

- (14.) That the Court is justified in believing that it is doubtful whether Chili money was ever refused by the bank; not only because the minutes of the Council contain no record of anything leading up to such a transaction, but also because there is—to the knowledge of the Court—no official correspondence; nothing to show the concurrence of the British Resident or Chief of the Government in such an important departure from ordinary custom.
- (15.) That although Mr. Scard's letter to Sir J. Prendergast is the only record of the refusal of the bank to take Chili coin, yet he admits that when he signed the statement of revenue and expenditure for 1896-97 he did not know that the Paymaster had at that time in his hands a large sum of Chili money, the property of the Rarotonga Council. We regard this concealment as being in itself a fraud.
- (16.) That when M. Daniela gave evidence in his own behalf in the civil action brought against him by the Federal Government in order to recover the sum of £35 4s., the balance of the \$1,082 alleged to have been used in the payment of piles supplied to the Union Company for their wharf, he said, "When the steamer returned from Auckland I paid £73 into the hands of the bankers, but not in one sum; I paid it in as taxes." But in the hearing of the action for the recovery of the money advanced on the Victoria Road, but unaccounted for, he gave very different evidence on this point. He then said, "When Mr. Beaton went to New Zealand I paid £25 into the bank, and when the steamer returned and I was paid, I paid in the balance, making in all £73 paid into the bank." Now, in this evidence there is hardly a scintilla of truth. Dates have been carefully avoided by M. Daniela, but his counsel, Mr. F. G. Moss, has asserted that they will prove that this £73 was paid into the bank in November, 1897.

Now, this evidence is refuted in all important details by Mr. Tubby, purser of the "Ovalau," who shows by his letter-book that no money was paid to M. Daniela after the 10th May, 1897, and that only £32 1s. 10d. was paid about that date. His evidence is to the effect that probably as early as November, 1896, M. Daniela had received an advance of £25, and that subsequently at his request the company had paid out of money due to him £16 12s. 6d. for a tombstone; therefore the only moneys received directly by him were:—

	£	s.	d.
Cash in November	25	0	0
Cash in April or May	32	1	10
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	57	1	10
For tombstone	16	12	6
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	£73	14	4

There was, moreover, an account owing by M. Daniela on shipments of fruit to the amount of £26 1s. 10d., which may probably have been charged against his bill of £108 4s. for the supply of piles for the wharf. To recapitulate, the defendant in this case received only £57 1s. 10d. in money, and £42 14s. 4d. by the payment of his debts. It is therefore clear that he did not receive £73 from the Union Steamship Company, or pay that sum of money into the bank.

- (17.) That in the month of November, 1896, M. Daniela reported to the late Resident that he had in his possession \$1,082. It is the opinion of the Court that this statement is not true, for in the abstract before referred to, and which is the only evidence we possess of the Paymaster's accounts, he had only £86 12s. 9d. in hand up to the end of November, and during that period he disbursed £16; therefore he could have had only £70 12s. 9d. in hand, and not £108 4s.
- (18.) That M. Daniela has handed into the Court a statement showing the cash-disbursements made by him in the purchase of piles for the Union Company's wharf, amounting in all to \$1,082 (£108 4s.), and in this statement will be found the following items:—

	\$
42 piles from Tupapa, labour and food	92½
82 piles from Tupapa, labour and food	140
5 piles, royalty to Taraare, \$2 each	10
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	\$242½

As to these charges we have the evidence of Taraare, who, as the head chief of Tupapa, kept a list of the men employed and of the payments made to them. This list he hands into Court, and we find that it contains the names of twenty-nine men who worked on three days and received half a dollar per diem for the seventy-nine days' work done: in addition to this money the workmen were supplied with two cases of beef, worth probably \$48—that is, the workmen received money and goods to the value of \$87½, instead of \$242½ charged in M. Daniela's account. As to the five piles for which M. Daniela shows a royalty paid of \$2 each, Taraare tells the Court that he only received \$1 each pile. The same statement of disbursement shows \$280 paid for carting. This is an absurd sum of money to charge for the cartage of 209 wharf-piles and a few house-blocks an average distance of about half a mile. But Taraare's evidence throws a new light on the subject, and that is that the disbursements in this instance were made by M. Daniela to himself, for only his own wagons were employed. This evidence is merely of importance as an answer to that of M. Daniela who has made much of the fact that he has used this money only as a public benefactor and for a public purpose, whereas it is clear that the whole account is a fabrication.