

1910.
NEW ZEALAND.

HAMILTON CLAIMS COMMITTEE

(REPORT OF); TOGETHER WITH PETITION AND MINUTES OF EVIDENCE.

(MR. HOGG, CHAIRMAN.)

Report brought up on 6th October, 1910, and ordered to be printed.

ORDER OF REFERENCE.

Extract from the Journals of the House of Representatives.

WEDNESDAY, THE 17TH DAY OF AUGUST, 1910.

Ordered,—"That a Select Committee be appointed to consider the petition of G. D. Hamilton, with power to call for persons and papers; the Committee to consist of Mr. Bollard, Mr. Ell, Mr. Hogg, Mr. Poland, Mr. Rhodes, Mr. Ross, Mr. Stallworthy, Mr. E. H. Taylor, and the mover."—(MR. HALL.)

PETITION.

To the Honourable the Speaker and Members of the House of Representatives in Parliament assembled.

THE humble petition of George Douglas Hamilton, of Mangatoro and Tiratu, near Dannevirke, sheweth,—

1 That he first occupied certain lands known as the Mangatoro Estate in 1857, being years before there was any European occupation in the neighbourhood, the nearest being fifty miles distant, and continued to occupy the same until the happening of events hereinafter set out.

For about twenty years there were no roads connecting with the outside country, the ' Seventy-mile Bush ' being bush. The occupation was for years undertaken at the risk of capital, labour, and life such as is not understood in these times. The land was acquired from the Maoris on fair terms at a time when those settling the country risked their property and lives. It was exceptionally difficult country to develop, and in its natural state practically valueless, producing £100 per year from stock from over 30,000 acres. It was, by perseverance, knowledge, and capital, reclaimed from bush, scrub, and fern, and made to produce over £13,000 per annum (gross) and over £8,500 net per annum out of which to pay interest.

2 In order to develop the estate your petitioner borrowed from the Bank of New Zealand (after twenty years' occupation) from time to time sums amounting in all, with interest, to over £60,000, which was secured by mortgage of the land and mortgage of the stock on the said estate, the total value of the security being estimated by the bank at £139,000.

3. Prior to the 25th day of March, 1889, the property showed each year during some years an excess of profit after debiting to the property all charges, and including interest on the amount owing to the said bank; but out of such profit sums were spent for permanent improvements, such permanent improvements being undertaken with the consent of the manager of the branch of the bank where your petitioner's account was kept.

4. For some years prior to the said 25th day of March, 1889, very little money was spent on the property for improvements in excess of the amount derived from profit.

5. About the year 1885 your petitioner was offered by another bank sufficient to pay off and carry on the improvements, and he could have made arrangements with others, but he refused the same after consulting the manager of the Bank of New Zealand, who informed him that he need have no fear but what such bank would carry on the account.

6. It was always understood between the bank and your petitioner that as long as the business was showing a profit to the good the moneys could remain owing at current rates; but some time prior to the 25th day of March, 1889, the bank, through its officers, demanded payment of the whole sum owing by your petitioner

7 The bank put up the said property for sale by public auction through the Registrar of the Supreme Court on the said 25th day of March, 1889, and bought the same for the sum of £5,000.

8. The conduct of the bank was such as practically to deprive your petitioner of his interest in the said property, which, according to the earning-power of money at the time of sale, was worth at least £60,000 more than the debt, though, owing to the stringency of the money-market, it was under the circumstances impossible to make other financial arrangements, and your petitioner is informed and believes there has been realized by way of profit to the Bank of New Zealand, after payment of all principal and interest moneys, at least £200,000.

9 Your petitioner put certain moneys into the venture, and if such moneys had been accumulated at the rate of interest charged by the said bank to him they would have accumulated at the time of the sale to a sum of over £60,000.

Your petitioner never took any money out of the venture he put in, or any interest.

10. Your petitioner submits that it is unfair that an institution such as the Bank of New Zealand should absorb, by the means which have been used in this case, the whole of the money put into the concern by your petitioner, which, with compound interest, would now amount to about £120,000—the whole of the money put in by the Bank—and interest at a high rate, and also a large profit, estimated at over £80,000.

11 Your petitioner humbly prays that your honourable House will take the whole circumstances into consideration, and afford to your petitioner such compensation as justice demands.

And your petitioner will ever pray
Wellington, 30th June, 1910.

G D HAMILTON

MEMORANDUM

RE PETITION OF GEORGE DOUGLAS HAMILTON

THE petitioner, getting none of the redress that was reasonably expected, applied to Parliament, which in 1902 set up a Committee to investigate the case. This investigation was, owing to insufficient time and to the death of one of the Committee, and illness, not concluded. Then, being informed by Mr Hall (one of the Committee, and our member) that one difficulty was the lack of evidence owing to the case not having been before a Court of law (where, under the circumstances, I could not afford to take it), I allowed it to be taken before the Supreme Court. There, after the case had been begun before the Chief Justice, it was not continued for about twelve months. At his advice it was taken to the Court of Appeal. There, apparently by some misunderstanding of my evidence, Mr Justice Edwards delivered judgment to the effect that the whole property was not worth within £8,000 or £10,000 of the advance made by the bank on it. As the attached certified copy shows my account £70,498 13s. to credit, and the bank's valuation has been accepted and carried on at £139,000, the income showing 6 per cent. on this for some years, I ask your investigation into the matter, which is simple, and almost entirely contained in the letters and figures of the bank. As it is, I am left with absolutely nothing for the labour and time of more than fifty years, or for the capital, which I am told by leading accountants amounted at the time of sale (and purchased by the bank at £5,000) to some £60,000.

G. D. HAMILTON

REPORT

ON THE PETITION OF GEORGE DOUGLAS HAMILTON (No. 7), OF MANGATORO, NEAR DANNEVIRKE, HAWKE'S BAY

PETITIONER prays for compensation for loss sustained through the sale of the Mangatoro Run, near Dannevirke, by the Bank of New Zealand, in March, 1889

I am directed to report that your Committee finds the facts to be as follows:—

The petitioner, George Douglas Hamilton, was originally the owner of a property near Dannevirke known as the Mangatoro Run. This property became mortgaged to the Bank of New Zealand on account of money owing and advanced, on which interest at the rate of 8 per cent. per annum was charged. On various occasions, dating from the 18th June, 1884, when a demand for £44,904 3s. was made, the bank pressed for payment by the petitioner of the amount that he owed. On the 6th February, 1889, the Registrar of the Supreme Court was applied to under the provisions of the Property Law Consolidation Act, 1883, to sell the estate, and on the 25th March the property, having been duly advertised, was submitted to auction. It was known that petitioner was heavily indebted to the bank, the amount being £68,000, and it is assumed that this fact, united with the terms advertised, "Cash in one month," rendered competition, at a time when money was scarce and pastoral property depressed, virtually hopeless. The property was consequently knocked down to the bank for £5,000, or a fraction of its value. The bank treated the sale as genuine, took possession of the property, and retained for a time the petitioner as manager. The nature of the sale transaction may be judged from the valuation of the property made among others by the bank's officers:—In August, 1883, Messrs J N Williams and Charles Beetham valued the run at £75,000. In March, 1888, it was valued by Messrs. McCaw and Walter Hunter, inspectors for the bank's estates, at £80,000 and £94,000 respectively. The valuation made by Mr Ferrier

Walker, public accountant, on the date of sale, was £125,662, and in May, 1890, the Hon. J. B. Whyte valued it at £139,000—the figure at which it was transferred to the Bank of New Zealand Estates Company in August, 1890.

Between four and five months after the sale of Mangatoro, and three months before the deed was executed by the Registrar to the bank—on the 2nd August, 1889—the Legislature passed the New Zealand Bank Act 1861 Amendment Act, 1889. This measure was introduced as a private Act by Mr. Lance, and was passed without much discussion in Parliament. Its provisions gave the bank power to purchase and hold freehold or leasehold land if exercised under the power of sale contained in any mortgage. Section 6 was retrospective, and validated such proceedings as far back as the 11th October, 1888. The effect of this measure was to cover the sale and seizure of the Mangatoro Estate, and deprive petitioner of any legal remedy that he might possess.

Your Committee submit that the issues that remain to be determined are,—

- (1) Was the sale of petitioner's property, and its purchase by the bank at a fraction of its value, a legal transaction?
- (2) Did the passing of the New Zealand Bank Act 1861 Amendment Act, 1889, prejudice the petitioner's position?

Your Committee is of opinion that the petitioner, through the seizure by and sale of his property to the bank at a mere fraction of its value, and the subsequent validation of that transaction by the New Zealand Bank Act 1861 Amendment Act, 1889, has suffered a serious wrong, and it recommends his claim for redress to the favourable consideration of the Government.

6th October, 1910.

A. W. HOGG, Chairman

MINUTES OF EVIDENCE.

WEDNESDAY, 31ST AUGUST, 1910.

The Hon. T. W. HISLOP examined. (No. 1.)

The Chairman Will you proceed with your statement, Mr. Hislop?

Witness: Captain Hamilton has asked me to put the points so far as I have noticed them from an investigation of the matter. The main points in the case are these: I think this security was given to the bank upon an understanding that it should be a security for the development of this property. It was well known that the property would not be developed—could not be developed—under a very long series of years, and that in the meantime it would probably not pay. The advances were made, and during the time of the bank carrying it on Captain Hamilton had offers from other people to find some money upon a more permanent security than the security which was given to the bank. The bank, however, told him that there was no necessity for him to go outside the bank, and that the bank would carry him on. The time came when the bank began to be worried for money, and they then were offered what they were willing to take—a sum of money from the Northern Loan Company—and afterwards they declined it. Then towards 1889 they stated that they recognized that the property was good property, and one which would pay very well on being further developed, and they agreed that if they got £40,000 the sale would be stopped. That is shown in a letter quoted in page 93 of printed book, a letter of the 8th February, 1888. First of all the company was going to agree to advance at 6½ per cent., but got word from the directors at Home that they required 7 per cent., and the bank upon that withdrew, and stated that they would not do business at 7 per cent. The terms proposed were laid before the inspector, who said that owing to the high rate of interest the matter must be referred to the board of directors of the bank. I understand that the directors could not see their way to allow Mr. Hamilton to take £40,000 at 7 per cent, although the returns from the station showed a bigger return than 7 per cent. Captain Hamilton will be able to show that. Negotiations went on until the property was put up for sale on the 25th March, 1889. The point about the Bank of New Zealand selling was this: I think, on the 25th March, 1889, the bank had no power to sell in this way—that is to say, they had no power to buy in themselves. That is, to my mind, a very important matter. When the Land Transfer Act was originally passed it did not include the power of selling through the Registrar and the mortgagee purchasing in that way, and I think, for two sessions, in 1878–79, movements were made to amend the Land Transfer Act in that direction, and when I was in the House I very strongly opposed it, and it was thrown out on these two occasions, but it was afterwards passed in 1880 or 1881. Under the Land Transfer Act as it was originally adopted there was no power for the mortgagee to buy through the Registrar, and in hard times that formed a protection to the mortgagor, which, under the judgment of the Court of Appeal—which no doubt is right, considering the practice which had been adopted—it simply resulted that there was no protection to the mortgagor in hard-up times. The sale took place, and you will notice that the evidence of Mr. Buller and Mr. Balfour was that the bank would not take less than their debt for the property; so that, at all events, fixes them this way: if a stranger had come forward and offered them the full amount of the debt he might probably get the property, but he could not have got it for less. They were asked if they would take £60,000, and said No, they must have the full amount of the debt. What strikes one is that the only excuse, I submit, for the bank dealing with it in this way at that time was that the bank was in need of money. They could have got £40,000 to ease this tightness, and by this sale they got nothing at all; so that the transaction was only a transaction by which Captain Hamilton's chance of getting anything out of this valuable property upon which he was working was absolutely destroyed. In August, 1889, the Bank of New Zealand Act was passed, and among

its provisions was one giving them the ordinary power to sell through the Registrar and to buy. It was a private Act, and I remember the occasion upon which the Act was passed. I do not think attention was drawn to these particular powers, but it was referred to a Committee in the usual way, and under the provisions of the Act not only did they have the power to purchase in future but it legalized purchases made in the past. Clearly, of course, people affected by that provision ought to have got notice that the Act made an alteration in their rights, but in the usual rush of business the thing was overlooked. The mere statement of the fact that this property was within a very few years developed without the addition of very much more capital to such an extent as to give the Estates Board a profit of over £100,000 shows the injustice of the transaction. It does not seem to me right that a man should be jockeyed out of not only the amount which he put into the concern, but all his years' labour and ingenuity, for the purpose of giving a loan company not only the amount of the loan it had originally lent, and compound interest at a very high rate, but this immense profit. It was put up, and they bought the land for £5,000.

1. Who was responsible for the debt, then?—Captain Hamilton.

2. And responsible still?—Unless it is barred by the Statute of Limitations.

3. They could have come upon him for the remaining £62,000?—Yes.

4. *Mr Hall.*] Do you remember if there was anything in the Bank of New Zealand Act that affected a matter of this kind—that legalized the transaction?—It legalized all purchases by the bank through Registrar sales. Of course, if a sale a great deal under the value had not been legal in the colony, that ratification would not have affected it; but the Chief Justice stated that in the course of his experience in New Zealand—and the other Judges ratified—purchases were made by mortgagees at sales made through the Registrar at a nominal figure. Sales under somewhat similar circumstances at Home have always been considered fraudulent if they are not at something like a fair market value.

5. The ostensible reason for the bank foreclosing was their want of money?—Yes, that is what I understand.

6. Suppose they had legally foreclosed, would it then have been improper for them to have sold afterwards?—They purported to sell under a power which they did not possess, and the position was this: that if it had not been for that power given to the bank in 1889 the same thing might have occurred in Mr Hamilton's case as occurred in the south in the case Clark and Chalmers. Clark took possession and was in possession for eight or nine years or more, and these people came and said, "You have got to account to us," and finally got about thirty or forty thousand pounds.

7. It is your opinion that if they had wanted to get money it was obviously their duty to proceed and get that money afterwards?—Yes, in the ordinary way.

8. Supposing they had proceeded at once to authorize another £8,000 to be spent upon it?—Then I should say they did not want money.

9. Is it your opinion that it was possible for Mr Hamilton at that time to find £67,000?—I do not think it was possible in New Zealand. He might have got it at Home if a sufficient time had been given him. Money was got at that time by persons in the Home-country.

10. That would have required time?—Yes.

11. *Mr Stallworthy*] Do you think Mr Hamilton's case is an exceptional one, or do you know of any of a similar nature?—I do not know of any exactly analogous.

12. *Mr Hall.*] I think there is evidence of 12 per cent. being earned?—Yes, the estate was earning 12 per cent. on the value as assessed by Mr. McCaw, who valued for the bank at £80,000, which was £13,000 more than the debt. Mr White valued it at £139,000.

13. *The Chairman.*] Do you think the bank exceeded its power in causing the sale to be made as it did?—It was not necessary for me to go carefully into the question whether it had the power or not. It seems to me the bank had not the power. It applied for the power in 1889, and the Chief Justice indicates the view that until then it had not the power.

14. Are you aware of any other properties being treated in the same manner by the bank?—No.

15. And there is no reflection on Mr Hamilton as to how he managed the property?—No.

16. In your opinion, were the terms of cash in one month likely to attract purchasers?—It was an indication that the bank did not want the property sold.

17. Do you think Mr Hamilton's grievance, from what you know of it, extends beyond the bank?—No complaint with regard to the estate itself. I do not know anything about that.

G. D. HAMILTON examined. (No. 2)

The Chairman: Will you give us your evidence, Captain Hamilton?

Witness I would like first to hand in an extract from the judgment by Mr Justice Edwards: "The defendant bank appears not to have been indisposed to deal with the plaintiff for a resale of the property after the sale through the Registrar, and he seems to have made some tentative proposals to that end. These came to nothing. The plaintiff says himself, 'The real difficulty was the nature of the leasehold. I knew that Maata was contesting the validity of the lease, and was refusing to accept rent, and has not since accepted rent. Maata was one of the principal persons interested in the land. I do not know that it was well known in Napier the conditions under which I held the lease. If I had been asked by any probable purchaser I would have told him. I have no doubt that Hoadley's application for a guarantee of title was due to rumoured defects in the lease. I say that a man would not have been found to buy the property, including the stock, for £60,000. It was a large sum, and it was difficult to find that sum at once. Very few people had the cash to put down for such a purpose.' The plaintiff's debt to the defendant bank was over £68,000. According to his own evidence, therefore, upon the best realization that could have been hoped, here was a deficiency of from £8,000 to £10,000. The defendant bank was clearly entitled to realize its security at once. This scarcely needs authority, but there is the authority of several cases. In *Farrars v Farrars (Limited)* (40 Ch. Div., 411) Lord Justice Lindley said, 'But every mortgage confers upon the mortgagee the right to realize his security

and to find a purchaser, if he can, and if in exercise of his power he acts *bona fide*, and takes reasonable precautions to obtain a proper price, the mortgagor has no redress, even although more might have been obtained from the property if the sale had been postponed. *Cholmondely v Clinton* (2 Jac. and W.I., 182), *Warner v Jacob* (20 Ch. Div., 220).’ In addition to the admitted deficiency of from £8,000 to £10,000 in the securities, the plaintiff, at the time of his bankruptcy some years later, had other liabilities amounting to over £5,000, and he had no assets. Even if the defendant bank had purchased the mortgaged properties at the Registrar’s sale for £60,000, which the plaintiff admits to have been more than their market value, he would have been still hopelessly insolvent, and his position at this day must have been the same as it now is.’ My reply to this is that the estate was 31,000 acres, and I was owner and manager. It had a large and yearly progressive value, owing to grass-sowing, bushfelling, ploughing, fencing. The carrying-capacity was raised from 900 to about 50,000 sheep and 2,000 cattle, and the income from £100 to £14,000, the lambing being latterly 16,000. In addition, the wool took first prize at the Melbourne Exhibition of 1888 for most value per fleece (unskirted fleeces), and at the Dunedin Exhibition of 1889–90 third prize for most value per fleece (unskirted fleeces). In both cases these were a bale of over 3 cwt. from aged wet ewes, with a lambing of over 115 per cent. The wool also took medals and certificates. A large proportion of the wether lambs, also of the sheep, were frozen at full weights. On the 9th August, 1883, it was valued by Messrs. J. N. Williams and Charles Beetham at £75,000. See Supreme Court evidence, page 131: “The Mangatoro Run, about 30,450 acres in extent, consists for the most part of low undulating hills composed of rich marl and limestone. About 6,000 acres of the property is bush land with an abundance of totara for fencing purposes. The remainder of the land is open, and the vegetation, consisting of grass and toetoe with very little fern, makes the introduction of English grasses a comparatively easy matter to make the property one of the finest in the district. Twelve thousand acres have recently been sown with English grasses, and when the remainder of the open land has been sown the carrying-capability of the run will be more than doubled. The number of sheep now on the run is 17,000. With a comparatively small expenditure this number should be increased within the next three years to 35,000. Fencing, about forty miles, all substantially put up, and in good order. There are also good drafting-yards in various parts of the run. Buildings are all good, and quite sufficient for working purposes. We value the freehold of the above, including stock and improvements, at £75,000.—CHARLES E. BEETHAM, Sheep-farmer, Apiti, J. N. WILLIAMS, Sheep-farmer, Hastings.” The debt to the bank was then about £38,000 (see page 184), leaving a margin of about £37,000. It was valued in March, 1888, by McCaw, an inspector for the bank’s estates, at £80,000, and as returning about 12 per cent. (see page 90, Supreme Court evidence), which would make the leasehold worth £94,000 (see Ferrier Walker’s, accountant, evidence, page 4 of his valuation). Margin about £26,250, overdraft, £67,750. It was valued in March, 1888, by Mr. Walter Hunter, an inspector of estates for the bank, at £94,000 (see page 4, Ferrier Walker’s evidence). It is acknowledged by the bank in their correspondence (6th May, 1882) that the lease is almost equal to a freehold (see Supreme Court evidence, page 123). On this valuation the property was yielding about 10 per cent. interest, margin, £26,250; overdraft, £67,750. At the time of sale, on the 25th March, 1889, the gross income is returned by the bank as £13,285 (see page 95 of Supreme Court evidence, “Terms of payment will be cash in one month”). The working-expenses, including interest at 8 per cent. (£5,574 7s. 5d.) are given in detail, leaving a surplus of about £3,000. These are signed by the accountant, E. Averill, the present manager, making the net income at the time of the sale on the 25th March, 1889, £8,500, out of which to pay interest, which was uniformly charged 8 per cent. From the figures given, Mr. Ferrier Walker, accountant, gives the value at the time of the sale on the 25th March, 1889, as £125,662, margin, £57,662, approximate overdraft, £68,000 (see page 2, Ferrier Walker’s evidence). This corresponds pretty closely with a valuation made for the bank by the Hon. J. B. Whyte in May, 1890, about twelve months after the sale, at £139,000. At this figure the estate was transferred to the Estates Company in August, 1890 (see page 110, Supreme Court evidence), margin, £70,498 13s. After the sale the account was continued in my name (see Supreme Court evidence, pages 107 to 110) and under my sole management until August, 1890, about seventeen months after the sale. Until leaving the estate in August, 1890, I signed all cheques as owner, not manager. Immediately after the sale the bank, uninvited, sent me a letter of authority to spend £8,000 more of capital in further bushfelling and grassing, the work to be completed in three years. In the first year I felled rather more than 5,000 acres, which was felled and burnt at a cost of rather under £5,000, 20 per cent. of the felling-money, by arrangement, being withheld until the burning was completed. This completed some 15,000 acres of bushfelling, and 27,500 acres in grass by bushfelling, surface-sowing, and ploughing. The ploughing extended in a continuous line for eight miles. The ploughing was at least done twice. Before borrowing from the bank I had the money for seven years at 5 per cent., and could have had it at 4½ per cent. (see page 151, Supreme Court evidence). Among other extraordinary efforts to get me off the place is the lying and absurd statement: “8/8/90.—c/—Memo. 29/239.—8th August.—Mangatoro.—Reporting action inimical to the bank on the part of Mr. Hamilton in endeavouring to secure a share in the freehold of the run in his wife’s name, and that, the matter being represented as urgent, Mr. Balfour had been instructed to use his discretion in consultation with the bank’s solicitors in taking steps to protect the bank’s interests, in pursuance of which Mr. Balfour had purchased for the bank the freehold interest for which Mr. Hamilton was treating, the interest being one-fourth of a one-tenth share, and the price £500—viz., £250 cash and £250 on completion of title. The attorneys approved of the action taken. Mr. Balfour further advises other interests being in the market—namely, one full share p. £2,000, and a half of one full share p. £1,000. The attorneys decided to defer consideration of further purchases and dealing with Mr. Hamilton.” The absurdity of this lying statement is shown by the fact that the freehold is subject to a lease of forty years at a nominal rental; that the freehold could not probably be obtained under £1 per acre; that the buyer would have to sink his money at nominal interest for forty years, and then be confronted with an improvement clause of £1 10s. an acre. The idiotic nature

of the dismissal is shown by the fact that I should still be at perfect liberty to acquire the freehold without considering the bank. The following is a letter I received from the Bank of New Zealand, Napier, dated 27th February, 1890: I have received a letter from Hori Ropiha on behalf of other claimants, who have authorized him to receive all rents now due on the Mangatoro Block, asking that the rents should be remitted him by post. In acknowledging his letter I have referred him to you as the only party authorized to pay rent. Will you see to this?—Yours faithfully,
T W BALFOUR."

1 *Mr Hall.*] When the Bank of New Zealand asked you to pay up your loan, how many days did they give you to find the money?—They gave me from 5 o'clock at night to 3 o'clock next day (see page 134, Supreme Court evidence).

2 Did you take any steps to find the money?—It was impossible to find the money in that time. I saw Mr Cotterill, of the firm of Wilson and Cotterill, and Burke, manager of the Bank of New South Wales. Burke said to me, "You ought to give me your account. I said, "Well, I would sooner give you my account than anybody else, but I have no excuse for leaving the Bank of New Zealand." Burke went on to say, "They make you pay for anything they are giving you." I said, "Of course I know that, but I don't feel, after making the large advances they have done voluntarily, that I ought to leave them." A month or two before this the Loan and Mercantile said to me, 'We have not as much money as you ought to have to develop that property, but we shall be only too glad to get your account.' The manager of the Loan and Mercantile said, "If you like, I will talk to the Bank of New Zealand, and ask them whether they would like to have your account." He afterwards said to me, "You can have £20,000 if you like, in addition to what you have got from us." My account was marked up at once to £32,000 with the Bank of New Zealand, so that when Burke asked me to give the account to him not very long after this I felt some reluctance in leaving them. As soon as this asking for money began I found that the Bank of New South Wales said, "When we offered you money you would not take it; now we have disposed of our money among other people, and we have not got it to give you."

3. What did they offer you?—Anything I wanted.

4. Did they offer you any specific sum?—They did not specify a sum—they knew what I owed the bank.

5. What did you owe the Bank of New Zealand then?—Apparently about £44,000—the amount asked to be refunded to them. After this unpleasantness had begun and I found I was going to get no satisfaction from the Bank of New Zealand, I went to Cotterill for the first time, and I said, "Cotterill, this is an unpleasant business the bank is putting me in a hole, or trying to, and I shall have to put you in the witness-box if this comes into Court." This is what Cotterill said: 'I know all about it; and I know more than this, that the Bank of New Zealand thought I was going to get your account for Burke because he is my brother-in-law, and the Bank of New Zealand in consequence spoke of taking their legal business from our firm, Wilson and Cotterill.' Balfour, of the Bank of New Zealand, came to me in Napier, and said, "I have got a wire here: I have got £40,000 for you for seven years." He said, "If you will come down with me to the Loan and Mercantile, and give them a line to say that you leave the business with them for the seven years, that is all you have to do." So I walked down with him to the Loan and Mercantile, and gave them a letter to say that I left the business with them for seven years. Now, that tied me up, because in seven years this sale had not come off, and I could do nothing without the business.

6. How did it tie you up?—In this way: When I applied for the loan down here they said, 'We have got the sum you want at 6 per cent., but,' they said, 'we must have the business.' I then wrote up to the bank, and said I had got the offer of the £60,000, but that I could not get the money unless I got the business, and then the reply from the bank was by letter, stating that they could not part with the business unless they got a substantial bonus for letting it go.

7 You say you got an offer of £60,000: who made you that offer?—One of the Johnstons. He said he had the money in Christchurch—foreign money

8. Would that have paid the Bank of New Zealand off?—Yes, it would have paid the Bank of New Zealand off then.

9 And they refused to let you go because you had entered into an agreement to deal with the Loan and Mercantile?—Just so, unless I paid a bonus. That was by letter

10. How long was it after this that they foreclosed on you?—Certainly two or three years, as far as I can remember now

11 Did you have an offer of any other money to pay them off from any other people?—The Northern Investment Company offered £40,000 as an instalment. When this demand was made for the money I went up to Murdoch, in Auckland, and I said, "This is an extraordinary thing. Both your local manager and inspector assured me that I should never suffer any inconvenience. They went on to say that, whoever else suffered, I should not be put to any inconvenience. These were Andrews, the inspector, and Balfour, the manager. It is extraordinary this demand for the money I was going to have on easier terms than any one else." He said, "If you cannot pay us off, try and find half the money." Half the money was £28,000, and Murdoch was prepared, and offered, to take £28,000 on first mortgage. I started to find this £28,000 in Auckland, and asked Mr Aitken Connell to obtain it on commission, and he went to Murdoch to see that the thing would be all right, and he also went to Butt, the inspector, who knew all about it too. Then I tried Mr Moss, and requested him to find this £28,000 on commission, and he went to Murdoch and also to Butt to see that he was going on a proper errand; but neither Connell nor Moss could find the money in Auckland. Then I came down to Napier, and, instead of the bare £28,000, the Northern Investment Company said they would give me £40,000 at 6½ per cent. on first mortgage—that is, £12,000 more than the bank asked for. The bank delayed just long enough for these people, the Northern Investment Company, to get a cable from Home to say that they must not advance any more money at less than 7 per cent., but they were ready to get it at 7 per cent. They made this offer formally to the Bank of New Zealand (see letter in evidence before the Committee), but no reply came, and at the end of three weeks Dobson, the manager of

the Northern Investment Company, said to me, "We have got this £40,000 in the drawer doing nothing all this time: don't you think I had better wire up to Auckland?"

12 To Auckland for what?—To know what they were going to do about this loan which they had asked for—for a reply; and the reply came—just one word, "Declined." When I wanted an explanation from Balfour he said that money was not so scarce now. It turned out that this other £40,000 that Balfour offered was Joseph Rhodes's money, and when Rhodes found that this £40,000 was going to make business for the Bank of New Zealand, he said, "No." He had withdrawn his account from the Bank of New Zealand. He was not going to have his £40,000 make more money for the Bank of New Zealand through me. Then Burke came to me and said, "I have power of attorney for Rhodes if you like to come across the street you can have the £40,000 now. I was asked by the bank not to think of moving my account. When possession was taken—"

13. Perhaps you would make it clear to the Committee: did this occur after they had asked you for the £44,000 which you owed?—I think so.

14. And this leads up to the time when they actually foreclosed?—They were mortgagees in possession. They managed it in this way. They would say that they did this because I had got a lot of grass-seed and they could see no way of paying for it, and the people were troubling about it. Finally the owners of the grass-seed gave me, I think it was, three years to pay the half of the money, and six years for the balance of the grass-seed. Formal deeds were signed to this effect. There was no excuse for this shirking of the responsibility; it was grass-seed that was bought at a nominal rate, on terms. The rye-grass was bought at 2s. 6d. per bushel, and the cocksfoot at from 2½d. to 3½d. per pound. There were 13,000 acres of the run sown with that grass-seed, and it cost 4s. per acre to sow. The price now is 8s. per bushel for rye, and 7d. per pound for cocksfoot, and it costs £1 per acre.

15. What was the whole of the debt for the grass-seed?—£2,942 9s. 9d. They would not pay for it, and it has not been paid for, except £1,200, which was paid out of my private money. Then their lawyer came to me and said, "If you pay 5s. in the pound for this they will give you an acquittance for the rest of the money." I said, "I am not going to take an acquittance, I never took people's goods and did not pay for them in my life, and why should I do it now?" He said, "Colonel Whitmore has paid his creditors 10s. in the pound." I said, "That is Colonel Whitmore's business, not mine." Hearing that this grass-seed was stopped from being sown, the manager of the bank said to me, "Do you mean to say that we cannot sow the grass-seed which is in our own shed?" They bought and paid for this—what was left in the shed—and sowed it. W F Knight, a neighbouring settler, was to be there as a sort of check on my management. I was to remain on the place as if nothing had happened, and to live in the house. Of course, Knight was perfectly incompetent to manage a thing that I was fully conversant with myself, and in two years the bank found that this dual management was not good, and they paid Knight off. Then they asked me to come up to Auckland to see the Board, and they said, "We shall be very much obliged if you will go into accounts of our estates, and give your opinion as to what ought to be done about them"—Sir John Campbell among others. "What you want," I said, "is a proper inspector of properties, who would give you proper advice", and they inaugurated a manager of that kind on the strength of that. The first man was Walter Hunter, and he came, and has given a favourable report of Mangatoro. He got thrown on his head out of a buggy, and there was a man of the name of McCaw came instead of him. Then they put the place up for sale nearly as suddenly as they had asked for the money. I got an urgent telegram from the manager in Napier to meet him in Dannevirke. When I met him he said, "We want our money." I said, "You want your money! Is this not rather an absurd thing to say?" and asked, "Do you expect me to go to the shop on the corner and ask them to lend me £70,000 to give you?" He said, "If you cannot give us our money will you help us to sell?" I said, "No, I won't." He said, "If you won't help us to sell, we must sell without you." It went through a Registrar without a bid. The terms were cash in one month. It was knocked down to the Bank for £5,000 (which a certified accountant puts at £125,000), and immediately I was asked to go back to the station and take up the management. In fact, Mr Balfour came up to Auckland to get me back. I said, "I have just seen Sir John Campbell, and he has suggested giving me a letter to people in Australia, and it is perfectly certain that they will give me the money." The steamer was sailing in twenty minutes, but Mr Balfour said if I would only go and see Mr Tolhurst he would give me anything I wanted. I went and saw Tolhurst, and he asked me what emoluments I wanted. I said, "I will take what this man Knight has been getting as a sort of manager—£360 a year." This arrangement was made, that I should draw £360 a year for myself, and I think the family was included in the rations. I went down and took up the management, and the first thing I got was a letter from McCaw authorized by the Board, to spend £8,000 in bushfelling and grassing. That letter has been destroyed, but a copy should be in the bank. I felled 5,000 acres right off in one season. The £8,000 was not expended, because before I could burn and sow it I got notice that my term was up. The notice to quit came on this information that I was trying to buy the thing for Mrs. Hamilton. I want to know who it was gave this information. I could not tell what information had been given or the lies that had been told until I saw the evidence in the books of the Court. It was said to me at the time that the estate had passed to the Assets Board, and that they would probably prefer having an independent manager of their own. Then Lyons was engaged, as I was told, at £600 a year, and if he was discharged before three years he was to get £1,800. That is hearsay. I might have mentioned that the bank offered me £500 a year, instead of this arrangement that there was of £360 and rations.

16. When you were managing this estate on your own account, how much did you appropriate to your own use?—I limited myself for the first twenty-three years to £100 a year.

17. Was that altogether for the maintenance of your family?—That was before I had a family.

18. Did you invest any of your profits in anything else?—No. The whole cost of the establishment, as far as buildings were concerned, was £3 5s.

19. You mean that you built your own house?—Yes. Then I went Home and got married.
20. What did you think you were entitled to take out of the estate as manager?—I was entitled to take £500 a year. I could have got that on any large place if I had been manager. I had been manager and part owner of the Tukutuku Station as well as this.
21. It was very profitable?—I had some sheep there that I did very well with.
22. How much do you think you were morally entitled to of the value of that estate at the time of foreclosing?—I was entitled to everything but the bank's debt and interest. The interest of the bank was much higher than my neighbours paid.
23. Did you at any time fail to pay the interest when due?—Being an overdraft, it was difficult to say how this was taken. The year before the sale the bank say it was paying 12 per cent. It is given in detail, and signed by Averill. It paid them 8 per cent., and there was £3,000 over (See details signed by Averill.)
24. You say you never did fail to pay the interest?—That is so. I got the bank-manager in Napier to make up my books to show what I wanted to borrow. Then I went up to Auckland with the book made up. Of course, the money could not be got in Auckland. When I got back to Napier there was an entry in the pass-book, "Undercharged interest, £1,200."
25. *Mr Stallworthy*] When did you first borrow from the bank?—The first loan was from the Loan and Mercantile.
26. When did that begin?—About 1877. They had it for three years, and they advised me to try and get the money from the bank.
27. You had the money from the bank and Loan and Mercantile for fifteen years?—Just so.
28. When the bank asked you to help them to sell, could you have done so?—Not in a month, of course. I got this forty-year lease, which was exceptional altogether, from the goodwill of the Natives. They said, "You will undertake never to sell this lease." I said I did not want to sell it. When the bank took this action the Natives said, "We have given you this lease on the strength of your not selling it, and now you have got into some sort of mess, and you have got the lease for forty years."
29. Your reason for not assisting them to sell was because you had promised the Natives not to sell?—That was my reason.
30. After the foreclosure did you offer to buy the property?—I made various offers, but they would not have anything less than the whole amount down.
31. Did you go Home for the money?—I was at Home in 1872 and 1873, when I got the money, and I got it for 5 per cent. There was no difficulty at Home, although it did not look as if there was anything to be got for New Zealand.
32. The bank bought in in 1889, in March; they allowed the account to run in your name until 1890; then what took place?—Then they said that this was being transferred to the Estates Company, and that they would perhaps prefer to have their own manager, though there is quite a different story told in the Supreme Court evidence, that I was trying to buy the property for Mrs. Hamilton.
33. Do you think the bank allowed the account to run in your name because they had the account?—Because they knew the property would be managed by me better than by any one they could get, particularly with the Native question. All the people knew that if they got me to manage one of the Natives' affairs it would go through.
34. You do not think the Act covered up any illegality in their purchase?—I think so.
35. When they got the Act through in 1889 there was no longer any reason for this?—Just so; there is no doubt about that. They thought, as long as I was there there would be no trouble with the Natives, and that the property would be bought by degrees.
36. When you declined to assist the bank in finding a purchaser you knew they were selling you up, did you not?—I knew that for some reason or other—and I suppose, for the want of money—they meant to do this thing which they had promised not to do.
37. When you refused or declined to help them to find a purchaser, you knew at that time that if you refused they were going to sell you up?—Yes, I suppose so. It was absurd, with money so scarce as it was at the time.
38. You could not help yourself?—No.
39. Since you were before the Committee before, you have been to the Supreme Court?—Yes.
40. And the judgment of the Court was against you?—Yes.
41. *The Chairman.*] Mr Hamilton, do you know when the property passed out of the hands of the bank?—To the Government?
42. It was included in the properties handed over to the Assets Realization Board?—Yes.
43. Do you know in what year the Assets Board disposed of the property to the Government?—I really forget.
44. Are you aware at what figure it passed over to the Government? What I want to know is whether the bank, after all, made a huge profit out of it?—The bank sold, at an average, as near as possible, including the lease, of £4 12s. per acre for 30,000 acres. The Government paid to the bank £4 12s. for the 30,000 acres, less 5,000 acres for which they paid £4 5s. All the bank had any claim to put in after I left was this—that they paid £23,000 for freehold at £1 per acre. That went into it, but there was a whole lot of other things that I had finished and that were not counted. They got £160,000, besides having £8,500 a year net between the time they got it from me and they sold it to the Government as a steady income. Mr Foster shows that in his evidence.

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