole line—nineteen miles and a half—would be worked.

We cannot now offer an opinion on the probability or feasibility of this estimated traffic being developed. An examination of the railway and its appliances and accommodation would be necessary before a final opinion can be expressed; and, if the Government desire it, we will have that done and report further. At present the line does not appear to be paying working-expenses, and it would be unlikely to do so unless a timber-traffic were realised.

We have, &c.,

JAMES MCKERROW,	} New Zealand Railway Commissioners.
J. P. MAXWELL,	
W. M. HANNAY,	

Original Prospectus—For private circulation only.]

THE KAIHU VALLEY RAILWAY COMPANY (LIMITED).—Capital, £60,000, in 12,000 Shares of £5 each.—Directors: R. C. BARSTOW, Esq., J.P. (Director, South British Insurance Company); H. BRETT, Esq., J.P. (Director, Helensville Timber Company); J. M. DARGAVILLE, Esq., M.H.R.; Hon. E. MITCHELSON, M.H.R. (Minister for Public Works for New Zealand); T. MORRIN, Esq. (Director, South British Insurance Company).

THIS company was formed for the purpose of constructing a line of railway, nineteen miles and a half in length, from the Northern Wairoa River up the Kaihu Valley, under contract made in September last year with the New Zealand Government, in terms of "The Railways Construction and Land Act, 1881," and any amendment thereof.

Under the Act, and in terms of the contract, the company will receive a free grant from the Crown of some 17,000 acres at the north-west end of the line, specially set apart for the purpose, and comprising 10,000 to 12,000 acres of first-class rich land, and at least 50,000,000ft. to 75,000,000ft. of valuable kauri timber. The value that will be given to this property—estimated at £40,000 to £60,000—by the railway will go far towards defraying the cost of constructing the line, which is almost a dead level for eighteen or nineteen miles of its length. The probable cost of construction and equipment is variously estimated at £60,000 to £75,000. Abundant traffic awaits the line from the day it is opened, as not only is there the timber already mentioned as being on the land to be granted to the company, but there is also a large quantity on both sides of the valley traversed by the line, estimated at 150,000,000ft., belonging to the Union Sash and Door Company, and for which this railway is the outlet. There will also be the immense forests a few miles further towards Hokianga, and the traffic incidental to opening up one of the finest tracts of country in the North. Five thousand shares have already been allotted, and £1 paid up. The other 7,000 shares are offered at par—viz., 5s. on application, 5s. on allotment, and 5s. each by promissory notes at three and six months, bearing 7 per cent. interest. The original shareholders will have priority in taking up new shares, should they so desire, to the extent of half the number previously held by them, and no other

benefit nor advantage of any kind is taken by the promoters, original shareholders, or directors but such as the new shareholders will participate in. It is not intended at present to call up more than £1 per share, which will give a paid-up capital of £12,000. This, together with the 6-per-cent. debentures which the company is authorised by the Act to issue, and the proceeds of timber, land, &c., will be ample to enable the company to construct the line, which it is proposed to do by completing a section of six or seven miles at a time. Upon the completion of each section a proportionate value of land, &c., is to be selected by the company, and granted by the Crown in terms of the contract. The company will fall and cut, or hew, its own kauri timber, that being the most profitable way of disposing of it. A suitable and valuable site for the terminus in the Town of Dargaville, having 10 chains frontage to the Northern Wairoa River, is ceded to the company for railway purposes, free of any claim for compensation. The whole of the necessary survey for taking the land required for the line is completed, and the land taken; the first contract has been let, and works have been in progress upwards of six months. Application for shares, in the form attached, accompanied by a deposit of 5s. for each share, to be made to

Mr. A. SAUNDERS, Mr. J. NEWMAN,
Mr. C. ALEXANDER, Mr. S. VICKERS,
Sharebrokers, Auckland; or to
E. WAYMOUTH, Secretary,
Queen Street, Auckland.

THE KAIHU VALLEY RAILWAY COMPANY (LIMITED).—Capital, £60,000, in 12,000 Shares of £5 each. £50,000 of the Company's Debentures guaranteed by Act of Parliament. Directors: R. C. BARSTOW, Esq., J.P. (Director, South British Insurance Company); H. BRETT, Esq., J.P. (Director, Helensville Timber Company); J. M. DARGAVILLE, Esq., J.P., M.H.R.; Hon. E. MITCHELSON, J.P., M.H.R. (late Minister for Public Works for New Zealand); T. MORRIN, Esq. (Director, South British Insurance Company).

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Under the Act, and in terms of the contract, the company will receive a free grant from the Crown of some 17,000 acres at the north-west end of the line, selected by the company out of a block of 40,000 acres specially set apart for the purpose, and comprising 10,000 to 12,000 acres of first-class rich land, and at least 60,000,000ft. to 75,000,000ft. of valuable kauri timber. The value that will be given to the company's portion of this property—estimated at £40,000 to £60,000—by the railway will go far towards defraying the cost of constructing the line, which is almost a dead level for eighteen miles of its length. The probable cost of construction and equipment is variously estimated at £75,000 to £85,000. Abundant traffic awaits the line from the day it is opened, as not only is there the timber already mentioned as being on the land to be granted to the company, but there is also a large quantity on both sides of the valley traversed by the line, estimated at 150,000,000ft., belonging to the Union Sash and Door Company, and a considerable quantity belonging to the Kipuru Sawmill Company, for which this railway is the outlet. There will also be the immense forests a few miles further on towards Hokianga, and the traffic incidental to opening up one of the finest tracts of country in the North. Five thousand shares have been allotted, and £1 1s. per share paid up. The other 7,000 shares are now offered, £1 1s. paid up, at a premium of 4s. per share—viz., 5s. on application, 5s. on allotment, and two payments of 7s. 6d. each by promissory notes at three and six months, bearing 7 per cent. interest, the premiums received to go towards the general purposes of the company. At present it is not intended to make any further calls, as the proceeds of debentures and of the endowments, together with the £1 1s. per share paid upon 12,000 shares, are expected to be ample not only to complete the construction of the line, but to leave such a surplus as will form a substantial nucleus of a reserve fund. No benefit or advantage of any kind is taken by the promoters, original shareholders, or directors but such as the new shareholders will participate in. The amount already paid up has been entirely expended upon the construction so far of the line.

By order of the Government, Mr. Knorpp, Inspecting Engineer of the North Island, lately visited the Kaihu Valley, and reported fully on the position and prospects of the line. His report (see Parliamentary Paper D.-5c, 1885) concludes as follows: "Deducting £5,880 per annum for traffic and other expenses, this leaves (for the first ten years) £13,000 per annum gross receipts on £90,000, or, say, 14 per cent. In this is not included receipts from any traffic (except from timber) of goods and passengers, which will increase with the settlement of the surrounding country, including the table-land, and will no doubt eventually alone return a fair dividend on the cost of the railway."

After further careful inquiry the Government last session invited Parliament to consent to a colonial guarantee to be given for £50,000 of this company's debentures at 5 per cent., which proposal was approved by both Houses (see section 25 of "The District Railways Purchasing Act, 1885"). The company thus will own a property estimated by the most competent authority in the colony to pay 14 per cent. on £90,000, and will have obtained £50,000 of that amount at 5 per cent., leaving a large surplus to enhance the dividends on the balance of the capital to be employed; and, when it is remembered that the company's endowments are expected to realise an amount at least equal to that balance of capital, nothing further need be added to commend this enterprise to investors. A suitable and valuable site for the terminus in the Town of Dargaville, having 10 chains frontage to the Northern Wairoa River, is ceded to the company for railway purposes, free of any claim for compensation. The whole of the necessary survey for taking the land required for the line is completed, and the land taken; the first contract, including railway wharf, station-formations, &c., has been completed. It is proposed to alter the articles of association so as to add

Mr. A. SAUNDERS,
Mr. C. ALEXANDER,
Sharebrokers, Auckland; or to
E. WAYMOUTH, Secretary,
Little Queen Street, Auckland.

Mr. J. NEWMAN,
Mr. S. VICKERS,

Little Queen Street, Auckland.

Kaihu Valley Railway.

C. Y. O'CONNOR,
Under-Secretary for Public Works.

General Survey Office, Wellington, 11th September, 1889.

Assuming the average of five hundred acres above as a fair one, the area affected directly by the

railway would carry a hundred and sixty families, and it would take several years to get this number settled on the land, for roads have to be made for great lengths. Outside this area, the produce of which might come over the railway, there is the population, which may fairly be considered as likely to travel over the line. Of these Hokianga furnishes the only considerable number. The total population of the county in 1886 was 767, but many of these, perhaps half, have no interest whatever in travelling any other route than by Bay of Islands.

No products from Hokianga would go to the railway; the land transit could not compete with steamers on the West Coast.

The Chairman, Public Accounts Committee, Parliament Buildings.

I have, &c.,

S. PERCY SMITH.

MEMORANDUM for the CHAIRMAN, Public Accounts Committee, House of Representatives.*

I HAVE the honour to send you herewith statement showing the value of work done on the second section of the Kaihu Valley Railway, which has been obtained from Mr. Holt, late Engineer to the company, as requested.

Public Works Department, Wellington,
12th September, 1889.

C. Y. O'CONNOR,
Under-Secretary for Public Works.

P.S.—It will be observed that Mr. Holt states value of work done at £6,691. As compared with this, Mr. Hales, in telegram of 5th instant, gives estimated cost of second section complete at £16,488. This would indicate work still to be done to extent of £9,797. The only payment we know of to contractor, on account of the £6,691 worth of work above mentioned, is £1,504. This would leave £5,187 due to him, exclusive of the £9,797 required to finish the works.—C. Y. O'CONNOR.

EXTRACT from TELEGRAM from PERCY HOLT, to C. Y. O'CONNOR, dated 11th September, 1889.

Kaihu Valley Railway.—Value of work executed on second section—16 miles 75 chains to 19 miles 21 chains (at date of Mr. Holt's last certificate, 30th April, 1889):—

						£	s.	d.
Contract work	...	...	...	...	...	5,545	10	4
Extras...	...	...	...	...	...	335	14	9
Materials	...	...	...	...	...	340	0	0
Plant ...	...	...	...	...	...	470	0	0
Total	...	...	...	...	...	£6,691	5	1

Since then sawyers have been cutting timber for bridges, but I do not know how much.

PERCY HOLT.

Mr. W. H. HALES to the Hon. the PREMIER, Wellington.

(Telegram.)

(To take precedence.) *Re Kaihu Valley railway mortgage*, Kaihu Valley Railway Company to Owen, dated 4th May, 1889, and registered 1st August, 1889; amount, eleven thousand three hundred and eighty-five pounds six shillings and sixpence (£11,385 6s. 6d.); interest payable at rate of seven per cent. from 31st day of December, 1888; principal payable by company on 31st day of December, 1889, and in default the mortgagee can exercise powers of sale twenty-one days after date fixed for payment. There is also a mortgage from Kaihu Valley Railway Company to D. Fallon, contractor, of Auckland, dated 29th July, 1889, and registered 3rd August, 1889; amount, five thousand pounds (£5,000); interest, ten per cent., from 29th July, 1889; principal payment due, 31st December, 1889; and powers of sale thirty days afterwards.

WILLIAM H. HALES, District Engineer.

The SOLICITOR-GENERAL to the Hon. the PREMIER

Hon. the Premier.

I HAVE considered the questions submitted by the Chairman of the Public Accounts Committee on the memorandum herewith, dated 12th instant, and now beg to state my opinion as follows:—

(1.) As to the first question, Whether the Crown waived its preferential claims as a creditor over the unsecured assets of the company by the mortgage-deed between the company and the Crown, I have now perused the copy of the mortgage-deed with the papers sent me. The question as put refers to "clause 2," but there is no such clause in the deed. What, apparently, is referred to is a clause so numbered in a recital of the terms on which the company requested the Crown to enter into the transaction. That portion of the deed which deals with this question is to be found on pp. 16 and 17 of the copy-deed herewith, where it appears the Crown agreed, in effect, that the security it held should not be a charge upon the uncalled capital or the lands granted to the company other than the lands on which the railway and works were erected; that any security given by the company over the uncalled capital and endowment lands should have priority—the guaranteed debentures of the Crown having the like priority in respect of the property upon which the debentures were charged, and the whole provision winding up with these words:—

"Each class of the secured creditors having the ordinary right of a creditor to share with ordinary creditors any surplus of the property secured to the other class of secured creditors which may remain after satisfying the security or charge of such last-named class."

The effect, then, of the whole provision is that the guaranteed debentures are only a first charge on the property mentioned in the mortgage to the Crown, and not on the uncalled capital or the endowment-land; but that, as to any surplus property, after the several classes of secured creditors have been satisfied, the Crown would have the "ordinary right" of a creditor to come in and share with the other creditors. But the use of the words "ordinary right of a creditor" do not, in my opinion, put the Crown on the same footing as ordinary creditors, and exclude its preferential claim as between itself and creditors of equal degree. I think the Crown would still, in such a case, have a right to its preferential position.

There are many express decisions on this point, and, in a leading case on appeal from the Chancery Division, Lord Justice James laid down,—

"That, whenever the right of the Crown and the right of a subject with respect to the payment of a debt of equal degree came into competition, the Crown's rights prevail. Whether, therefore, the debt is treated as a debt of record, or of specialty or of simple contract, there being a right of priority in the Crown, it is right that the debt should be paid." (See *in re Henley and Company*, L.R. 9, Ch. Div., p. 481.) The same principle has been recognised *in re the Oriental Bank—ex parte the Crown* (L.R. 27, Ch. Div., p. 643), and in several other cases.

As to the second question, Whether it is not a breach of the articles [*memorandum*] of association—clause (g)—to have given a mortgage under the circumstances mentioned, and whether the mortgage holds good, wholly, or in part, as against other creditors, several points arise for consideration.

Clause (g) referred to is in the memorandum of association, not the articles, and this creates a very important difference, because a contract made by the directors upon a matter not included within, or forbidden by, the memorandum, is *ultra vires* of the directors and the company. Many transactions done by directors which are beyond the powers conferred by articles of association may be cured by the company; but if beyond the powers of the company they are not binding on the latter, and cannot be rendered binding even by the assent of every individual shareholder. This was decided by the House of Lords in a case (*Ashbury Company v. Riche*, L.R. 7, H. L., p. 653) in which it was said that the memorandum of association was the charter of the company, and defined the limitation of its powers.

If, therefore, the mortgage in question is *ultra vires* of the memorandum of association, it is wholly void, and I do not think the holder could make his security effectual. In any case he would only be entitled to come in *pari passu* with simple-contract creditors.

I may point out, however, that the question put to me speaks of *uncalled* capital; while clause (g) limits the amount which may be borrowed as "not exceeding the amount for the time being *unpaid* of the capital of the company." There is, of course, a distinction here; for while the general rule is that the capital not yet called up cannot be mortgaged, yet calls already made, although the time for payment has not yet arrived, may be validly assigned as a security for existing debts. And this may be done even under a general authority to borrow. (See Brice on *Ultra Vires*, pp. 283–284.)

It is evident that upon this second question a *general* opinion can only be expressed, as there may be many facts and incidents unknown here which may have an important bearing on the action of the company in giving this security, and the rights of the mortgagee arising thereon.

I return all the papers sent me.

Crown Law Offices, 13th September, 1889.

W. S. REID.

[Approximate Cost of Paper.—Preparation, nil; printing (1,200 copies), £17 7s.]

By Authority: GEORGE DIDSBUY, Government Printer, Wellington.—1889.

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