

1875.

NEW ZEALAND.

## PIAKO SWAMP SALE COMMITTEE.

(REPORT, MINUTES OF PROCEEDINGS, AND EVIDENCE OF.)

*Report brought up 15th October, 1875.*

## ORDERS OF REFERENCE.

*(Extracts from the Journals of the House of Representatives.)*

WEDNESDAY, THE 1ST DAY OF SEPTEMBER, 1875.

*Ordered*, That a Select Committee be appointed to inquire into the sale of the Piako-Waikato Swamp to Mr. Thomas Russell and others. Five to be a quorum, and report to be brought up in a fortnight. The Committee to consist of the following members:—Mr. Bryce, Mr. Cuthbertson, Sir G. Grey, Major Jackson, Mr. Hunter, Mr. Macandrew, Mr. Ormond, Captain Kenny, and the Mover.—(*Hon. Sir D. McLean.*)

TUESDAY, THE 28TH DAY OF SEPTEMBER, 1875.

*Ordered*, That the number of the Piako-Waikato Swamp Committee be increased to eleven, and that the names of Mr. Sheehan and Mr. Rolleston be added thereto.—(*Hon. Sir D. McLean.*)

THURSDAY, THE 14TH DAY OF OCTOBER, 1875.

*Ordered*, That the petition of John Crosby be referred to the Piako-Waikato Swamp Sale Committee.—(*Mr. T. Kelly.*)

## REPORT.

1. THE Committee appointed to inquire into the sale, or proposed sale, of the Piako Swamp to Mr. Thomas Russell, have taken the evidence thereon of the following witnesses—viz., the Hon. Dr. Pollen, Hon. Sir Donald McLean, Mr. Murray, M.H.R., Mr. Sheehan, M.H.R., Major Heaphy, V.C., and Mr. O'Meara.

The opinion of Mr. C. B. Izard has been taken on the legal aspect of the transactions, and the official papers and correspondence connected with the case have been considered by the Committee.

2. I am directed to report that the land in question consists of a block of 80,000 acres, and is known indifferently as the Piako-Waikato or Great Swamp. It lies between Hamilton, on the Waikato River, and the head waters of the Piako River.

3. The Piako Swamp is a low-lying swamp, a considerable portion of which is overflowed by the flood waters of the Waikato River, which has the additional effect of backing up the local water of other and higher portions of the swamp. It could only be drained by a comprehensive and expensive system of drainage, and the quality of the soil must be considered as indifferent.

4. Under the regulations of 1867 this block of land, or portions of it, could have been selected at the price of 5s. an acre, and it remained open and unapplied for until 1871, when the conditions of sale were altered.

5. In 1873 a proposal was made to the Government by Mr. Thomas Russell for the purchase of the block at 5s. per acre, less 2s. 6d. per acre to be expended in the construction of a road, twenty-five miles in length, across the swamp. The payment of the purchase-money was to be made in two years from the date of the agreement. This proposal was accepted by the Government, and an agreement was made embodying substantially the terms of the proposal.

6. That the road (the construction of which formed part of the agreement, and which is now in course of construction, considerable progress having been made) will, when completed, be one of great public utility, affording access to land beyond the swamp, and connecting the Waikato district with the head of the navigation of the Piako and the Thames.

7. That the power of the Government to deal with the land in question appears to be derived from "The New Zealand Settlements Act, 1863," and the amendments to the said Act of 1864, 1865, and 1866.

8. That the 16th section of "The New Zealand Settlements Amendment and Continuance Act, 1865," provides, "That the order and manner in which land shall be laid out for sale and sold under the provisions of the said Act shall be in the discretion of the Governor, who shall have power to cause such land, or any part thereof, to be laid out for sale and sold from time to time in such manner, for such consideration, in such allotments, whether town, suburban, or rural, or otherwise, as he shall think fit, and subject to such regulations as he shall, with the advice of his Executive Council, from time to time prescribe in that behalf: Provided that no land shall be sold except for cash, nor at a less rate than 10s. per acre."

The proviso of the above-quoted section is repealed by the 2nd clause of "The New Zealand Settlements Act Amendment Act, 1866," which goes on to enact that "It is hereby expressly declared and provided that the land in the said section referred to shall be sold for such consideration, or at such price, and whether for cash or otherwise, as the Governor shall from time to time prescribe."

The last-named Act in the 8th section further provides that "All lands sold or otherwise disposed of, or all scrip issued under this Act, shall be sold or disposed of or issued under regulations to be made by the Governor in Council, which regulations shall be published in the *New Zealand Gazette*."

9. I am directed to report that, with respect to the Piako Swamp, such regulations have not yet been issued, or published in the *New Zealand Gazette*; and that, although an agreement to sell has been made by the Government, the land has not yet been actually sold or Crown-granted to Mr. Thomas Russell. That the land was practically withdrawn from sale by private contract by the regulations of 1871, which provide that all sales should be by auction after survey. And that the transaction was not in accordance with the provisions of the law in force at the time, which clearly required that the making and publication of regulations should precede sale.

10. That it is evident that the agreement made between the Government and Mr. Thomas Russell tacitly implied that regulations should be issued in terms of section 8 of "The New Zealand Settlements Act, 1866," which should enable the Government to sell the land in accordance with the conditions of the agreement so entered into. That the land was sold without sufficient inquiry as to its value, or the possibility of its being drained, although the General Government Agent and the Inspector of Surveys both recommended that such inquiry should be made.

11. Finally, while it appears that the price to be paid for the block was not inadequate, and that public benefit will accrue from the construction of the Piako Road, your Committee are of opinion that dealings by private contract with the public landed estate are inexpedient, and they are glad to observe that the Government have proposed to bring the confiscated lands under the operation of the ordinary waste lands laws of the colony.

12. With regard to the petition of John Crosby, referred to this Committee by the House, your Committee recommend that the petition be remitted to the Executive Government, with a view to the case being inquired into, and such redress granted to the petitioner as the facts of the case may require.

15th October, 1875.

JOHN BRYCE,  
Chairman.

## MINUTES OF PROCEEDINGS.

THURSDAY, 30TH SEPTEMBER, 1875.

The Committee met pursuant to notice at 11 a.m.

PRESENT :

Mr. Bryce,  
Sir G. Grey,  
Hon. Sir D. McLean,

Mr. Rolleston,  
Mr. Sheehan.

Orders of reference read.

*Resolved*, on motion of the Hon. Sir D. McLean, That Mr. Bryce be appointed Chairman of this Committee.

*Resolved*, on motion of the Hon. Sir D. McLean, That the Hon. Dr. Pollen and Major Heaphy be summoned to attend to give evidence before this Committee.

*Resolved*, on motion of Sir G. Grey, That Edward O'Meara be summoned to give evidence before this Committee.

The Committee then adjourned *sine die*.

TUESDAY, 5TH OCTOBER, 1875.

The Committee met pursuant to notice at 11 a.m.

PRESENT :

Mr. Bryce in the Chair.

Mr. Cuthbertson,  
Captain Kenny,  
Hon. Sir D. McLean,

Mr. Rolleston,  
Mr. Sheehan.

Minutes of previous meeting read and confirmed.

The Hon. Dr. Pollen attended and gave evidence.

*Resolved*, on motion of Hon. Sir D. McLean, That Major Heaphy be summoned to attend at next meeting of this Committee.

The Committee then adjourned.

WEDNESDAY, 6TH OCTOBER, 1875.

The Committee met pursuant to notice at 11 a.m.

PRESENT :

Mr. Bryce in the Chair.

Major Jackson,  
Captain Kenny,  
Mr. Macandrew,

Mr. Ormond,  
Mr. Rolleston,  
Mr. Sheehan.

Minutes of previous meeting read and confirmed.

Mr. Murray attended and gave evidence.

Major Heaphy attended and gave evidence.

*Resolved*, on motion of Mr. Macandrew, That memoranda by Major Heaphy and Lieutenant Walker (dated 1866) be laid before the Committee.\*

*Resolved*, That Major Heaphy be requested to show on plan of swamp that portion with which he is more particularly acquainted, in order that the Committee may thoroughly understand his evidence.

The Committee then adjourned.

TUESDAY, 12TH OCTOBER, 1875.

The Committee met pursuant to notice at 11 a.m.

PRESENT :

Mr. Bryce in the Chair.

Sir G. Grey,  
Major Jackson,  
Captain Kenny,  
Hon. Sir D. McLean,

Mr. Macandrew,  
Mr. Ormond,  
Mr. Rolleston,  
Mr. Sheehan.

Minutes of previous meeting read and confirmed.

*Resolved*, That Mr. O'Meara be now summoned to attend and give evidence.

Mr. O'Meara attended and gave evidence.

*Resolved*, That Mr. Sheehan give evidence.

Mr. Sheehan gave evidence.

\* These papers were not available.

*Proposed*, by Sir G. Grey, That Mr. Travers be summoned to attend this Committee, to be examined in regard to the legality of the sale, or agreement to sell, of the Piako-Waikato Swamp. The question being put, the Committee divided,—

## AYES.

Sir G. Grey,  
Mr. Macandrew,  
Mr. Rolleston,  
Mr. Sheehan.

## NOES.

Mr. Bryce,  
Major Jackson,  
Captain Kenny,  
Hon. Sir D. McLean,  
Mr. Ormond.

Motion negatived.

Hon. Sir D. McLean gave evidence.

*Resolved*, on motion of Sir G. Grey, That some leading counsel in Wellington should be called before the Committee to give evidence on the legal points involved in the question referred to the Committee.

*Resolved*, That the Chairman be requested to put himself in communication with Mr. Dilworth and Mr. Sinclair to give information on the subject now before the Committee.

The Committee then adjourned.

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WEDNESDAY, 13TH OCTOBER, 1875.

Committee met pursuant to notice at 11 a.m.

## PRESENT:

Mr. Bryce in the Chair.

Major Jackson,  
Captain Kenny,  
Mr. Macandrew,

Mr. Ormond,  
Mr. Rolleston,  
Mr. Sheehan.

Minutes of previous meeting read and confirmed.

*Resolved*, on motion of Mr. Sheehan, That the Committee do adjourn until Thursday, 14th October, when they will consider the report to be made by the Committee.

The Committee then adjourned.

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THURSDAY, 14TH OCTOBER, 1875.

Committee met pursuant to notice at 11 a.m.

## PRESENT:

Mr. Bryce in the Chair.

Mr. Cuthbertson,  
Sir G. Grey,  
Major Jackson,  
Captain Kenny,  
Mr. Macandrew,

Hon. Sir D. McLean,  
Mr. Ormond,  
Mr. Rolleston,  
Mr. Sheehan.

Minutes of previous meeting read and confirmed.

Mr. C. B. Izard, solicitor, attended and read a memorandum giving his opinion on the legality of the sale of the Piako Swamp.

Mr. Izard was examined, and gave his opinion on the subject.

The Chairman read telegrams to Messrs. Dilworth and Sinclair.

The Chairman read a telegram from Mr. Sinclair in reply.

The Chairman read draft of report to be brought forward by the Committee.

The Committee then considered the clauses of the draft report.

Clause 1 read and agreed to.

Clause 2 postponed.

Clause 3 read.

Amendment proposed, That word "considerable" be substituted for word "great."

Amendment agreed to.

Clause 4 postponed.

Clause 5 read and agreed to.

Clause 6 read and agreed to.

Clause 7 read and agreed to.

Clause 8 read and agreed to.

Clause 9 read.

Amendment proposed by Mr. Sheehan, That the following be added to clause 9: "That the land was practically withdrawn from sale by private contract by the Regulations of 1871, which provide that all sales should be by auction after survey."

Amendment agreed to.

Further amendment, proposed by Mr. Cuthbertson, That the words "by private contract" be struck out, and the words "otherwise than by public auction" substituted.

Further amendment negatived.

Further amendment proposed by Mr. Sheehan, That the following be added to clause 9: "That the transaction was not in accordance with the provisions of the law in force at the time, which clearly required that the making and publication of regulations should precede sale."

Further amendment agreed to.

Clause 9, as amended, agreed to.

Clause 10 read.

Amendment, proposed by Mr. Sheehan, That the following be added to clause 10: "That the land was sold without sufficient inquiry as to its value or the possibility of its being drained, although the General Government Agent and the Inspector of Surveys both recommended that such inquiry should be made."

The question being put, the Committee divided,—

AYES.  
Sir G. Grey,  
Captain Kenny,  
Mr. Macandrew,  
Mr. Rolleston,  
Mr. Sheehan.

NOES.  
Mr. Cuthbertson,  
Major Jackson,  
Hon. Sir D. McLean,  
Mr. Ormond.

Amendment agreed to.

Clause 10 as amended agreed to.

*Resolved*, That the Committee adjourn until Friday, 15th October, 1875, at 11 a.m.

The Committee then adjourned.

FRIDAY, 15TH OCTOBER, 1875.

Committee met pursuant to notice at 11 a.m.

PRESENT:

Mr. Bryce in the Chair.

Mr. Cuthbertson,  
Sir G. Grey,  
Major Jackson,  
Captain Kenny,  
Mr. Macandrew,

Sir D. McLean,  
Mr. Ormond,  
Mr. Rolleston,  
Mr. Sheehan.

Minutes of previous meeting read and confirmed.

The Chairman read telegrams from Mr. Dilworth and Mr. Sinclair in answer to telegrams sent by him.

Consideration of draft report resumed.

Clause 11 read.

Amendment proposed by Mr. Sheehan, That the word "had" be inserted in lieu of the word "have."

The question, That the word "have" stand part of the clause, being put, the Committee divided,—

AYES.  
Mr. Cuthbertson,  
Major Jackson,  
Captain Kenny,  
Hon. Sir D. McLean,  
Mr. Ormond.

NOES.  
Sir G. Grey,  
Mr. Macandrew,  
Mr. Rolleston,  
Mr. Sheehan.

Amendment negatived.

Amendment proposed by Mr. Rolleston, That the following be added to Clause 11: "though, as stated by the Hon. Dr. Pollen, the issue of regulations should be precedent to any sales taking place, and the spirit both of the Act and of all existing regulations demands that the public should have the power of purchasing upon equal terms."

The question being put, the Committee divided,—

AYES.  
Sir G. Grey,  
Mr. Rolleston,  
Mr. Sheehan.

NOES.  
Mr. Cuthbertson,  
Major Jackson,  
Captain Kenny,  
Mr. Macandrew,  
Hon. Sir D. McLean,  
Mr. Ormond.

Amendment negatived.

*Resolved*, That clause 11 be struck out.

Clause 12 read.

Amendment proposed by Mr. Sheehan, That clause 12 be struck out, and the following substituted in lieu thereof: "Finally, while it appears that the price to be paid for the block was not inadequate, and that public benefit will accrue from the construction of the Piako Road, your Committee are of opinion that dealings by private contract with the public landed estate are inexpedient, and they are glad to observe that the Government have proposed to bring the confiscated lands under the operation of the ordinary waste lands laws of the colony."

Amendment agreed to.

Clause 12 as amended agreed to.

Postponed clause 2 read and agreed to.

Postponed clause 4 read and agreed to.

*Resolved*, on motion of Hon. Sir D. McLean, That the report be adopted as amended.

Petition of John Crosby then came before the Committee.

Order of reference read.

*Resolved*, on motion of Mr. Macandrew, That the following form part of the above report: "That the petition be remitted to the Executive Government, with a view to the case being inquired into, and such redress granted as the facts of the case may require."

*Resolved*, on motion of Mr. Macandrew, That the proceedings of the Committee be printed.

## MINUTES OF EVIDENCE.

TUESDAY, 5TH OCTOBER, 1875.

The Hon. Dr. POLLEN, being in attendance, was examined as follows:—

Hon. Dr. Pollen,  
—  
5th Oct., 1875.

1. *The Chairman.*] At what time was the proposal to purchase the Piako Swamp made by Mr. Thomas Russell?—In February, 1873.

2. You were at that time Agent for the General Government at Auckland?—Yes.

3. Will you describe the nature of the proposal, and the arrangements entered into?—There was a very large extent of swamp country in the Waikato which had remained unoccupied, and indeed unexplored, from the time of confiscation, and a proposal was made by Mr. Thomas Russell, of Auckland, to purchase this swamp, and to take the whole of it, with a view to carrying on reclamation on a very large scale. After negotiations with Ministers, the particulars of which I was not cognizant of, an arrangement was finally come to for the sale to Mr. Thomas Russell of this swamp, which was estimated to contain about 80,000 acres of land, at a price of 5s. per acre, the undertaking on his side being that a road should be made from the Waikato side of it to the head waters of the navigation of the Piako. The particulars of the road, &c., were afterwards set out in the plans and specifications. For making this road, the Government agreed to allow Mr. Russell off his purchase a sum not exceeding half-a-crown per acre. It was further stipulated, in case that the expenditure on this road did not amount to the sum of half-a-crown per acre, that Mr. Russell should pay the difference between the expenditure and the cost price of 5s., in cash. That arrangement was modified by some subsequent arrangements as to the road, and the addition of some portions of land which were necessary for the drainage works to be carried on.

4. What effect has been given to the arrangement since?—None; it merely stands in the nature of a formal agreement to do certain things on one side, when certain things were accomplished on the other; that is to say, when the works are completed, as it was originally intended they should be, the Government propose to exercise the authority which it has by law to validate the sale.

5. What effect has been given to it by Mr. Thomas Russell?—A large expenditure has, I understand, been incurred there. The road which it is proposed to make has been in active progress for a long time; and throughout the whole of this winter from eighty to one hundred men have been constantly employed there.

6. You have stated that Mr. Russell had been allowed two years to make payment. Has that time expired?—The time has expired.

7. Has he made payment?—He has not, for the reason that there was an element of uncertainty with respect to the survey, arising from the confused position of the confiscated boundary on the eastern side of it. It has long been in dispute, and is not settled yet. A settlement of it is contingent upon the settlement of some Native claims.

8. Will you describe to the Committee the nature of the regulations which enabled the Government to enter into the transaction?—Authority is given to the Governor by the second clause of "The New Zealand Settlements Act, 1866."

9. And that clause enabled the Government to enter into this agreement with Mr. Russell?—In so far as entering into such an agreement as a matter of public policy, required to effect the settlement of the Waikato country.

10. Did you consider at the time this arrangement was entered into that a sufficient price was paid for the land?—It will be seen that I expressed some opinions on the subject in the correspondence that passed. I was not clear that in fairness to both parties a fair price had been satisfactorily fixed, inasmuch as I thought it would have been better if the survey had been taken, so as to have ascertained the possibility of draining the lands.

11. Did you at that time believe that the land had a greater value than 5s. per acre?—I certainly did not.

12. *Mr. Rolleston.*] Are you aware that "The New Zealand Settlements Act, 1866," says that lands sold or disposed of under that Act shall be sold or disposed of under regulations made by the Governor in Council, which regulations shall be published in the *Gazette*?—I am.

13. Do you not think that certainly presumes that the issue of regulations shall be precedent to any sales being effected?—No sales have been effected.

14. I should like a direct answer to my question. Do you not think the Act presumes that the issue of regulations shall be precedent to any sales taking place?—Certainly.

15. Do you not think that the whole spirit of both the Act and of the Regulations hitherto issued has been that the public should be capable of purchasing upon equal terms after due notification of such terms in the *Gazette*?—Yes.

16. Then was not this arrangement made with Mr. Russell of a character inconsistent with the spirit of the Act and of the Regulations?—So far as non-publication, certainly.

17. Had you any conversations at the time with Ministers in Auckland as to the inexpediency of selling without further information as to the value of the land than was then in the possession of Ministers?—I rather think not; certainly I cannot charge my memory with any conversation of the kind. The official memoranda attached to the correspondence show pretty clearly the view I had on the subject.

18. Did you not consider, then, that it was not fair that this land should be sold without full

information of its value being first obtained?—I said, in fairness to all parties, it would be desirable *Hon. Dr. Pollen.* that its value should be tested and ascertained by scientific exploration.

19. Did you write to Mr. Vogel and to Sir Donald McLean to that effect?—I put memoranda *5th Oct., 1876.* on the papers.

20. Are you aware whether other lands in the Waikato have been applied for at 5s. per acre, cash paid down, and that these offers have been refused?—I remember on one occasion a Mr. Dilworth, who, if I recollect rightly, had been allowed to purchase some land on the other side of Taupiri, having made further application to be allowed to purchase, it was refused, and he was not allowed to purchase, for the simple reason that the land he desired to acquire was covered by Native claims for compensation.

21. Do you not consider, whatever may have been the manner of dealing with these confiscated lands prior to the time of the passing of the Act of 1866, that after the inauguration of the Public Works policy it was to be presumed that the lands would have given to them an additional value, from the construction of railways, and that therefore the Government was bound to have held the lands until they received that additional value for them?—No doubt the railways have given an additional value to all the lands in Waikato.

22. Apart from any opinion as to the value of this land, do you not think it inexpedient for any Government to sell large blocks of land without the test of public competition?—Well, I think, as a general proposition, that may be answered in the affirmative. It is not expedient to do so. But I can quite understand particular circumstances may arise rendering it expedient to do so.

23. Do you think there was any special necessity for this engagement being concluded in so short a time without the public receiving notice?—I think there was a question of public interest involved in it. Undoubtedly the drainage of this swamp could not be carried out without a large expenditure of capital. For a long time it had been the centre of Native disaffection in the neighbourhood of Waikato, and a constant source of danger to the settlements there; therefore I think it was worth the while of the Government, having that fact in view, to deal with the land in the way they did. On grounds of public policy, and considering the state of the district, it was not, I think, at all inexpedient to sell it.

24. But the sale was not in accordance with any existing regulations?—It was not.

25. *Hon. Sir D. McLean.*] I was just going to ask whether there was not a large quantity of confiscated land in the Waikato which had been offered for years at an upset price, for which there was no offer whatever?—I have before me the Auckland Provincial Government *Gazette* of January 1867. I find that Mr. Whitaker, who was then Superintendent of the Province of Auckland, when appointed General Government Agent at Auckland, upon his election as Superintendent, was also appointed Commissioner for the management of the sale and disposition of the Waikato lands. In 1866, regulations were made for the disposal of the confiscated lands. I do not recollect the date; but I think it was about 23rd November, 1866. In January 1867, there was a notification published of a large quantity of land which would be open for sale in the Waikato District. Those lands were classified as follows:—There were 43,000 acres of first-class land open to be selected at 15s. per acre; 216,000 acres of what was called second-class land open for selection at 10s. per acre; and 324,000 acres, including 153,000 acres of swamp, which was classified as third-class, open for selection at the price of 5s. per acre. This particular swamp which is now the subject of inquiry was included in the 153,000 acres of swamp, which was open to be selected at 5s. per acre. This land sale was advertised pretty nearly in every Australian colony, and certainly in every newspaper in this colony. Great expectations were entertained by the Provincial Government, which, out of £100,000 of colonial funds placed at its disposal, had spent a large sum in making roads to open up the lands; but the result of the sale was, in round numbers, about as much money as would pay for the cost of the advertisements. The land remained open from that time for selection by anybody who liked, until those regulations were superseded by subsequent ones passed in 1871.

26. Then they have been open according to that from 1866 up to 1871?—The terms upon which selection could be made were these: Deposit upon application, 20 per cent; within three months from the date of sale, 20 per cent.; within six months, 20 per cent.; within nine months, 20 per cent.; and within twelve months, 20 per cent. The payments for these lands, of the 15s. as well as the 5s. class, were spread over a period of twelve months. After the failure of the expectations of this sale, it was determined that the claims for compensation which existed over all the confiscated lands should be satisfied by the issue of scrip exercisable for the purchase of confiscated lands in the Waikato. Within the next year the scrip was issued amongst a number of the claimants, but its price in the market was extremely small. Probably swamp land might have been bought with scrip at from 1s. 6d. to 2s. per acre. In fact, all these lands, so far as purchase was concerned, within two or three years, could easily have been had at from 1s. 6d. to 2s. per acre—certainly for 2s. 6d. per acre, the market price of the scrip being from 60 to 70 per cent. discount.

27. You mention, Dr. Pollen, that there were difficulties arising from some disaffected Natives residing in that vicinity. I just want to ask you whether you consider the formation of that road, connecting the Waikato with the navigable rivers, would not in a great measure remove that Native difficulty?—I believe it would. As a fact, it has had considerable effect already. We have been able to negotiate for the purchase of lands with Natives who previously had been entirely estranged from us.

28. Are you aware that for the last twenty years no peaceable possession of lands could be taken at the Piako in consequence?—I am quite aware of that.

29. In your opinion, would having this road made to the Waikato as a matter of policy very much lessen the expenditure for the defence of the country?—Certainly.

30. *Mr. Sheehan.*] I observe, Dr. Pollen, in a minute by yourself, in answer to a request by the Native Minister to inform him what is the average value per acre of the block, and what would be a fair estimate of the cost of the work, that you say, "It is impossible to make any reliable estimate of the cost of such works, or even to assert their practicability, without some exploration, and the taking of flying levels over the whole swamp. Upon the information thus derived, and the conclusion as to its drainability to be deduced therefrom, a fair estimate of the value of the land itself can only be

*Hon. Dr. Pollen.* made." I should like to ask you whether any steps were taken for the purpose of ascertaining those points?—No steps were taken. Mr. Russell insisted, as I understand, upon an immediate reply, which was given.

5th Oct., 1875.

31. Were any steps taken to for an estimate of the proposed road?—That I cannot say. I do not think anything was done, except a general arrangement—just what you see in the papers. I think you will find that the road formation was to be subject to the control of the Inspector of Surveys.

32. I see in a subsequent letter you say, "If Mr. Russell be right in his conjecture that an expenditure at the rate of 2s. 6d. per acre will suffice to make the road and the main drains on both sides of it, then it will appear that the difficulty of reclaiming the swamp is much less than was supposed, and this is the element of uncertainty which Mr. Heale and myself desired to eliminate from the transaction by means of the preliminary survey which we recommended to be made. If the land can be drained easily, the upset price of 5s., which I have named, would not, in my opinion, be sufficient. In the absence, however, of specific information upon which an estimate of the value of the land, measured by its drainability, can be based, I think that the proposition made by me to Mr. Russell is fair to the projectors and to the public." On that date you were still of opinion that something should be done towards ascertaining the fair value of the land and the cost of the drainage works?—I was.

33. Would it not be an injustice to enter into such a transaction without these two points being first ascertained?—There was a risk on both sides. No man ever saw the interior of this swamp, and with these gentlemen it was a pure and complete speculation.

34. Would it not have been possible, with the means at the command of the Government, to have got something like an approximate value?—It certainly would.

35. Could they not have employed the same agencies as the purchasers subsequently did?—Certainly.

36. You have referred to the sales of Waikato confiscated country, which were thrown open for selection after Mr. Whitaker took charge of the confiscated lands. I believe for a year or two before that things had not been of a flourishing character in the Province of Auckland?—They had been years of very great depression.

37. They were times when land would be supposed to be at its lowest possible value?—Land in that district had been low.

38. Do you not know as a fact that land was at about its lowest possible value at that time?—I can hardly say that.

39. What I want to ascertain is whether that was not possibly about as bad a time as could have been selected for the purpose of realizing upon these lands?—It is possible it was. If you ask me whether there was a market for the land, I should say there was not. There never has been in Auckland a market for land, the same as in Canterbury or in Hawke's Bay where, as soon as land is selected it is fairly considered as immediately available for use.

40. Has not the value of land in the Waikato generally improved since 1870?—It has been improved by the progression of settlement, by the making of railways, and by the pacification of the country.

41. The Government, at their land sales, have obtained very much higher prices during the past four years?—I have myself, as administrator of the waste lands there, raised the price this year.

42. And at the sales these raised prices have been forthcoming?—To a certain extent, but always with great reluctance.

43. Can you recollect whether the application for this block was co-terminous with, or very nearly so, the ratification by the Assembly of a proposal to carry a railway from Hamilton up to the boundary of the confiscated territory?—I cannot say. This block is on one side of the river, and the Waikato Railway goes along the other. It does not run into the block. I should not be at all surprised that it was so; but I am not in a position to say so.

44. Ought not the circumstance that the colony had sanctioned the expenditure of a large sum of money in taking this railway into the Waikato have justified the Government in withholding the land from sale in order to bring it up to its increased value?—From one point of view the answer would be Yes; but, in point of fact, had it become necessary as a matter of policy to make this very work, it is not at all improbable it would have absorbed as much, if not more, than would have been derived from the price of the land. Looking at the work required to be done, that two roads have to be made in the way proposed, I do not see much chance of profit. I am afraid it will not be so great a find as was anticipated.

45. Had not the Government before this fully recognized the importance of this road?—It has been talked about for a long time. Indeed there have been some very wonderful projects, for a great many years past, for connecting the two rivers.

46. I am speaking now of the Government which has had the administration of the loan. Has it not been brought before them on several occasions as a matter of public interest?—Yes.

47. Was no reason given for not going on with it?—There was no money.

48. Was not another reason that it was not advisable at present, on account of the Native feeling in the district, that the road should be undertaken?—The great difficulties were, no money and Native obstruction.

49. In speaking of the Native feeling in the Piako country, do I understand you to regard this transaction as one of the causes that have produced that altered state of feeling?—I think so.

50. But do you not know, as a fact, that the Piako Natives, or a large section of them, openly separated themselves from the King before this transaction took place?—Not before that. Their attitude has greatly altered within the last two years, since they see a prospect of having their grievances with respect to the confiscated land and the possession of their property redressed.

51. Do you remember Tarapipipi being in Auckland in 1872?—I do; he came to see me at my special request.

52. Was not public intimation made by yourself and by Mr. Gillies that he and his people were abandoning their policy of obstruction?—It was so, so far as he himself and his immediate following were concerned.



53. Were no applications whatever made for any part of this swamp before the arrangement with *Hon. Dr. Pollen.*  
Mr. Russell?—Not that I am aware of.

54. You are not in a position to say so positively?—I am not.

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55. Do you recollect the application of a Mr. Dilworth?—As I have already explained, Mr. Dilworth applied for a portion of swamp in the Waikato, in addition to the purchase he had already made, but I do not think any portion of that land was included in this purchase; it was on the other side of the river. The reason why the application was refused was, that I was advised there were some Native claims for compensation which remained unsatisfied, and the application covered the locality to which those claims referred. That is my recollection at present.

56. But you are not in a position to say whether Mr. Dilworth's application covered any portion of this land?—I cannot say. My interference with the disposal of the land was of a general character, and I am speaking now to the best of my recollection. As well as I can remember, that application could not have extended to the great swamp; it did not cross the river.

57. You have expressed your opinion that the spirit of the law under which these lands were sold require that regulations should be made before sale?—Yes.

58. But in point of fact have not the Government treated this as a sale before the issue of regulations? Have they not allowed the parties to enter into possession, and to spend money before the issue of regulations?—I must take a layman's view of the case. I cannot say exactly what is legal possession under an agreement with the Government, which was made on a number of grounds.

59. But did not the parties enter into possession with the knowledge and approval of the Government?—They entered into possession as a necessary condition to their bargain. If you mean entering upon the land to use it for road making and drainage, I answer certainly.

60. So that the Government is now in this position: No regulations have been issued for the purpose of completing the sale, although the parties are in possession, and have been spending a considerable sum of money in constructing this road?—Yes.

61. And therefore, in the event of the Assembly declining to validate the transaction, would not the Government be in the position of having to refund the money spent in these improvements?—I do not know whether the Assembly would desire to interfere with the discretion which the law gives to the Government; but, if they do so, I imagine it would only be right and equitable to recompense them for their outlay.

62. Do you think, as a matter of policy, that the law, as existing when this arrangement was first proposed, really meant to give to Ministers a discretion of the land to which you have referred, to complete transactions of this magnitude by private contract?—I am not in the witness-box now; you are cross-examining me.

63. Well, do you consider that the law, as it stood, allowed Ministers such discretion to deal with large blocks of land, by disposing of them by private contract, and of making regulations for the purpose of giving effect to a particular sale?—Nobody would say it was right to do that. I do not say so. The thing is not defensible upon any grounds, except expediency and public policy. It was undoubtedly a proceeding not authorized at the time, but also a proceeding competent for any Government accountable for their acts to take. There was no fundamental violation of the law. It was their duty to do it, if they thought the public policy of the country required it.

64. But it was strictly a private contract, was it not?—If you use the word in contradistinction to contracts that are made by public advertisement, it was.

65. I see here a proposal that, after the details had been settled, regulations should be framed and issued in the *Gazette* to enable the Governor to complete the contract with these details. "What is required, I think, is only authority to sell the swamp without the preliminary putting up to auction. The facts may be recited without mention of names. Whereas it is desirable that the particular land should be disposed of;" &c. So that, if that suggestion had been adopted, the public could have had no information on the subject?—Of course, it was understood that whatever forms were necessary to carry out the agreement should be gone through.

66. Then no notice would have been given to the public?—Certainly not, so far as competition was concerned. It would be absolutely and exclusively granted to Mr. Russell, on conditions which were specified in the agreement.

67. I see that a number of sections surveyed were also included in the sale?—Yes.

68. Have not others since been given in?—No. A number of these sections were found to be absolutely necessary for the completion of these drainage works—the drainage was actually required to run into them; and the other allotments were effectually drained by these operations.

69. My reason for asking you this is, that I am informed from Auckland that at a recent sale of Waikato lands which was attended by a client who was prepared to buy certain sections, he was told they were withdrawn at the sale, on the ground that they were required for the Waikato Swamp.—They were withdrawn for no such reason. The agreement with the Waikato Swamp Company was entire and complete. They were withdrawn at the sale because they had not applied to be put up. For a long time I have, as administrator, declined to put into the market more land than was absolutely required for the purposes of settlement.

70. Then if the officer who conducted the sale so stated to the public who attended for the purpose of buying, he stated what was wrong?—Certainly.

71. Might it not have happened that some lots originally agreed to be given to the Company may have been put up by mistake?—I think not; these were withdrawn long before.

72. Then the position of the matter is this: that while you were of opinion it would have been for drainage, yet, because Mr. Russell pressed for an immediate settlement, the Government prudent and desirable to have had some inquiry made as to the value and availability of the property completed the transaction without attempting to ascertain either point?—I understand Ministers thought, on the whole, it was desirable to sell the land for reclamation, and to get the money for it.

73. Has any portion of the cash consideration been paid?—No.

74. Has any agreement been made to allow any moneys awarded as compensation for surveys to be written off the purchase money?—I never heard of it.

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75. I observe in one of the returns laid before the House that there is a sum of £900, moneys payable to Messrs. Whitaker and Russell as compensation for surveys executed and moneys advanced on account of Matakana, opposite Tauranga. I have heard that that sum has been agreed to be written off the price of the sale of Waikato land.

[Sir Donald McLean here explained that that matter had nothing to do with the Piako Swamp sale.]

76. *Captain Kenny.*] This land had been open for sale previously?—It was thrown open in 1867.

77. *The Chairman.*] And remained open until 1871?—Until whatever time the new Regulations were issued.

78. *Captain Kenny.*] The Government considered, for political reasons, it was necessary the road should be made through this country?—I understand so.

79. How much of the road has been completed?—That I cannot tell you. A large sum of money has been expended upon it, and the work is being actively prosecuted just now.

80. Have the Government already derived, or do you think they will derive, any political advantage in the attitude of the Natives?—Yes.

81. Will it make available for sale, or will it give an increased value to, other lands in the neighbourhood? Is there any other portion of the country that will be affected by the works?—I do not know, except such lands as the Government are acquiring on the other side of the confiscated boundary.

82. Have the Government any information as to the cost already incurred by the purchasers?—I have heard it stated that about £11,000 has been expended already.

83. Can you furnish any information which will enable the Committee to form an idea whether the 2s. 6d. per acre returned to the purchasers will cover the cost of the road?—I have none, except what I have heard; of course all that will be ascertained before any final settlement will be made.

84. *The Chairman.*] Was there any probability of this Piako Swamp being taken up in smaller blocks?—I do not think so.

85. What I wish to come at is this: Whether it was possible the swamp could have been drained piecemeal?—It was impossible to do that. It had to be drained on a large scale or not at all.

86. By a detached or by a comprehensive scheme?—A detached scheme was quite out of the question, and a comprehensive scheme was absolutely necessary.

87. You alluded incidentally, a few minutes ago, to land the Government were purchasing outside of the confiscated boundary; is that at the head of this road, as it were?—My knowledge of the country is not specific enough to enable me to answer; but I know it goes into the Piako country, and I know that the lands now being purchased are on the banks of the river.

88. Is this road open for traffic of any kind?—It will be when it is completed.

89. But is it now?—That I could not say.

90. Because if it is not open for traffic, I do not understand how it could have such a good effect upon the Natives?—The effect of the road is a moral one. It does not depend upon the completion of the road, so much as upon the fact of its being made.

91. With respect to the agreement made between the Government and Mr. Thomas Russell, do you consider the colony is bound by that agreement?—I think so.

92. *Mr. Rolleston.*] Are you aware that the Regulations of 1871 provide that the lands shall be sold by auction, and be previously surveyed?—I am.

93. Would not the public be justified in expecting that no private transactions would be entered into with respect to confiscated lands, so long as the Regulations were not formally revoked?—They would have a right to suppose that no transactions would be entered into.

94. Would not some advantages have been got in the way of settlement if the Government had constructed this main road and undertaken this system of drainage in connection with immigration?—No doubt; but had the Government proposed such a thing, it would most probably have been rejected. The funds for such an expenditure were not available, unless taken from some other source for which they were required. I am quite sure if the Government had come down to the Assembly with a proposition to spend £20,000 in draining a large swamp, the prospective advantages of such a proposal would not be sufficient to induce the Committee of Supply to grant the money.

95. Do you think there was no possibility of any other capitalists desiring to have the advantages of getting any of the other great swamps of this country?—There are a great number of capitalists with enormous appetites for cheap land in this locality.

96. Was Mr. Vogel in Auckland at the time this arrangement was made?—I cannot remember.

97. Does the Government intend to bring in a Bill to validate this transaction?—It is by no means necessary. The Government have ample power under law to complete the transaction.

98. Have they not already given an assurance to the House that they will?—Yes.

99. *Mr. Cuthbertson.*] Was there, in the opinion of the Government, an immediate necessity that these two rivers should be connected by this road, with regard to the attitude of the Natives there?—I was not in the Government at the time. I was acting as Agent of the Government.

100. *Mr. Sheehan.*] You have stated that funds would not have been available for the purpose of constructing this road without the sanction of the House; was there not a large amount available then for road works in the North Island?—It was very nearly all expended or pledged in 1873.

101. Then the Government, you believe, would have had to come to the House for a specific vote?—If they had thought it desirable.

102. That could have been done, I presume?—I think the Mangere Bridge expenditure might have been put there; it would have been much better employed.

103. Then the Government do not justify the sale as a piece of policy by opening up the lands by a road, so much as a means of removing distrust among the Natives? You do not justify it as desirable or a necessity?—It would have been a desirable thing to have drained the swamp at any time.

104. *Hon. Sir D. McLean.*] Do you not think it very desirable for the Waikato settlers to have had communication with the Thames, by means of this road, for the purpose of sending down their

produce?—The Waikato settlers, I am sorry to say, have not very much surplus produce; but they were very anxious to have communication with the Thames. *Hon. Dr. Pollen.*

105. *The Chairman.*] Would it not be a useful road for opening up the Waikato, and for connecting it with the Thames?—I think it would. *5th Oct., 1875.*

106. What is the value of that land at present?—I cannot say.

107. What is your opinion of its value?—I cannot give an opinion personally. I should be sorry to be obliged to take the land with its liabilities.

WEDNESDAY, 6TH OCTOBER, 1875.

Mr. W. A. MURRAY, M.H.R., being in attendance, was examined as follows:—

108. *The Chairman.*] The Committee are desirous, Mr. Murray, of taking your evidence as to the sale of the Piako Swamp to Mr. Thomas Russell. Do you know anything about that transaction?—I do not, personally. *Mr. W. A. Murray*  
*6th Oct., 1875.*

109. Do you know anything of the character of the land or the works done upon it?—Yes.

110. Will you describe to the Committee the general character of the land in question?—This land is the watershed between the rivers running into the Waikato on the one hand, and the Piako on the other; and, so far as I have seen it, it consists largely of what may be described as peaty morass; but which, judging from the natural lie of the country, presents considerable natural facilities for drainage. There have been considerable works carried on by the Company there in the way of cutting outfall drains to different places—partly to the Waitakaruru, a tributary of the Piako, in the valley of the Thames, and to other streams flowing into the Waikato. I understand that the road-making will shortly be completed through this property, it being part of the main road from Hamilton to the Thames. The road which I saw was quite a chain wide, and the ditches on each side were about 8 feet wide and 5 feet deep, the material being taken and put into the centre of the roadway, thus forming a uniform circle. I believe, however, that the road will require to be fascined, or to have a coating of gravel put upon many parts of it, as at present it is, I believe, too soft for traffic. This roadway would also be available when a railway is to be constructed from Hamilton to the Thames. This land is not all of a peaty character. So far as I have seen it, there are several thousand acres of dry land adjoining the swamp, and there are also some islands interspersed through the swamp. The vegetation upon the dry land consists of fern, koromiko, and topaki. There is a good deal of flax upon the margin of the swamp, and the vegetation upon the other part consists of rushes and manuka. It will be very questionable whether the land will succeed by surface sowing without cultivation first, owing to the fibrous roots, rushes, and manuka. The danger would be, in burning off when the land is thoroughly dry, that the level of the swamp would be reduced, and thus cause lodgment of water. Perhaps it would be better if the Committee will ask me questions.

111. *The Chairman.*] What proportion of dry land is there in the 80,000 acres?—Do you refer to what is dry now, or to what was originally dry?

112. To what was originally dry?—I should fancy about 6,000 or 7,000 acres.

113. What is the character of that proportion?—I have already described it as being covered with fern, &c.

114. But, I mean, what is the character of the soil?—Volcanic.

115. Good or bad?—Fair average soil.

116. You have stated that there is a danger, if the grass was burnt off, of the drainage level being so reduced as to afford a lodgment for water. The question I wish to put is, whether the land will not ultimately sink without the burning off, so as to afford a lodgment for the water?—It will sink, but not to a very great extent.

117. Do you consider that the soil generally in the swamp—I am now speaking of the dry land—is good?—The swamp generally is rather mossy, but the dry land is good.

118. *Major Jackson.*] But not sufficiently near the clay?—The swamp is far from the clay, but there is a little sand through it. Swampy land, if it contains a considerable percentage of sand through it, is about the best soil you can have; but if it is altogether peaty, very little can be done with it. This land is neither the worst nor the best class of such peaty land.

119. *The Chairman.*] Are you aware that it was open for selection from 1867 to 1871 at 5s. per acre?—In 1872 I was told that I could have bought it at 5s. per acre. I think it was by Cobb's coachman.

120. Did you think at the time it was worth it?—I had not seen the land sufficiently close to be able to estimate its value. It looked to me to be a vast waste of rushes as far as the eye could stretch.

121. Then I would ask you, from your present knowledge of the land, whether it could have been taken up piecemeal; that is, whether it could have been drained by a piecemeal operation, or does it require a comprehensive system of drainage?—It would have been of little value if taken up by small settlers; but the dry land would have been immediately available for settlement.

122. Was it accessible?—Quite so.

123. The quantity of dry land was about 6,000 or 7,000 acres?—Yes; but of course I am only speaking by guess as to quantity.

124. Have these drainage operations been successful in reclaiming the land so far?—I think they have been successful as far as they have gone.

125. What do you consider the value of the land now?—Do you mean of the whole block?

126. I am speaking of the swampy part, where the drainage operations have been going on?—I should fancy it was worth about 7s. 6d. per acre for the whole swamp; but when it is drained it will be worth considerably more than that; but a considerable part of the swamp is not drained yet.

127. Will it require a large expenditure to complete the drainage operations?—I believe it will.

128. Have you any idea of the expenditure already incurred?—I have been told that the sum is about £20,000, but I do not think that is a correct estimate. I believe it is nearly double the amount.

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129. What length of road has been formed in the manner you describe?—Five miles had been formed when I saw it about six months ago. Since then, I believe, four miles more have been, or are being completed.

130. What is the total length required between Hamilton and the head of the navigation of the Piako?—About seventeen miles.

131. And you believe about nine out of the seventeen have been made?—Yes.

132. Will this be a road of public utility when made; I mean irrespective of this block of land?—It will be of great public utility when it is properly finished.

133. *Mr. Cuthbertson.*] Have you property in that neighbourhood?—Yes, I have property in the Piako, about six miles from the boundary of the Swamp Company's property.

134. Have you any objection to say when you acquired that property?—I think it was in 1872.

135. Did you see this swamp at the same time?—I did not then pass it closely?—I went by Cambridge. There was no road through to the Piako available at that time by the swamp.

136. When you first saw the swamp, did you form any opinion as to its then value?—I thought it was of no value for small settlers; but, by the Government undertaking considerable drainage operations, and either making a road or a railway, it could have been utilized, and sold to small settlers. If the Government had done its duty, it would have done this.

137. Do you consider that the swamp was sold too cheap for 5s. per acre?—I do not consider it an unfair value, 5s. an acre for the swampy part of it; but the other part would certainly be worth £1.

138. But is the whole block too cheap at 5s. an acre?—I think 5s. was a fair value for it.

139. *Major Jackson.*] Do you consider the works the Company are carrying on have done anything towards opening up the land in that direction?—I do not think they have done anything as yet, because the road is not available, but I have no doubt they will, when the road is completed.

140. You have stated that when you first passed by this land you were not able to inspect this swamp; how was that?—Because there was no road that way. The road I travelled over was one made by the settlers from money received from the Government, who added to the subscriptions of the settlers. This road, I should state, is twenty-seven miles long, whereas the Swamp Company's road will only be seventeen. Therefore the swamp road will possibly save from eight to ten miles.

141. Do you not fancy that will be a very great boon to the district?—I have said so already, when it is properly finished.

142. You have stated that there are about 6,000 acres of dry land; was this land found to be dry when the swamp was bought?—I cannot say.

143. Do you not know that discoveries were made after the drainage operations commenced?—I think very little was known about the swamp, except by the Natives.

144. Have not the islands been found since then; were they known before that?—I believe they were not known to the general public.

145. You include them in the 6,000 acres?—Yes.

146. Have you been on both sides of the swamp, the north as well as the south?—I have not been on the Taupiri and Maungawara side; I have been on the Hamilton side of it.

147. Do you know what kind of land there is at the north side?—Only from what I have been told, viz. that it is very similar to the land at the other end.

148. At what price could land have been bought there at that time?—Drummond Hay offered me dry land at 12s. 6d. per acre.

149. All dry and good?—It included some flax swamp.

150. That which you acquired was all dry land?—It was all good land.

151. Therefore, 5s. per acre for this swamp all through would not be considered so very cheap?—I paid 12s. for the land I bought.

152. But it passed through two or three hands before you got it?—Yes.

153. And it was all picked land?—No.

154. Have you seen the swamp Walker and Douglass bought? Was it better or worse than this swamp?—I consider this better than that swamp.

155. But this dry land could have been bought from the Government at the time you bought your land?—If I had known of it I should have bought it.

156. You believe the Government got a fair price for the land when they received 5s. per acre?—Yes.

157. *Mr. Rolleston.*] Does this land take grass when it is drained?—I do not think it will take grass unless it is burnt or ploughed. As I have said already, if you dry it too much there is a danger of burning it too much. It is too wet just now for the horses to go on it to plough it.

158. Have you seen any swampy land in the Waikato that has been drained and does take grain?—Cox and Williamson's is not very successful.

159. Does that not take wheat and clover well?—It has not been successful, in my opinion. Of course, it has in a sort of way as to clover. But, I may say, I consider Cox and Williamson's very inferior to this.

160. Do you know what was paid for it?—I have heard 5s. per acre.

161. From the Government?—Yes.

162. *Mr. Macandrew.*] At what seasons of the year did you see this land?—At different seasons. I have been there in the summer and in the winter.

163. Are there any stock upon this swamp? Will it carry stock?—There are a few cattle knocking about, but, of course, nothing like so many as can ultimately be carried, for the cattle are confined now to the margins of the swamp and to the dry land. The land along the margins of the swamp contains the cattle-feed.

164. You say it could have been sold to small settlers. What is your idea of small settlers, and what quantity of land would you give to each?—About a square mile to each. I certainly think that would have been much the best course to have taken.

165. Do you consider it was in the interests of settlement to sell it in one block?—I think it

would have been more in the interests of settlement if the Government had made drainage works, and then have sold the land to the settlers in the size I have indicated. I do not think it was a wise course to sell it to the Company, if the Government could have undertaken the works themselves.

*Mr. W. A. Murray*  
6th Oct., 1875.

166. If the land will carry cattle, surely it would be well worth 5s. per acre, if for nothing else than grazing?—I have already stated it worth all over 7s. 6d. per acre now, but, when it is all drained by the Company's works, it will be worth very much more than 7s. 6d. I have stated that there are about 7,000 acres of dry land well worth £1 per acre. I wish the Committee to understand clearly, I estimated the price of the swamp land to be fair at 5s. per acre, but the dry land I consider to be well worth £1 per acre.

167. *Mr. Ormond.*] With reference to the cattle, what do I understand is the capacity of this swamp as a cattle run? What would it carry? Give us what idea you have about it?—I fancy it might perhaps carry about 200 or 300 head of cattle, seeing that the grazing would be mostly confined to the margins of the swamp.

168. Then you say the dry land would have been worth £1 per acre. Why? Is that block more valuable than the other blocks you have named? Is there any difference between it and the land you bought, for instance?—I consider I bought mine very cheap. I could have got 30s. per acre for it six months after I bought it. I should have been glad to have got this dry land at £1 per acre, if I had known it was for sale. I was asked £2 per acre for land adjoining the Company's land at that time, but I thought it was a preposterous price, and would not treat.

169. Do you know at what the Crown lands, in the Waikato are open?—I think 10s. per acre was the ordinary price.

170. I was going to ask you one question with reference to the occupation of the swamp by small settlers. You have stated that if drainage works had been undertaken by the Government, then the land would have been suitable for small settlers. What time after the drainage works does land become fit for ploughing and other occupations of that kind?—It would take some considerable time. I do not think it would be available in less than three years.

171. *Captain Kenny.*] Did you see this land before it was purchased by the Company?—Only from a distance.

172. Did you form any opinion with reference to its capacity; did you observe it sufficiently to mark out a general idea of its then value?—I did not.

173. Were you aware it had been open for sale?—I knew it was Government land.

174. At that time, did it strike you to inquire about the land?—I did make inquiries.

175. What did you hear?—I thought it much too large an undertaking for one with my means to go into.

176. And on that account only you did not think of purchasing?—Yes.

177. Had it been a small block, would you have bought it at the upset price of 5s. an acre?—Yes.

178. Would you have given more than 5s.?—I might have, for a small block.

179. Supposing you had been in the position of a capitalist, to have invested in the block, would you consider yourself justified, with the knowledge then existing as regards the quality of the country, in giving more than 5s. per acre?—If I had ample means to invest, I should have considered it a good speculation to have gone into it at 5s. an acre, and even to have given more than that. Still, everything considered, as I have already stated, I believe 5s., although a small price, was not an unreasonably small one.

180. But it was a speculative investment, owing to the want of information?—Yes; at that time it was not known that outfalls could have been got so successfully as they have been since.

181. Since the transaction took place that has been discovered?—Yes.

182. Have you any idea what it will ultimately cost to complete these drainage operations and road works?—It is impossible to say; but I fancy it will take a considerable sum yet.

183. Do you think the 2s. 6d. per acre allowed by the Government will cover the expense?—I do not.

184. Have you any idea how much more will be required; do you think it will take as much again?—I believe it will.

185. In that case, if your judgment is correct, the land will have cost the Company 7s. 6d. per acre?—Yes.

186. And I think you have stated that 7s. 6d. per acre would be about its value?—You misunderstand me. There is only a small part of the swamp that has been drained by the Company; and I say that that part is worth considerably more than 7s. 6d.; but, taking the drained with the undrained, I estimate the average value at 7s. 6d. per acre.

187. Would that be previous to the works being completed, or before any improvements were made?—Taking the improved with the unimproved, I estimate that as the average. The unimproved is worth what the Company paid for it, 5s. an acre; what has been already drained is worth considerably more—say, 10s. an acre.

188. It would, in your opinion, be three years before any improvements to the land were capable of being profitably undertaken?—A considerable part has been now improved for some time.

189. At all events it will be three years from the commencement of the improvements before different portions are capable of being turned to use?—Yes, before any part of the swampy ground can be used. A considerable part of the dry land has, however, been ploughed and put down in grass. I believe the Company will be able to put a considerable number of cattle upon it this year.

190. From what you saw, and from the opinion you formed when you saw the land in its original state, is the Committee to understand that, in your opinion, there was very little data upon which to form an opinion as to the real value of the land?—I would not like to say that.

191. Am I to understand that the opinion you formed at the time you first saw the land was, that it would be too speculative an investment to have anything to do with?—Yes; my impression was it was a speculation that might turn out a great success, or might be ruination to the speculators, and that it was much too great for my means.

192. Was it of such a speculative or doubtful character as would not have justified the Govern-

*Mr. W. A. Murray* ment in asking the House for a vote to improve the land to make it marketable?—I think it was the duty of the Government to have expended money in this way.

6th Oct., 1875.

193. If in your opinion it was so speculative an undertaking, or so doubtful in its results, would the Government have been justified in asking the House for a vote for operations the results of which would have been so doubtful?—I think the Government should have instituted inquiries and had the land thoroughly surveyed before they sold it to the gentlemen who bought it. I believe the Government would have been justified on going into it on public grounds, in improving it by means of roads or railway, and then opening it up for sale in blocks of 640 acres.

194. Although the return of the money was, in your opinion, so doubtful?—I do not think there was a great deal of doubt about it. I think it was bound to have turned out of some value. The aim of the Government should be to settle a large number of people in the country, whereas the capitalist would only look at the grazing capabilities of the land; but I should say I have heard that it is the intention of the Company, so soon as they have completed a certain portion of these drainage works, to cut up this property into blocks, and to sell them upon deferred payments.

195. What I wish to know is whether, with the information then existing, in your opinion the Government would have been justified in proposing an expenditure on such works?—I have already stated that the Government were much to blame in entering into such a large transaction as that, with the limited knowledge at their disposal. They should have had the ground surveyed and properly reported upon before selling it.

196. You consider it was the duty of the Government to undertake these drainage works?—Yes.

197. *Mr. Macandrew.*] Is there any railway contemplated under the Public Works scheme which affects this land?—The Thames-Waikato railway, which will be one of the most important railways in the North Island, must necessarily pass through this block of land.

198. Was that railway decided upon before the sale or subsequently?—I understand before the sale. At all events it was surveyed through this property by Mr. Simpson, who was acting for the Government.

199. *Mr. Ormond.*] Is this part of the land for which some company offered to build a railway across it?—I think that was in a different locality.

200. *Mr. Macandrew.*] I understand a line of railway has been surveyed by the General Government through this land?—I understand so.

201. Do you know the date when this line was surveyed? Was it before or after the sale?—I think it was before the sale.

202. *The Chairman.*] Is it one of the lines of railways authorized to be made?—When the other lines were authorized to be made, this line was authorized to be surveyed.

203. *Mr. Macandrew.*] If you had had any certainty that a railway was going to be made through the land at a given time, would that have affected your opinions and dealings with reference to it?—Certainly.

204. You would then have bought it?—Most certainly, if my means had allowed me.

205. *The Chairman.*] If the block had been a smaller one, you would have bought it?—Yes.

206. Could you not have taken up a part of it?—Not very well.

207. Was it not available?—Were the regulations such that you must take the whole 80,000 acres?—You could have taken more or less, as you liked, but you required to carry on operations of that sort in a comprehensive way to make them successful.

208. There is another little point I wish cleared up. You state that there are about 7,000 acres of comparatively dry land, and that that land was worth £1 per acre. Was it worth that in 1873?—Yes.

209. Can you give the Committee any reason why the land was not taken up at 5s.?—I cannot understand it.

210. Although this land was worth £1 per acre, and open for selection at 5s., you cannot give any reason why it was not taken up at 5s.?—None; unless that the parties who knew the land were not in a position to buy it.

211. Does not that imply it was not worth £1?—I fancy there must have been some difficulties put in the way by the Government; for instance, the surveys not completed. Otherwise, I cannot conceive why the land was not taken up.

212. You fancy obstructions were put in the way by the Government. What is your fancy built upon?—I saw no reason, except perhaps the Government had not offered facilities for taking it up.

213. I will ask you whether you know of any instance in New Zealand where a large swamp was drained at great expense by the Government, and afterwards successfully opened up to small settlers?—I am not aware of any such case, but I understand that Douglas and Walker's swamp, which was sold by the Government, upon land scrip equal to 3s. 6d. cash, to Mr. Farmer, and bought from him afterwards by Douglas and Walker for 5s. per acre, was drained by the Government road made through it afterwards.

214. If the Government had done in this case what you suppose it to be their duty to have done, viz. to have taken and drained this swamp, and afterwards to have sold it, would it, commercially speaking, have been a successful operation?—I question very much whether it would have done anything more than pay the actual cost.

215. Would it have done that?—I believe it would, if properly conducted. Of course, Governments are not the best institutions for carrying on these works. If properly carried out, I believe it would pay expenses.

216. How is this land at present held; by a Company?—I understand so.

217. Would shares in the Company be a profitable transaction, now, in your opinion?—I should not by any means object to buying into the Company at cost price.

218. Including any expenses incurred?—Yes; although I understand, about a year ago, one of the partners, Mr. Whitaker, would have been glad to have sold out at a small loss.

219. If we have it in evidence that shares are almost valueless at present, you would not agree with that?—Not at all.

220. *Mr. Cuthbertson.*] You have expressed the opinion that the Government should have under- *Mr. W. A. Murray*  
taken the duty of draining this swamp; if you had never seen the swamp, and knew no more about it  
than the other members of the House who had never seen it, would you, if a proposal of that kind had  
appeared upon the Estimates, have voted the money for such a purpose?—If I were in the position of  
some members, I should support any proposal the Government made. *6th Oct., 1875.*

221. *Major Jackson.*] You have referred to the Government having drained Douglas and Walker's  
swamp. Do you know the circumstances under which it was drained?—I understand the road was  
made for military purposes, and it had the effect of draining the swamp.

222. How much did the Government spend upon it?—I do not know.

223. Are you aware that an outside Board, not interested in the work otherwise than in getting a  
road to Cambridge, contributed towards the cost?—I am not.

224. The port for the settlers was Alexandra?—Yes.

225. And in the summer months the river used to be blocked?—Yes.

226. And that they had to cart from Hamilton, a distance of twenty-four miles?—Yes.

227. Are you aware that from Cambridge to that place is about eight miles?—It is about eleven  
miles.

228. Are you aware how the Government had the work done?—By the Armed Constabulary.

229. As a military road?—To a great extent.

230. Do you think it was useful as a road of that kind?—No doubt.

231. And it was a necessary road for that purpose?—Yes.

232. Do you know how long it took to come round from Cambridge before this road was made?—  
About a day and a half.

233. And how long did it take to come across when the road was finished?—Two or three hours.

234. That, from a military point of view, would be a vast saving of time?—Yes.

235. Therefore, you think the road was necessary, even supposing it was dry land?—I think it  
was of equal advantage to Douglas and Walker.

236. How long was the land sold before the road was made?—About two years.

237. *The Chairman.*] Was that road made for military purposes, or to assist the Company in their  
drainage purposes?—For both purposes, I think. The Government benefited the settlers by providing  
a road to Cambridge, and Douglas and Walker benefited by getting the swamp drained.

238. *Major Jackson.*] Are you aware that Douglas and Walker had made a road within three miles  
at their own expense first?—I am not.

239. Are you aware that they said, if the Government would give them £300, they would make  
the road right through?—No.

240. *Mr. Rolleston.*] Do you consider making this road through the Piako Swamp would have been  
an important part of the arterial drainage of the swamp?—Yes; the road drains from the main drain.

Major HEAPHY, being in attendance, was examined as follows:—

241. *The Chairman.*] The Committee wishes to take your evidence as to the sale of the Piako *Major Heaphy.*  
Swamp to Mr. Thomas Russell. Do you know anything of that transaction?—I know nothing of the  
transaction. I should like to know exactly what the Piako Swamp is understood to be.

242. It is the great swamp between Hamilton and the head of the Piako navigation?—I have heard  
it called the Eastern Waikato Swamp. My knowledge of it was limited to about five years back. I  
have known nothing of it lately.

243. Do you know any portion of the swamp that has been agreed to be sold to Mr. Thomas  
Russell?—I know nothing whatever of the sale transaction, neither have I seen the plans before this  
morning. I know the locality geographically, inasmuch as I examined it to see whether it was fit for  
the location of military settlers in 1865.

244. Are you acquainted with the boundaries of the block agreed to be purchased by Mr. Thomas  
Russell?—Only approximately. I have not seen them defined upon the ground.

245. How much of this purchase of 80,000 acres are you acquainted with?—I have some acquaint-  
ance with the whole of the land, but I can only speak with confidence about one-half of that area.

246. Which half is that?—Close to the military settlements of the Waikato.

247. At what period of time were you acquainted with this land, or obtained your knowledge of  
it?—Up to 1866.

248. Will you describe the character of the land with which you were acquainted. I merely mean  
the land within this purchase or agreement to purchase?—I examined it on the eastern side of the  
dry land near Hamilton, which would, of course, be on the western side of the swamp, with a view of  
seeing how far into the swamp I could survey land for the military settlers. I saw it during all  
seasons of the year—both summer and winter.

249. What was the character of the land at that time?—I surveyed all the dry land that was  
available into sections for the military settlers. The surveyors whom I employed being on contract  
were anxious, perhaps, to make a larger survey than they might otherwise have done; or, perhaps, if  
they had had a smaller one, took the surveys in some cases further into the swamp than the military  
settlers liked. The colonel of the Militia regiment located at Hamilton refused to have some of the  
sections on account of their being too swampy for settlement.

250. Those sections so surveyed were actually taken up by the settlers?—No; I think they were  
rejected. There was a long altercation between the colonel of the regiment and myself, with respect  
to some of these sections. I thought them sufficiently dry, and he thought they were too wet.

251. In point of fact, those sections, so surveyed, form part of the purchase of Mr. Russell?—  
do not know whether they have been purchased privately since.

252. Do you not know what has become of these sections?—The information is all in the Survey  
Office at Auckland. I have had no knowledge of the land since 1866.

253. Then you do not know whether they form part of the block agreed to be purchased by

*Major Heaphy.* Mr. Russell?—No; I do not see them upon this plan of the land sold to Mr. Russell. I assume, if there were surveyed sections in the swamp, they would appear there.

6th Oct., 1875.

254. What is the character of the swamp? You say you acquired a general knowledge of the swamp on the eastern side?—It was a very wet swamp. There are several distinct classes of swamp in the Waikato. There is one class lying on high table land which is only swampy from the rainfall catchment upon them. Other swamps, of which this "Piako" is one, form a kind of reservoir. When the Waikato has been two or three days in flood, its waters will run back along some of its tributaries and fill these swamps, which act as reservoirs, and these floods will continue for many days. This swamp is one of these instances, and the consequence is that any reclamation of it would be of a much more difficult and expensive nature to carry out reclamation or drainage than on such swamps as those that lay near Ohaupo or Cambridge, on what is termed the delta between the two rivers. The other swamps are in some instances 150 or 200 feet above the level of the river, and were caused partly by the Natives choking the natural outlets with eel-dams.

255. What is the usual level of the Waikato flood when the water runs from it into this swamp?—About 12 or 15 feet rise; perhaps in places not so much as that. It was so high that I have seen the tide coming up this creek at the rate of two miles per hour flowing into this swamp.

256. Are you aware that this land was open for a number of years for selection at 5s. per acre?—I know nothing of the history of the land since 1866.

257. Would it, in your opinion, have been a saleable block at that price?—Not readily saleable. Only capitalists would buy it, because large dykes would be necessary to prevent the ingress of water; whilst in the other swamp, such as Cox and Douglass's, a simple cutting and clearing out the creeks was sufficient.

258. Do you know anything of the drainage operations that have been in progress during the last year or two?—No. I know somewhat of these swamps, because I wrote a memorandum on the subject of reclaiming them for the Government, when I was Chief Surveyor, in 1865, pointing out how the swamps could be utilized at a very trifling expense.

259. The present inquiry is regarding the lower swamp?—I remember distinctly I did not allude to the practicability of draining this swamp, from the circumstance of having seen it flooded in the way I have named.

260. *Mr. Macandrew.*] What proportion of the 80,000 acres is contained in the lower swamp?—I should think that the part which I noticed more particularly would contain some 35,000 acres.

261. This memorandum which you wrote ten years ago on the subject of draining the swamps—can it be produced?—It must be extant.

262. Was it written to the General or to the Provincial Government?—To the General Government. It was on the general subject of swamps; and its object was to show how, by the removal of the Native dams, the high-lying swamps could be utilized at a small expense.

263. Did you refer to this swamp, amongst others?—I think all the swamps were mentioned in it, but it chiefly referred to the high-lying swamps. I may tell the Committee that another report was also written about the same time by Lieut. Walker, an engineer, on the subject of draining the Waikato swamps.

264. Was that report to the General Government?—Yes.

265. *The Chairman.*] In the same year, 1865?—Either in 1865 or 1866.

266. *Mr. Ormond.*] How much of this swamp was inundated by water from the Waikato?—I think about 35,000 acres.

267. Have you any idea as to what depth it was flooded to?—Sufficiently to make it impossible for man or horse to travel over it.

268. And no system of drainage would affect that part?—In my opinion, it would require what the Americans call a "levee," or embankment along the river, to stop the reflux of water.

269. *Captain Kenny.*] Did you at that time form any estimate of the cost of these embankments?—No.

270. Have you a tolerably distinct recollection of the main features of this particular piece of country? Can you give the Committee an approximate opinion as to the expense of reclaiming it?—I cannot. I should not like to attempt such a thing unless I went into it with great care.

271. Are we to understand that ordinary drains would not suffice to render the land safe from floods?—Decidedly not, in my opinion.

272. Nothing short of embankments?—Nothing short of embankments along a portion of the river's margin, or a timber obstruction across the river itself, with the necessary sluices, would suffice to keep out the water in times of heavy flood.

273. What proportion of country is affected by this Waikato water?—I can scarcely say that, because the Waikato water might act as a positive cause of inundation, or it might act as an obstruction to prevent outlet to the ordinary drainage of the swamp, so that the whole swamp would in some measure depend upon that.

274. Then the whole swamp would be affected?—A very large portion would receive the back water of the Waikato.

275. Do these floods occur frequently? How long and at what seasons were you at this particular place?—I have known this swamp from 1848 to 1866, and I suppose I have seen it seven or eight times under water during that period; but I more particularly noticed it at the time I was looking out for land for the military settlers.

276. Floods would occur at least once a year?—Yes.

277. *Mr. Macandrew.*] Could you, by referring to a map of the Province of Auckland, recognize the 80,000 acres now in question, so as to make sure what portion of it you had a personal knowledge of?—If I had a tolerably accurate map, I could lay that down upon it.

278. *Major Jackson.*] Were there not very great difficulties in finding land for the military settlers?—Yes.

279. Had not all the land in the neighbourhood available for settlement been surveyed?—I think it had. I surveyed in the summer every piece of land I thought it was possible could be made avail-



able, not only for the military settlers, but in order to square up the surveys, so that there should be no rugged outline. That, of necessity, took me some distance into the swamp. The colonel of the militia regiment sent his adjutant or one of his captains, a gentleman named Brown, to examine whether this land could be taken up. There were continual disputes between him and his officers and my surveyors as to whether the land was fit for military settlement. At last they refused to take any more of it. It was my duty, as Chief Surveyor, to put them as near to Hamilton as I could, and to make available all the land, if possible. However, they refused to take any more of it, and ultimately I had some land surveyed at Lake Waikare, fifteen miles off, for them.

280. I think it was generally admitted that the military settlers were entitled to have two-thirds dry land?—I should not have given them less than two-thirds.

281. Do you not know that because it did not contain two-thirds dry land, was the basis upon which Colonel Moule objected to this land?—I believe so.

282. Do you consider a fair proportion of dry land was surveyed into allotments for the military settlers?—Yes.

283. And any that was not surveyed would not be fit for them?—It was very stiff indeed. If there was no valid reason for their objecting, I said they ought to take the land. They stood out and refused where they possibly could. The surveyors whom I employed were contract surveyors, and it was to their interest to push their lines as far as they could into the swamp.

284. *The Chairman.*] If there was error at all, it was on the side of taking in too much swamp?—It was in carrying my surveys into the swamp.

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TUESDAY, 12TH OCTOBER, 1875.

EDWARD O'MEARA, being in attendance, was examined as follows:—

*Mr. E. O'Meara.*

285. *The Chairman.*] Do you know anything of the transaction between the Government and Mr. Thomas Russell, and of the agreement entered into between them?—I know nothing about the transaction. All I know is about the land. 12th Oct., 1875.

286. Are you acquainted with the block in question?—I know the portion which adjoins the Mangawara River to the North, and extends to the lots laid out for the military up the Komakorau and Tauhei Creeks.

287. You are acquainted with the north-western side of the block?—Yes.

288. What extent of land within the block are you acquainted with?—About 20,000 acres or so.

289. *Mr. Rolleston.*] You have a general knowledge of the whole of that?—That is the only portion I have been through.

290. *The Chairman.*] Will you describe the character of the land with which you are acquainted?—It is low, swampy land. I am acquainted with that part between the Komakorau and the Tauhei. My surveys on the other side of the Mangawara came up as far as the land higher up, to where the confiscated line goes. I, at one time, arranged where the line would run, along with a Mr. Marshall, Native officer.

291. Are you not acquainted with the land so far down as Pukemokimoki?—Yes.

292. Will you tell the Committee what you mean by saying the land is low? What are we to understand from your description? Is it overflowed by the flood waters of the Waikato?—When a fresh comes down the Waikato River, instead of going down its course the water is all banked up in these little creeks, which come out of the swamp, but which will ultimately form the arterial drainage of the swamp. The water is banked up and overflows.

293. To what distance does the flood water extend over the block in question?—Perhaps in one part it would go in forty chains. I have seen quite a mile of it under water, and the water up to one's middle.

294. What is the character of the land higher up the Tauhei? Is it swampy?—It is a kind of rush and flax, with some thin tea-tree.

295. What will be the proportion lying high above the general level of the waters of the Waikato?—When I was District Surveyor, I asked a surveyor, who is now Resident Engineer in the Waikato, to take the levels when making the traverse of the Mangawara River, so as to ascertain what the height was, and I told him I would try and get him paid by the Government for his trouble. But the Government would not make him any advance for doing it, and of course he kept the levels.

296. What is the character of the soil?—Black, mud soil, if you can call it soil—black peat.

297. Have you seen any portions of it dry without reclamation? Have you seen grass grow upon it?—I have never seen grass grow upon this side. I have upon what Mr. Dilworth bought.

298. In the upper portion of the land you have described, is there any dry land? Any in front of the ridges of the hills?—None except this (witness described the part on the map).

299. What I mean is, any land fit for settlement without reclamation?—Oh no. We took all the good land we could find when surveying for the military settlements; in fact some of the allotments were condemned, and I got into bad favour with the military, who would not take them.

300. Owing to there being too much swamp?—Yes.

301. You do not know of any tongues of dry land, abutting on to the swamp, available for settlement, which were not surveyed into sections?—No.

302. Can you give the Committee any idea whether the swamp would be difficult of reclamation by drainage?—It would take a great lot of money indeed to drain it. As I have already told the Committee, whenever a flood comes into the Waikato the water runs up these creeks, which will form the system of drainage afterwards, and covers the place with water until the floods subside again.

303. That would also have the effect of preventing the outflow of the local water?—It would for the time being.

304. *Sir George Grey.*] Do you know what is the level of the interior part of the swamp? What is its height above the river?—Mr. Breen, who took the levels at my request, told me it was forty feet

*Mr. E. O'Meara.* fall at a place at the head of the Mangawara, opposite Mr. Dilworth's swamp. Lower down, where a fall suddenly takes place, the water is very smooth.

2th Oct., 1875.

305. Did you make any report to Mr. Dilworth upon that land?—I did.

306. What was your report?—Mr. Dilworth had made a purchase on the northern side of the river, and he came to me and asked me if I knew anything about this swamp. I explained to him that I had had all the surveys performed under me. He then asked me if I could ascertain what fall there was between this swamp and the bridge at Tauhei. I then mentioned that it was Mr. Breen who had taken the levels, and that he was then working at the Thames. I said that, before I would recommend Mr. Dilworth to have anything to do with the swamp, I would go and see Mr. Breen, and if he said there was sufficient fall to drain the swamp then I would take Mr. Dilworth upon the ground, and he could act upon his own judgment. I saw Mr. Breen, and told him what I wanted. Mr. Dilworth, on the strength of the information I gave him, took up the swamp on this north side.

307. What did Mr. Breen say about the swamp on the other side? Could it be drained or not?—We had no reference to the swamp on this side. At this time there was nothing said about this swamp.

308. But you recommended Mr. Dilworth to buy the swamp on this side of the river?—I did—a portion only.

309. Did he offer to buy it?—I believe he did. He gave me a sum of money for selections in this neighbourhood, and I gave it to Mr. Sinclair, who said something about the land not being up for sale.

310. What did you deposit?—Either a £25 or a £50 cheque. It is three or four years ago. I cannot recall particulars now.

311. And what was the answer?—So far as I can recollect, Mr. Sinclair said the Government were not disposed to sell any more land on that side of the Mangawara. I think at the time the Government had an idea of giving some of this land to the Natives for eel-fishing.

312. Then your offer was refused?—It was.

313. In what year was this?—In 1870—I think it was.

314. *Mr. Rolleston.*] Are you aware whether this road which is to join Hamilton or any other point is to run through this swamp?—I am not.

315. Not by hearsay? Is it swamp also?—I cannot say what it is. I have been told by the contractor who is making the road that it was a swamp.

316. What is your opinion of the land? Will it take grass kindly, if drained?—My opinion is this: Supposing you manage to drain the land itself, after a little time, when the drains are run through the swamp, the land will fall. There is a great deal of what is called fibrous roots and stumps of trees. When the land is drained it will fall, and then be more liable to be flooded by the reflux of water from the Waikato, unless these creeks which run out of the swamp can be sluiced in such a way as to allow the water to come out and the other water not to come in. It might be done by means of a "bevelled sluice."

317. What do you think is the value of that land?—I am sure I do not know.

318. You recommended Mr. Dilworth to buy at five shillings per acre down here?—Not there.

319. *Mr. Ormond.*] Have you been there in times of heavy floods?—Yes.

320. How high does the Waikato rise in times of flood?—[No answer appears in the signed copy of evidence.]

321. Give the number of acres, as approximately as you can, covered by water in times of flood?—Fifteen to twenty thousand acres I might reckon as really bad swamp.

322. *The Chairman.*] Affected by the flood waters of the Waikato?—Not all. The Waikato will affect it nearly as far up as (described on the plan).

323. About this land Mr. Dilworth made application for, what is your description of that land compared with the part of the swamp you have been describing?—It is of a better nature and drier up here. From my knowledge of it, I recommended him to take a piece.

324. Was this land subject to this overflow of the Waikato?—Not so much.

325. What quantity of land did you advise him to apply for?—It was left to my own discretion when I got upon the ground to select what I thought suitable. The offer of deposit was merely a matter of form, so that I could go and make a selection upon the plan.

326. But you must have applied for so many acres?—Not in particular. I only drew in pencil a rough sketch in Mr. Sinclair's office of the land upon the plan there.

327. Was there water standing upon this land at that time?—Not very much.

328. Was there any dry land upon the banks of that creek?—Very little.

329. Within the piece you proposed to buy for Mr. Dilworth?—Very little water on that part.

330. Did you look upon that part as easier of reclamation and improvement than the other part of the swamp?—That was the reason I advised Mr. Dilworth to buy it. I believe it can be made tolerably dry.

331. How much did you expect to be able to include in the application? What did you estimate?—I did not exactly know what was the quantity; perhaps 3,000 or 4,000 acres, which is a good big piece. It might not exceed 1,000 acres.

332. *Major Jackson.*] Was it not contemplated at one time to connect the Thames with the Waikato by a canal?—It was. From Maungatete to connect with the Waikato.

333. Would there be much cutting?—There would be a good deal of cutting.

334. You state that from the top of Taupiri, when there was a strong flood, you could see the extent of country that was flooded: in your opinion, was there water among the tea-tree?—There was, no doubt about it; but I could not see it.

335. Was there much difference between the level on Mr. Dilworth's side and the other swamp?—It is a little higher here (describing on the map). There is a 60-feet fall at the commencement of his swamp and Waikari Lake.

336. From the fact of Mr. Dilworth being able to drain his swamp, does it not show that this swamp could be drained?—No.

387. *Sir D. McLean.*] Are you aware that a very large reserve is situated near the block called *Mr. E. O'Meara.* Tauhei?—All this land was surveyed for military settlements; but they would not take it on account of its swampy character, and it has been given back as Native awards. 12th Oct., 1875.

388. *Major Jackson.*] If any good land had been there you would have found it?—Certainly.

389. *Sir D. McLean.*] Did you find any difficulty in carrying on your surveys on account of the Natives?—The first time the Natives were very troublesome. When I first went up there I took a surveyor to cut this line (describing it on the map); but they seemed dissatisfied, and I withdrew.

340. Were there many of them there at that time?—Twenty came down armed with guns; and from their demeanour in the morning, while we were having breakfast, I did not like to persevere in the matter. I took Mr. Weetman back with me. I was afterwards on very friendly terms with the Natives, and could have worked up to the boundary line without interference.

341. They have always opposed touching the boundary line?—Not at that time.

342. Are you able to give an idea as to the value of that portion of the swamp land which is covered by water, during the greater part of the year, from the Waikato?—It is valueless in my estimation. I set no value on it. It is only people with great means who would purchase a block like this; and I do not think it will pay when the drainage is completed. When the drainage rests there the land will fall, and then be subject to these floods more than it is now. Mr. Dilworth's swamp has also fallen down considerably. There the drains were six feet at the top and three feet at the bottom; yet they are not now, in some places, more than four feet, the ground has shrunk so.

343. Then they will close up as the ground goes down?—Not only that, but will cause a great deal of extra labour to get them out.

344. *Captain Kenny.*] You state that, in your estimation, some 15,000 or 20,000 acres are subject to this flooding?—I only made a sketch with pencil.

345. You said that was the quantity; at all events that was your estimate. In saying just now that you looked upon the land as valueless, did you allude to that area?—I did.

346. Do you know this portion of the country at the southern end of the block?—I do.

347. What is the character of that portion of the country?—I really cannot tell you. Here (describing it on the map) it is all swamp. I cannot tell you what is in the middle.

348. Is that land capable of being drained profitably?—It may be drained.

349. But drained profitably?—I cannot say whether it can be drained profitably or not, but it would take a great deal of money to do it. There is no available land along the banks of the river; it has been all surveyed and disposed of.

350. Then you cannot speak from your own knowledge of this land; all you know is that it is swampy near the river and near the survey line?—Yes.

351. In your opinion it would be difficult and expensive to drain it—that a large portion, when drained, would not be improved; that is to say, it would still be subject to flood?—All this portion (describing it upon the map) will be subject to flood, unless some artificial means are devised for backing out the water when floods come from the Waikato River.

352. *Mr. Sheehan.*] Did you, in company with Mr. Dilworth, visit the ground?—I was never on the ground with Mr. Dilworth.

353. Did you not go up the swamp with him?—No; he took this swamp upon my recommendation.

354. Did you not inform me that you went upon the ground with Mr. Dilworth?—No.

355. After he had acquired his own swamp land?—I went there with his brother-in-law.

356. Did you not inform me that you went over the ground with Mr. Dilworth, and discussed with him the advisability of his buying further land?—No; I accompanied him to the Survey Office.

357. Was not a distinct acreage named at the time?—He said about——

358. How much?—I think about 8,000 or 10,000 acres, or what was available.

359. Was it not 10,000 acres?—It was left an open question: when I went on the ground to survey it, whatever I could pick out.

360. Have you not informed me that your instructions from Mr. Dilworth were to select 10,000 acres?—I think I said about 8,000 or 10,000 acres.

361. Did you not say 10,000 acres?—I cannot be sure now.

362. Did you not say 10,000 acres without mentioning 8,000?—I said about 8,000 or 10,000 acres.

363. Try and recollect—did you not say 10,000?—If I could get 10,000 acres it would be taken out of it.

364. My recollection of your statement is this—I will put it as a question: Did you not tell me that you had instructions from Mr. Dilworth to buy 10,000 acres of this land, and that in consequence you attended the Survey Office and deposited £50?—£25 or £50; it was either one or the other—I not sure.

365. In substance that was your statement?—I said Mr. Dilworth gave me £25 or £50 on this or other lands selected for Mr. Dilworth—I do not recollect which—to go and select a portion of this swamp on the plan for him. I went in and selected as I did. What I found I recommended him to buy: if there was 10,000, 20,000, or 15,000, it would be according to my own selection if he would take it. But I was to report to him before I could cut the back lines.

366. Your answer must be specific. Did you tell me there was a specific acreage named—viz., 10,000 acres?—I said 8,000 or 10,000 acres. Probably I did say 10,000 acres; it would depend upon the quality of the swamp.

367. How long was it after you paid the deposit that you got the money back?—That is a thing I cannot recollect. I went on surveying, and when I came back Mr. Dilworth told me he could not get the land, and I supposed the money was refunded.

368. How long was that?—Some time afterwards, but how long I really cannot say.

369. Was it a month?—Yes; more than that. But I took no particular notice of it at the time.

370. Do you remember the account you gave me of the quality and nature of this land?—Identical with what I am now giving.

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371. Did you not tell me that this swamp block—the Waikato—Piako Swamp—was only surrounded by a fringe of swamp?—I could not have told you that.

372. That it was a fringe of swamp; and that in the centre the land rises greatly—three feet above flood level?—No; I told you that the land from the river bank inland was low; the further I went in it got lower for some distance, and then appeared to rise a little.

373. I put the question to you again: Did you not tell me—and I will use almost your own words—there was a fringe of swamp; that towards the centre the land became dryer and rose a great deal—three feet above the flood level?—I did not say any particular height. I remarked that in the centre it appeared to me to rise.

374. Above water-level?—Above the part where the water rests.

375. Did you tell me anything about the water receding?—I do not recollect. I did not go into minute particulars. We met in the street. I had no map.

376. Did you express the opinion that the block was very valuable land?—I did not. I set very little value upon it.

377. Have you not expressed the opinion that it was a valuable block?—I do not think I said it was a very valuable block.

378. Have you not said to me that it was a swindle, the Government taking 2s. 6d. per acre when they could have had 5s. for it from other people?—I told you Mr. Dilworth would have given 5s. only for a portion; and you told me the Government only got 2s. 6d.

379. Did you not say that the transaction could only be regarded as a swindle, taking 2s. 6d. an acre from one person and refusing 5s. per acre from another?—I do not know whether I used the word "swindle." It is strong language.

380. Or an equivalent expression?—It is language I do not think I could have used. I remember saying that Mr. Dilworth would have paid 5s. per acre for whatever he might select when he proposed to buy. You said the Government only got 2s. 6d.

381. I am going to ask you a specific question about this, and I want a definite answer. I will not use the word "swindle." Did you not speak of the transaction as an improper one, the Government having taken 2s. 6d. an acre from one set of persons while they refused 5s. from others?—I said Mr. Dilworth, for the portion he wanted, would have given 5s. per acre for it. You said the Government only got 2s. 6d.

382. But, before that, I remember you said you looked upon it as an improper thing that the Government should have taken 2s. 6d. from one set of persons and refused 5s. from another.—I might have said that, but I did not mean that to apply to the whole swamp, but only to that portion I knew for which 5s. could be got.

383. Whereabouts did you recommend Mr. Dilworth to buy?—(Witness described the part on the plan.)

384. At the time you arranged with Mr. Dilworth were you of opinion that you could get 10,000 acres?—I might. I am not certain.

385. Do you not think so still?—I could form no opinion as to what I could get. There might be three, four, five, or ten thousand acres.

386. Upon whose advice did he act?—Mine.

387. Was it not at your suggestion that 10,000 acres was named?—I did not know what could be taken up.

388. Did you not suggest to him 10,000 acres?—No. If I could get 10,000 acres I would explore it to see what it was like, and report to him.

389. When you said 10,000 acres, were you not speaking from your recollection of the country?—I daresay I was.

390. That was five years ago?—Yes; in 1870.

391. How long before that were you upon the ground?—Some years.

392. When were you last upon the ground?—In 1865 or 1866.

393. Then you are speaking of the country after an interval of nine years?—I had no plan before me then.

394. Do you know anything of the remaining country?—No.

395. Therefore you are not in a position to say what is the value of the rest of the land?—No.

396. Or as to its drainability?—No. I know nothing of it beyond that it will take a great deal of money to drain.

397. I perceive you have stated that you went to the top of Taupiri, for the purpose of obtaining a view of the country?—No; to form a trig. station.

398. Was it from there you observed the direction of the flow of the water?—I was always satisfied, from my checking the work which had been surveyed along here, that the water used to come up here. (Witness here described on the plan the places referred to by him.)

399. I understand you to say that from the summit of Taupiri and other ridges you observed a quantity of swamp covered by water, and that those portions further back were covered up to some tea-tree?—Yes.

400. Was that from Taupiri and the ranges?—From the hills; I could distinctly see with the telescope.

401. Was it different from the part of the swamp you recommended Mr. Dilworth to buy?—From much of it. I was of opinion he could get 3,000 or 4,000 acres.

402. *The Chairman.*] I want to know a little more definitely about this application. Did you go to the Survey Office with Mr. Dilworth?—I did.

403. Was your application made for a certain number of acres?—Not for a certain number of acres. There was a verbal conversation between Mr. Dilworth and myself as to what he would take up.

404. I want to know what was the formal nature of the application: did he say what number of acres?—I only marked the plan with a pencil.

405. Did you not require to deposit so much per acre?—With such a man as Mr. Dilworth they were not very particular in that way. *Mr. E. O'Meara.*
406. Do not the regulations require that a certain sum per acre should be deposited when a formal application is to be made?—I am not aware of that. 12th Oct., 1875.
407. Can you tell me how much money was actually deposited by Mr. Dilworth at that time?—I cannot say whether it was £25 or £50. It was only a matter of form, to give me time to explore the country.
408. Why did you fix these sums of £25 or £50? Might it not have been £40?—I am satisfied it was either one of these two sums.
409. You are positive the amount was not higher than £50?—I am sure it was under £50.
410. Can you say positively whether the number of acres was stated or not?—I cannot exactly say. There was some talk about 3,000, 5,000, or 10,000 acres, whatever I could get, and I was to pick out the best.
411. Was the sum deposited arrived at by some calculation of the acreage applied for?—No.
412. *Mr. Macandrew.*] Did you get any receipt for the money?—None.
413. *The Chairman.*] Do you mean to say no application was filed in the office?—I am not particularly sure about that. I really cannot say: it is a good while ago now.
414. Who filled up your application when made?—I am not sure about an application for this land.
415. If an application had been made you ought to recollect it?—Possibly I should. I did not take any particular notice; I was busy at the time.
416. Did you fill up an application on that occasion yourself?—I do not remember doing so; but I might have.
417. Speaking to the best of your recollection?—I do not think I did.
418. Did Mr. Dilworth in your presence fill up an application?—I am not sure about that. I remember drawing a line upon the map in the office with pencil.
419. Are you prepared to say whether an application was made under the Land Regulations?—I cannot declare solemnly whether it was signed or not.
420. With regard to your conversation with Mr. Sheehan, where did that conversation occur?—Down here in Wellington—in the street.
421. When?—About a month ago, I think it was. He met me in the street and began some remarks about this inquiry. He said he did not want to bring me into that affair or into collision with the Government, or something to that effect.
422. Did Mr. Sheehan commence the conversation?—I think it was he who first commenced it, by asking me something touching the swamp.
423. Mr. Sheehan was aware you were a witness about to be examined before the Committee?—From the tenor of his conversation he had some idea of it.
424. When was this?—About a month ago.
425. Did you tell Mr. Sheehan in your opinion the transaction between the Government and Mr. Thomas Russell was an improper transaction or a swindle?—I do not think I made use of the word "swindle." He threw out the remark that the swamp had been sold by the Government for 2s. 6d. per acre, and I said for a portion of the swamp Mr. Dilworth would have given 5s.
426. Did you express an opinion that the transaction was an improper one?—I do not think I did. It was Mr. Sheehan himself who broached it first.
427. *Mr. Sheehan.*] Do you remember, shortly after you came down here, coming out of the House of Representatives and saying there was a big row inside about Piako?—I do not remember that.
428. I am speaking of a discussion that took place in the House—you saying there was a row about this swamp; and that you knew more about it than most people about here. Do you remember saying that?—I do not remember saying it.
429. Will you undertake to say you had no conversations with me in the lobby of the House—not once, twice, or three times, but frequently? Try and recollect?—I do not remember having any particular conversations.
430. Do you remember mentioning it to me at all?—I remember your speaking to me in the street.
431. Do you not remember mentioning it to me on several occasions in the lobby of the House?—I do not. I was never in the lobby with you.
432. Do you not remember saying to me, just as I was going away from Poverty Bay, that you had been dismissed, and were coming down here to get justice; and that, were it not for the fact of your position with the Government, you could make it very warm for them?—I never said any such thing at all.
433. I will try and refresh your memory. I will ask you if you recollect, the night before you went away from here, my saying that you might possibly have to remain, and your begging that you would not have to be called as a witness before the Committee for fear of compromising your position with the Government?—I never heard about the Committee sitting until very recently.
434. I am asking what you said to me. Do you remember asking me not to drag you into this business?—I do not recollect it, for the simple reason that I did not know why I should have anything to do with the matter.
435. Did you not request me not to drag you into it?—I do not think for a moment I formed any opinion, so as to bring me into it, from any conversations we had.
436. Did you not tell me of Mr. Dilworth having paid a cheque as a deposit, and having it returned?—Yes. I thought so.
437. From that, will you undertake to say you did not request me not to draw you into it?—I do not think I did.
438. I will put a more specific question, which may refresh your memory. Did you not tell me you had settled with the Government, and that Sir Donald McLean was sending you back to Poverty Bay?—I did.

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439. And that you did not want to be mixed up in this matter?—If I did, you yourself “took it out” of me.
440. Did you first of all yourself come to me in the lobby of the House and tell me about your connection with this Waikato-Piako Swamp?—I had no communication with you whatever, either directly or indirectly. I never told you so.
441. Did you not come to me in the lobby of the House and tell me of the knowledge you had in regard to this swamp, and about Mr. Dilworth's application?—I have told all the conversations that took place between us.
442. Did you not tell me in the lobby of the House several days before you met me in the street?—No.
443. Not a single word upon the subject?—No.
444. Had I, to your knowledge, any previous acquaintance with or information that Mr. Dilworth was an applicant for this land?—I do not know that you had.
445. From that point, will you undertake to say that you did not volunteer the first statement with regard to this swamp?—I do not know what information I gave you regarding this swamp.
446. Did you not volunteer the information to me?—Whatever information I gave you, it was in the course of the conversation which you extracted from me.
447. Did you not, in the first instance, volunteer the information?—I do not remember volunteering anything.
448. *The Chairman.*] Had you no conversation with respect to this swamp?—Mr. Sheehan asked me if I knew anything about the swamp.
449. *Mr. Sheehan.*] I am going to put to you a question more specific still: Do you remember asking to see me in the lobby of the House?—I do not. I wanted to see you several times.
450. Do you remember seeking me there, and telling me that you required my assistance in a grievance which had come upon you with regard to being dismissed at Poverty Bay?—I met you not in the lobby, but in the hall. You asked me what had brought me down, and I told you I had got into disfavour with Sir Donald McLean, inasmuch as I had incurred his displeasure in some work on the East Coast, owing to some surveys I did on that coast for Mr. Fitzgerald. I was not dismissed. I was no employé of the Government.
451. Did you not ask to see me and request me to do what I could for you?—I think I met you in the hall, as well as I remember.
452. Will you undertake now to say that, between the time of your first meeting me and the final meeting when you were going away in the “Rangatira,” you did not in some part of the House volunteer the information which you possessed in regard to this particular swamp?—I do not think I did.
453. Did you speak to me about it, supposing, as you say, I “took it out of you” first?—In the House or in the street?
454. In or about the House, or wherever it might have happened to be?—I do not remember particularly, but in the street you began.
455. Will you undertake to say you did not?—I do not recollect particularly speaking to you about the swamp; and I do not recollect beginning the conversation about the swamp. I met you in the street, after your coming out of a shop.
456. Perhaps I can refresh your memory: you overtook me in front of the Empire Hotel?—It was down there. You came out of a house and met me.
457. Do you remember my going into an office and asking you to wait for me? When I came out what did you say to me?—I cannot tell exactly.
458. Do you remember telling me you had arranged your difficulty with the Government?—I told you that Sir Donald McLean had been kind enough to order that I was to continue my work again.
459. Did I not say to you you might have to come back again to give evidence before the Committee?—I do not recollect your speaking to me about the swamp before that in the street. I met you coming out of a house, and then we walked along the street. It was you yourself who introduced the topic about the swamp.
460. And we had never spoken about it before?—I dare say we had. But I think that was the first occasion we spoke about Mr. Dilworth.
461. Try and recollect—was that the first occasion? How long had you been in Wellington?—I had been here nearly three weeks.
462. Will you say that not before that time we had any conversation about this swamp?—I dare say you spoke to me, or I to you. We had conversations on a great many subjects.
463. Can you remember one beyond this swamp and your own grievance?—No.
464. Did you get this cheque from Mr. Dilworth to pay for the land?—Yes; as well as I can remember.
465. Did you pay it over?—Yes; to Mr. Sinclair. I think so.
466. What did you say to Mr. Sinclair?—I told you I pencilled off the land Mr. Dilworth wanted.
467. Did you not ask for the plan first?—The plan was on the table.
468. Then you merely said to Mr. Sinclair, Mr. Dilworth wanted a piece of land?—Yes.
469. Did you mention the acreage?—No. I said we would take 3,000 or 4,000 acres or more. It was left discretionary with myself, after seeing the place.
470. Did you mention any acreage?—Not precisely. From 3,000 to 10,000 acres, if it suited.
471. Did you get any receipt?—I forget. I was busy with plans in my hand for Mr. Heale.
472. Can you recollect whether the tracing was marked in any way?—I drew the line across it myself.
473. Did Mr. Sinclair mark it?—No.
474. Did he make any note or entry of any kind?—I do not know.

475. You do not recollect what acreage was applied for, whether you got a receipt, or whether an entry was made of the transaction in your presence?—I do not.
476. Is that the usual or customary way to apply for land?—No. Generally there were some forms for land to be filled up. I have filled up forms.
477. Had you taken up land before in that way yourself?—Not in that particular way.
478. *Sir George Grey.* What were you dismissed for from Poverty Bay?—I will explain. I was employed by Mr. Fitzgerald to do some surveying in the Rotorua country some two years ago. It was opposed to the wishes of the Government to carry on surveys there, but I was not aware of that. I could not complete arrangements with Mr. Fitzgerald and the Natives until I got on the ground. I got a telegram from Mr. Clarke, and I immediately communicated with the Government explaining the position I was in—that I would withdraw from the surveys, but would expect some compensation for the survey I was doing. Sir Donald McLean was lead to believe, by telegram or from some information he got, that I was there proceeding with the surveys contrary to his wishes. On that account he took umbrage at my conduct. When I came down upon the East Coast to survey under Government, having previously surveyed a large block for Mr. Maitland, Sir Donald McLean—being still under the impression that in the part I took in the Rotorua lands I was opposed to his wishes and had given him some trouble there, whereas I stopped work the very moment it was intimated to me that I should do so—gave orders that I was not to be employed on surveys. I came down here, and explained to him the part I took in the Rotorua surveys: he said it was satisfactory, and allowed me to act again as surveyor.
479. Well, then, when you arrived here I understand you had been dismissed from the East Coast?—I was told in Poverty Bay that Sir Donald McLean had issued an order against my being employed on the Coast surveying Native lands.
480. Who told you?—Mr. Baker.
481. Then you came down here?—I explained the thing to Sir Donald McLean, and he was perfectly satisfied.
482. You complained to a great many people here of having been dismissed?—To Mr. Kelly and one or two more. I believe I told Mr. Sheehan in the course of a conversation that my work was stopped.
483. To any one else? Did you speak to Mr. Murray?—I do not think so. I do not know him.
484. Did you speak to anybody else about having been dismissed?—To Mr. Sheehan, to Mr. Kelly, to Mr. Swanson, and I believe to Major Jackson.
485. Did you complain to anybody else of having been dismissed?—I do not recollect speaking to any other members.
486. Did you tell any other person besides Mr. Sheehan about this Waikato Swamp—about your knowledge of the swamp?—There was a man named Alley who had a grievance. He first spoke to me about this swamp. I told him I knew about the swamp, but nothing about the row.
487. You never told anybody else? Did you tell Mr. Swanson anything about it?—I do not know that I made any reference to the swamp to him. I considered I was dealt with harshly in my work being stopped.
488. Nor to Mr. Kelly?—Not about the swamp.
489. Nor to Major Jackson?—Not about the swamp. I told him about my being stopped work.
490. Then you told no other person than Mr. Sheehan about your knowledge regarding this swamp?—He and Alley are all I recollect.
491. What else did you say to Alley?—I don't exactly recollect the words I used.
492. Did you tell him you could give damaging information about it?—I do not think I told him I could give damaging evidence about it.
493. Then what did you say?—That a great portion of it was valueless; what I knew of it was almost worthless. He said Mr. Russell had bought the swamp for 2s. 6d. per acre. He talked in that strain at a great rate.
494. Did you tell any other persons?—I do not recollect.
495. Will you declare that you did not?—I cannot declare except as to Mr. Sheehan and Alley. They are all I remember. I did not come in contact with any other members except the Auckland members.
496. You did not tell any of them you could give information about this swamp?—No; I am pretty sure I had no conversation about the swamp with any Auckland member except Mr. Sheehan.
497. How long were you down here before you were employed by the Government?—A few days. I tried repeatedly to see Sir D. McLean, but had to put it off for about a fortnight. After seeing Sir Donald I was waiting at least a week before I could get away.
498. What did Sir D. McLean say to you?—He told me to put in a written statement in reference to my conduct in the Rotorua country. I went into Mr. Clarke's office and wrote my statement. He telegraphed up to the District Surveyor that my conduct was satisfactory.
499. What else was said to you?—Not many words, except that Mr. Clarke would telegraph up that my explanation was satisfactory.
500. What else?—That you were to go to work?—Yes.
501. Who told you that?—Mr. Clarke telegraphed to Mr. Baker, the District Surveyor.
502. What did Mr. Clarke tell you he would telegraph to Mr. Baker?—That I had explained my conduct; that my explanation was considered satisfactory; and that he would telegraph to Mr. Baker to rescind the order Sir D. McLean had given. In fact, he did not say Sir D. McLean, but the order that had been given.
503. You said you were told to go back again?—Mr. Clarke told me I could go back at any time I wished, or as soon as I could get back.
504. Did he tell you to go away at once?—No.
505. Did you tell anybody he did?—No.
506. Did you go away at once?—I was here nearly a week after it being settled.
507. Was it after your conversation with Mr. Sheehan that you saw Sir D. McLean?—I

- Mr. E. O'Meara.* think the conversation between Mr. Sheehan and myself was just before I went away in the steamer. He was the last person from Auckland I saw before going. It was late in the evening.  
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508. *The Chairman.*] After your reinstatement?—Some days afterwards.
509. *Mr. Rolleston.*] Have you had any conversation since you came down here with any one as to the evidence you were going to give?—No one asked me here since I came down.
510. Have you had any conversation with Major Heaphy?—I met Major Heaphy in the street some mornings ago—on Monday morning I think—as he was going to his office. He asked me if I knew anything about it, and I told him what I have told you.
511. Why did you say you had had no conversation with any one just now?—I did not recollect Major Heaphy.
512. *Sir D. McLean.*] You surveyed down in Poverty Bay and at Rotorua?—At least I went there (to Rotorua).
513. And were employed by Mr. Fitzgerald?—Yes.
514. He was buying land in that district, or agreeing with the Natives to buy?—He leased a block of land about 70,000 acres.
515. You were surveying for him?—He told me to survey the block, and I undertook it.
516. And did you receive any intimation from the Government that you were doing what was not right?—I did not until I went to Ohinemutu.
517. Did you desist immediately after you received that intimation?—Immediately I got the order to stop I left Ohinemutu, and never went into the district afterwards.
518. You afterwards went to Poverty Bay?—I did some work for the Government in Auckland.
519. Who employed you after this at Poverty Bay?—Mr. Maitland, of Otago, employed me to survey at Poverty Bay.
520. He was leasing land there?—He had leased 36,616 acres there, and I surveyed it.
521. Then how did you come into the employ of the Government?—Mr. Baker gave me a contract survey. You came down immediately after I had completed the survey, and gave an order that I was not to be employed on that coast, because I had given you some trouble at Rotorua. It was only fear of Jackson and Russell, and of Fitzgerald, that induced me to remain in the district, even before I got the Government intimation to leave.
522. When you finished your contract there was no more work given to you?—None.
523. And you came up here to represent your case?—Yes.
524. Did I not decline to see you on several occasions?—You did.
525. Did I not send you a message that you must explain your conduct to the Under Secretary?—You did; and I did that.
526. You produced certain correspondence?—Correspondence to show I was not guilty of the charges preferred against me. I knew you were exasperated against me all along.
527. It was not until after you had asked to have an interview with me?—Yes.
528. Was any one present at that interview?—Yes; Mr. Clarke.
529. Were you not reprimanded by me?—Yes, severely, and I felt it very much indeed that you should have thought I had disobeyed your instructions.
530. All you asked for was that if there were any contract surveys you should not be debarred from taking such work?—Yes. I went back and got a survey from Mr. Baker. Captain Heale had previously notified the same to me.
531. Was there any expression used in reference to Piako by any Government officials you came in contact with?—Not a syllable.
532. *Major Jackson.*] You were put in the position, after you went from here, of any ordinary licensed surveyor?—I took my chance of whatever work Captain Heale could give me as a surveyor.
533. Did the Government discharge you from any work you were doing? Was that your complaint?—The Government prohibited me from practising. The District Surveyor gave me a contract before he was aware that I had incurred Sir D. McLean's displeasure. Mr. Baker then told Sir Donald that he was under promise to me, and Sir Donald said, as a promise had been made to me, he was to give me that one, but no more.
534. He merely said: "We do not employ that man—he has given us trouble before"?—I suppose that was meant by it.
535. You felt it because of the injury done your character in the eyes of the public?—I had worked a long time and very hard for the Government, and I felt that I had been badly treated.
536. *Sir D. McLean.*] You came down here altogether on your own accord?—Yes.
537. Did any one connected with the Government say anything to you about returning, or did the Government in any way interfere with your action?—No.
538. *Captain Kenny.*] You have told the Committee you had been reprimanded. What offence had you committed?—On account of the Rotorua surveys (Fitzgerald's).
539. How did you interfere?—I was employed by Mr. Fitzgerald to perform a survey of 70,000 acres; and it appears the Government were engaged buying the same land. I was not aware of that until I got upon the ground. Afterwards I know Sir D. McLean was displeased with me about it, and he said to me then that I had no business to oppose the Government.
540. At this time you were a private surveyor? You were not working for the Government?—I was not doing contract work for the Government.
541. Then why should you care if the Government reprimanded you? They could not stop any contracts you had entered into?—No. I did not intentionally incur the displeasure of Sir Donald.
542. Do you mean that they could take your license away from you?—They can from any surveyor.
543. That was the only way in which they could affect your interests?—Yes.
544. You said something about having given trouble before. On any previous occasion did you find yourself in antagonism to the Government?—No; I always pulled along very well with the Government? I do not recollect giving any member of the Government any trouble before. It is on record that I have always done my business zealously and energetically.



545. It is for having unwittingly opposed the Government in the purchase of some land that you find yourself in this position?—I went into the Rotorua district, which, I have no doubt, caused great anxiety to the Government, the Arawas being a troublesome set to deal with. The Government were afraid it would cause trouble between the different tribes, and ordered me to stop the surveys. I did so. Sir Donald McLean was displeased with me for going into there at all. *Mr. E. O'Meara.*  
12th Oct., 1875.

546. *The Chairman.*] The position is this: Sir Donald McLean, being irritated at your conduct, instructed his officers up there that they must not employ you upon Government contracts?—Yes.

547. *Mr. Sheehan.*] Do you remember upon one occasion telling me where I could see a map of this country—at Mr. Haughton's office—and that if I gave you an order on Mr. Haughton you would get me one? Do you remember telling me that?—Give me a little explanation as to the circumstances.

548. Do you remember telling me where I could see a map of the Waikato Swamp country, naming Mr. Haughton's office,—that you had been there and had seen it; and that it was a lithographic map of the Waikato?—Perhaps I did. I believe there was some conversation about that, but I think you asked me. I do not remember the exact tenor of the conversation. This was before I heard anything about the investigation.

549. *The Chairman.*] You have seen a lithographic map of that country in Wellington?—I have.

550. Where?—In Mr. Haughton's office.

551. Did you tell Mr. Sheehan you had seen it?—I did. Mr. Sheehan was speaking to me about the swamp at the time. I was in at the office of the Deputy-Inspector of Surveys, and I remarked that I had seen the map there. I could have got it out of there if I had had an order.

Mr. SHEEHAN made the following statement:—

With regard to the Waikato Swamp, I was totally unacquainted with the facts when the matter was raised in our House. I met O'Meara after he had come down from Poverty Bay about having been dismissed from work on Government surveys. He asked me to intercede for him, and I referred him to Mr. W. Kelly, the member for his district. He then said, "I observe you have a row in your House about the Waikato Swamp; if it were not for this business of mine I could tell you something worth knowing about it." Knowing O'Meara very well, I paid no attention to his statement. I was subsequently informed by a Mr. Alley, who was down here giving evidence before the Public Petitions Committee, that O'Meara had been making specific statements with regard to this swamp in the strangers'-room. In consequence, on the next occasion I met him I asked him regarding it, and he told me in substance that Mr. Dilworth was the gentleman who had offered to buy, and had paid the deposit upon, 10,000 acres of swamp; that he had before ascertained the swamp was drainable; that there was a fall of 47 feet into the river; and that the part Mr. Dilworth wanted to buy was quite equal to his own swamp land upon the other side; that his deposit was subsequently returned, but he could not account for it until now he had heard the price the Government had sold it at. Every morning he took up a position by the weather table in the lobby, where people with a grievance are always to be found; and every time I passed him, with a view perhaps of conciliating me as a member of the Opposition, he used to introduce this matter of the swamp. I suppose if I had one conversation with him I had twenty. On the last occasion I met him he was preparing to go by the "Rangatira," and he began to apologize for not having given me the name of a Native settlement on the banks of the river, by which I was to identify Mr. Dilworth's selection. He then said Sir Donald McLean was satisfied with the explanation given by him with regard to his dismissal; informed me that he was going back in the steamer, and asked me not to have him called back as a witness, for fear it might injure him. On no occasion I am aware of, except one, did I introduce the subject. It was always Mr. O'Meara who volunteered the information. *Mr. Sheehan.*  
12th Oct., 1875.

552. *The Chairman.*] You understood Mr. O'Meara was here with a grievance, and that he was in a state of irritation against the Government?—He always has a grievance.

553. Was it at your suggestion that Mr. O'Meara was brought here as a witness?—Yes.

554. Do you think people with a grievance are the proper class of people to give evidence before any Committee of the House?—I do not see why their evidence should be subject to disqualification. But in this case Mr. O'Meara's grievance had ceased to exist.

555. But when he gave you information his grievance existed?—Yes.

556. Do you not think that people who have grievances of that kind are likely to be somewhat prejudiced?—Exactly so: but on the first occasion I did not attach any value to his statement.

557. Are people who are prejudiced in their statements in that way, the proper class of people as witnesses? are they good witnesses?—I can only apply an old adage which says something about certain people falling off, and what happens in consequence. Sometimes the fact of a man having a grievance may have an effect on his evidence which otherwise would not be given to it. You must take into consideration all the circumstances which affect the value of testimony.

558. In point of fact I understand you that you consider a witness of that kind would give first-class unprejudiced evidence?—I think I have shown that by my examination of Mr. O'Meara.

559. *Sir George Grey.*] Where wrong things have been done, which the persons implicated in the wrong are inclined to keep secret, is not the only chance of getting evidence by their quarrelling and giving evidence one against the others?—It is frequently the only way.

560. Some of the greatest crimes in the world have been brought to light which could not have been discovered in any other way?—Some of the most interesting criminal trials have arisen in that way. Proof of guilt was obtained through the quarrels of the guilty persons.

561. Looking at the philosophy of the case, I think it would sometimes be necessary to examine people who had been implicated in transactions?—I did not at all imply O'Meara had a just grievance. I remember him being suspended in two or three cases. I was not at all surprised when he came down to Wellington.

562. *Mr. Rolleston.*] I understood you, Sir Donald, to say, the other day, that the Government did not intend to take any steps to issue Orders in Council with respect to this matter, without the

Mr. Sheehan.  
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express sanction of the House?—I made a statement in the House the other day that nothing would be done until the matter was disposed of by this Committee.

563. Was it not stated in the House that the Government had agreed that nothing should be done except under Act of the Assembly?—I made a statement of that kind.

564. I would like to ask Sir Donald whether he considers there really is any legal sanction to this sale?—I consider the Government had an undoubted right to dispose of the land, and to validate it by an Order in Council. That is my interpretation, under the Act of 1866.

565. Do you consider that the provision that all land sold or disposed of shall be sold or disposed of under regulations to be made by the Governor in Council, which regulations shall be published in the *New Zealand Gazette*, means, or that the intention of it is, that the public generally should have the means of knowing what the Government are doing with the lands, and should have an equal chance of purchasing prior to any arrangements being entered into?—In this particular case, the public generally had that chance, for, as you are aware, the place had been open for sale for a length of time.

566. That is not the question. Do you not think the intention of the Act is, that lands sold under the *New Zealand Settlements Act* should be sold under regulations?—I believe regulations ought to have been published.

567. Do you think Mr. Dilworth and others, if there were any others, who had applied for blocks of this land and were refused, have a cause for grievance by the land being privately disposed of?—Decidedly, if their applications were refused, and the land is comprised within the boundaries of this block.

568. Do you think the initiation of public works and settlement upon the land entirely altered the aspect of these confiscated lands with respect to the manner of dealing with them: that the policy of the Government contemplated that they should deal with these lands with the view of themselves placing people upon them?—This transaction was in conformity with that general policy. The Government wanted this country occupied by a large body of people, and were chiefly anxious to have this road connecting the Waikato with the Thames carried out. That is one of the main reasons why the Government agreed to it. I consider myself the road worth nearly all the swamp put together. It would be in conformity with the spirit of the *Public Works Act* to have this road made. I believe it to be of great public advantage also inasmuch as there was in the vicinity a large body of Natives, from the Waikato and elsewhere, who were very troublesome in that particular district. The occupation of the country, and the road-making, practically contribute towards lessening the expenditure in defence.

569. Why did not the Government take the advice of Mr. Heale, the Inspector of Surveys, and of the General Government Agent, to have levels taken, with a view to having accurate information prior to disposing of this land?—The Government did take their advice. I myself saw Mr. Heale on the subject, who knows most of the country, and has been over it more than any other surveyor. I ascertained from him what was the real value of the land. I wrote a memorandum to Dr. Pollen and to Mr. Heale to ascertain the value of this land. The reason why no levels were made was simply that it was not considered necessary, as the character of the swamp itself was such as to induce no particular value to be put upon any levels that might be made.

570. Are you aware that both Dr. Pollen and Mr. Heale recommended, prior to the sale, that explorations should be made?—I am aware of that.

571. Mr. Macandrew.] There was a report by Major Heaphy upon the quality of this swamp. Was that prior to the Government dealing with it?—Major Heaphy classified the land where this swamp is situated, and it was placed in the classification of five shillings per acre.

572. Major Jackson.] That was the lowest class?—Yes. It was in 1866 that it was so placed. There is a *Gazette* notice, in which 150,000 acres of swampy and other land are put down at five shillings per acre.

573. Captain Kenny.] I understand this block of land has been open for sale for seven years?—Yes.

574. Was there any cause for hurrying the completion of the arrangement between the Government and Mr. Thomas Russell? Why could not the necessary legal course have been taken of issuing a Proclamation beforehand?—Well, one of the conditions was that certain works were to be performed upon this block—some improvements were to be carried out, and the Government required to be satisfied that they were so carried out.

575. As I understand the case it is this: This block had been open for sale for a good many years; there was no application for it; and certain gentlemen made to the Government a proposition which it appeared to the Government desirable to accept. In doing so—in completing the transaction—there was some irregularity in complying with the law. I wish to know if the Government were aware of this irregularity; and what was the reason for completing the purchase in an irregular manner: for instance, the works had to be commenced in a certain time?—You will see by the correspondence that the matter has been the subject of correspondence for one or two years. There was no haste at all shown by the Government in the matter. They were anxious to see that this road was carried out, and the other works performed in the spirit of the agreement. The Government did not exercise any haste whatever in the sale to Mr. Russell; on the contrary, you will see that the correspondence extended over a considerable period before the sale was sanctioned. Mr. Russell desired to purchase the land in the first instance at a much lower price than I on the part of the Government was prepared to accept.

576. Was there any necessity for precipitating the completion of the negotiations?—There was no necessity for precipitating them, nor were they precipitated. The matter stands over up to the present time.

577. Then, it was a one-sided arrangement? A Proclamation was not issued?—The arrangement was certainly within the spirit of the regulations, if not following them out strictly. The Government wanted to have security that the arrangements would be carried out in terms of the agreement. They

believed they could not be carried out better than by means of a large company. They understood that the occupation of that part of the country could only be carried out by a company capable of doing so, and with plenty of means. From the best information we could gather, it was stated to be a large piece of valueless country, and that the lands in the neighbourhood would be greatly enhanced in value if the arrangements were carried out. I considered myself at the time that the Government had the best of the bargain, and that the purchasers were making a speculation which might or might not turn out well. I believe the road we were getting to connect the Piako and the Waikato was of itself of such importance, both in reducing defence expenditure and otherwise, that if the land had been disposed of for that purpose alone my belief is the country would not have suffered loss by it. I am merely giving expression to an opinion I have carefully formed.

578. Had the Government reason to believe that the public were not aware this country was then open for sale? Had it been withdrawn? I ask this question because it has been stated in evidence before the Committee that application was made by an individual, and that it was refused, the land being stated to have been withdrawn from sale. Now, it appears to me this is a point which it would be well should be cleared up?—This is in reference to Mr. Dilworth's application. I cannot speak of my own knowledge as to Mr. Dilworth's application, because I have only a general knowledge as to the administration of the confiscated lands. Dr. Pollen had really the management of it, and as to any applications made he would be better able to give a statement than I can.

579. *The Chairman.*] Has this block of land been Crown-granted to Mr. Russell?—No.

580. Has it been sold within the meaning of the Act?—There is an agreement to sell.

581. Has it been sold within the meaning of the law?—I cannot say whether it has been sold within the technical meaning of the law, but it has been sold to all intents and purposes.

582. Agreed to be sold at a future date?—Yes.

583. *Major Jackson.*] On certain works being completed?—Yes.

584. *Mr. Sheehan.*] Is the road in course of construction?—Yes.

585. Did any long interval elapse between 1873 and the beginning of the road?—I cannot say; but I believe eighty people are now at work on the road.

586. Did not something like twelve months elapse before the works were commenced?—It is more than likely. There was a good deal of preliminary survey work to be done by Mr. Simpson and others.

587. *Sir George Grey.*] Why did not the Government call for tenders for the execution of these works, so as to give all of the Queen's subjects a fair chance?—I think, if any Government had undertaken works of this kind, of quite a problematical kind, they would rightly incur a great deal of censure.

588. I do not mean the Government should undertake the works. Why did not they call for tenders from companies to see which would do it upon the best terms? Why not have made a public notification that the land was open for selection upon certain conditions, and have seen which would have offered the best terms under those conditions?—I dare say if such had been done it would have quite correct, but I believe nothing would have been gained by it, from the fact of the land having been open so long. I regarded it as remarkable that there should have been an application from anybody, from what I knew of the country generally.

589. Is the payment of 2s. 6d. per acre in cash?—In cash.

590. Is a remission to be made on account of other claims against the Government?—No. The agreement has been laid on the table, and I think it states distinctly the whole of the terms. There are no other lands, except those which come within the 80,000 acres.

591. *Mr. Rolleston.*] I have understood you to repeat, several times, that the land was open some time previous to the sale?—Yes.

592. Are you not aware that subsequent to the regulations of 1871 the land could not have been said to be open for sale—there was no power on the part of the Government to sell, except by public auction, and after advertisement in the *Gazette*?—I believe it was so, as a matter of fact.

593. Then I understand it was matter of speculation whether it would turn out well for the purchasers or not?—Quite so. The Government were anxious to make the best terms they could for the public in the matter. From my own knowledge of that part of the country I consider it was anything but an advantageous bargain to the people who bought it, and I think that will turn out to be the case.

594. Do you think it a matter of congratulation that the Government should be able to get the better of a body of capitalists?—No. I do not refer to it in that spirit at all. The Government were bound to get the best price they could for the public, which I believe they did.

595. Do you think it advisable to foster speculation?—I do consider it advisable to foster the settlement of the country, and that was the object of the Government in the disposal of this land.

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THURSDAY, 14TH OCTOBER.

Mr. C. B. IZARD, being in attendance, was examined as follows:—

596. *The Chairman.*] The Committee are desirous, Mr. Izard, of taking your evidence or opinion upon the legal bearings of a certain agreement made between the Government and Mr. Thomas Russell, of which I furnished you a copy yesterday. Will you express your opinion upon the matter?—I may say that I have made a short memorandum—not a formal opinion—on the matter, which, if the Committee will allow me to read to them, will I think express to them better my opinion. I should premise by stating that I was not very well informed upon what precise point the Committee wanted my opinion, and therefore may not have touched upon points which the Committee may have wished put to me.

(Mr. Izard here read the opinion. *Vide Appendix.*)

*Mr. Sheehan.*

12th Oct., 1875.

*Mr. C. B. Izard.*

14th Oct., 1875.

Mr. C. B. Izard.  
14th Oct., 1875.

597. *Mr. Rolleston.*] Presuming the power of revoking regulations and of making new ones instead, do you think that after the passing of the last clause of the Act of 1866, which provides that all land should be sold under regulations to be published in the *New Zealand Gazette*, it would be in accordance with a fair interpretation of it that the Governor should make private arrangements first for the disposal of the land, and validate such arrangements by regulations, or do you think that the fact of the enactment saying that the regulations should be published in the *New Zealand Gazette* means that all Her Majesty's subjects should have a fair chance of knowing what the law is upon the subject, and of all applying on equal terms for the land?—Of course I can only presume to give an answer, so far as the question is one of law. So far as it is a question of policy, I do not presume to give an opinion. So far as it is a matter of law, I do not see any objection to making an arrangement and validating it afterwards by regulations.

598. But an arrangement would have no force until regulations were issued?—Not at all. I say that I look upon the agreement as not binding, and of no validity whatever at present.

599. *The Chairman.*] If power is given by law to the Governor to make new regulations, does not that necessarily imply power to revoke old ones inconsistent with the new?—That may be so; but, if you will pardon me, that is not the wording of the Act, which is, that the Governor has power from time to time to make regulations. It does not say fresh or new regulations. However, I am not expressing a confident opinion upon the point.

600. To put Mr. Rolleston's question in another form—Is there anything to prevent regulations being passed by the Governor which would have the effect of validating this agreement?—That involves a question on which I have ventured to throw a doubt. If I am right in the doubt I have expressed, the Governor, having once exercised his power of making regulations, cannot make regulations antagonistic to them.

601. I should have premised by saying, Put that question aside for one moment. Then is there anything further within your knowledge of the law to prevent the Governor passing regulations which would have the effect of validating the agreement?—No. The ground upon which I think a doubt may be suggested is this: Regulations issued by the Governor in Council under authority of an Act of Parliament virtually have the force of law.

602. Then your opinion is this: On the passing of regulations he has complied with the Act?—Exactly. Regulations, being derived from the Act, have the force of the Act itself. When once made they are practically as much a part of the Act as though they were incorporated with the Act.

603. *Mr. Rolleston.*] Do I understand you that, when the law provides that lands should be disposed of under regulations, it is competent for the Governor to issue regulations saying that the transaction is valid, though it has been done without such regulations?—That is not a very easy question to answer. As I understand the arrangement, what is proposed to be done here is this: Up to the present time there is no valid contract. There is an agreement that certain things should be done. I do not see any objection to the Governor exercising his power and declaring, by making regulations now, that the sale, now merely an inchoate agreement, is valid. I look upon it as no binding contract at the present time. It may be in honor, but I am speaking of it as a lawyer.

604. I want to press this a little further. I understand you to say that it is lawful for the Governor to issue regulations validating the sale?—Pardon me; you misunderstand me. I did not say the Governor can issue regulations validating what has been done. With the proposed regulations I do not think that can be done; but regulations could be issued under which this agreement may be ventured to be carried out. It is a fine distinction.

605. Then the regulations would not, upon the face of them, contain the fact that the Government were already bound?—I cannot say what the regulations would contain. I presume nothing of the kind would be said upon the face of them.

606. Then these regulations would, in point of fact, conceal facts from the general public?—I cannot answer that question. It is pretty obvious.

607. *Mr. Macandrew.*] I understand Mr. Izard is of opinion that this land may be legally disposed of without being submitted to public auction?—Under the present regulations clearly that cannot be done. The present regulations must be revoked, and fresh ones issued, before it can be done.

608. *The Chairman.*] I will put the question again to bring out the matter of validity. Can regulations be passed which would enable the Governor to give practical effect to the agreement?—I think it can be done. I think regulations may be so framed as would enable this agreement to be carried out under them. I am, however, assuming that there is very little in my doubt upon the point. If the Governor has power to make and to revoke regulations, he can make such regulations as this arrangement can be practically carried out under.

609. *Mr. Rolleston.*] Is there not a general principle of law that a law shall be interpreted in favour of all Her Majesty's subjects equally?—No doubt all laws ought to be so interpreted.

610. Would not the validation of this agreement come under that principle?—I cannot say this is a validation of the agreement. I do not consider the transaction could be worked in that way, though practically it would come to that.

611. But the regulations would purport to be doing one thing and be doing another?—The regulations would purport to be general regulations.

612. And really would be specific ones?—They might, perhaps, be open to that objection.

613. *Mr. Macandrew.*] I understand Mr. Izard's opinion is that there is no provision in the Statute which renders auction necessary?—Not in the Statute itself; but the provision is in the regulations. The words of the Statute are that the land may be sold for such consideration and such price, cash or otherwise, and in such manner, as the Governor may, by his regulations, appoint. The Governor, by his regulations, says it shall only be sold after survey and by public auction.

614. *Sir George Grey.*] Mr. Izard, I understand you to say that the law allows the Governor to make regulations for the sale of the land either for cash or for such other consideration as he may think fit?—Yes.

615. And I understand you further to say that, in your opinion, when once the Governor has

issued his regulations he has complied with the law?—Well, I would rather not put it as an expression of opinion upon the point, but merely as throwing out a doubt. *Mr. C. B. Izard.*

616. You think that probably is the case?—Probably it is the law. I would rather it should not be taken as a confident opinion upon a constitutional question. *14th Oct., 1875.*

617. Your opinion is that the Governor, in issuing regulations that the lands should only be sold after survey and then by public auction, in that manner provided that all the Queen's subjects should have an equal right of competing for them, and so fulfilled a general principle of law?—I conceive that he did. But I may remark this: These regulations were published in the year 1871, and so far as I know there were regulations issued previously to them, which, if my doubt is correct, would not be practically repealed by the regulations of 1871.

618. These regulations, so far as they went, confirmed that general principle of law?—No doubt.

619. Under these regulations the agreement was illegal and invalid?—Under these regulations no doubt that agreement could not stand.

620. Assuming the Governor had power to issue new regulations for the disposal of these lands, then the transaction with Mr. Russell would have been a new transaction under fresh regulations?—Yes.

621. Then an arrangement not giving a fair chance to all the Queen's subjects of competing for public lands would have been a violation of a general well-known principle of law?—Probably it would be open to objection on that score. The Governor has power to make general regulations; but there is nothing in the Act to forbid him making special regulations with regard to particular blocks or particular districts.

622. But the Act does not say he may make these agreements secretly—that is, without due notice being given to the public?—There is nothing said about that at all.

623. That would give a strong probability that, regulations having been once made, the Governor cannot issue new ones without the consent of the Legislature?—That would be a subject for argument.

## APPENDIX.

### MR. IZARD'S OPINION.

I UNDERSTAND that by certain letters and telegrams an informal agreement has been come to between the Government and Mr. Thomas Russell for the sale to the latter of about 80,000 acres of land, constituting the Piako Swamp. The terms of this agreement, so far as they are material for the present purpose, are that Mr. Russell should make a road through the swamp according to plans agreed on; that he should pay for the land on the completion of the road, or within two years from the date of the agreement, at the rate of 5s. per acre; and that the Government should allow to Mr. Russell a rebate on his purchase money of such a sum, not exceeding 2s. 6d., as he may have expended in making the road. I understand my opinion to be requested on the point whether such an agreement is good within the provisions of "The New Zealand Settlements Act, 1863," and the Acts amending that Act.

In considering this question, I assume that the land comprising the swamp was declared a district within the Act before the 3rd day of December, 1867.

The way in which the law as to the power of selling land under the Act now stands is as follows:—Originally, by the 17th and 18th sections of "The New Zealand Settlements Act, 1863," the Governor of the Colony in Council had power, after setting aside sufficient land for persons entitled to compensation under contract, to cause towns to be surveyed and laid out, as also suburban and rural allotments. It was enacted that such lands should be sold, let, occupied, and disposed of subject to such regulations as the Governor in Council should from time to time prescribe. These sections were repealed by the Act of 1865, and power was given to the Governor to cause lands to be laid out for sale, and sold from time to time in such manner, for such consideration, in such allotments, whether town, suburban, rural, or otherwise, as he should think fit, and subject to such regulations as he, with the advice of his Executive Council, should from time to time prescribe in that behalf. There was a proviso that no land should be sold except for cash, nor at a less price than 10s. per acre. This proviso was repealed by the Act of 1866, and it was enacted that the land might be sold for such consideration or at such price, and whether for cash or otherwise, as the Governor should prescribe. The 19th section of the Act of 1865, moreover, provided that money to arise from the sale and disposal of such land shall be paid to the Colonial Treasurer, and shall be applied in such manner as the General Assembly shall from time to time direct. By the 6th section of the Act of 1866 all Orders, Proclamations, and regulations previously made under the authority of the New Zealand Settlements Acts are declared to have been and to be absolutely valid. Whether or not any regulations affecting the district containing the Piako Swamp had been made under the Acts prior to the Act of 1866 I cannot say. General regulations repealing all former regulations were, however, in May, 1871, made by the Governor in Council, which distinctly provided that no lands under the Act should be sold except by auction, and then only if they had been previously surveyed.

The agreement itself is of so informal a character that probably it could not be enforced on either side; but in considering the matter I have taken the agreement to be good, subject however to any objections that may be raised against it under the provisions of the Settlements Acts.

It appears, therefore, from a careful perusal of the Acts affecting the question, that (subject to a remark to be presently made) the Governor has power to make regulations for the sale of the land in question, and that the land may be sold either for cash or otherwise, and that moneys to arise from sales are to be paid into the Treasury subject to appropriation by the General Assembly. Under the regulations of May, 1871, it is clear that the land cannot be sold on the terms proposed. The land must be previously surveyed, and then can only be sold by auction.

It remains then to consider whether regulations can be issued under which the transaction can be carried out. The difficulty is that by the Act of 1865 all money must be paid into the Treasury and be

subject to appropriation by the General Assembly; and if the terms of the agreement are carried out there will be a refund to Mr. Russell of moneys which certainly have not been appropriated by the Assembly, and probably will never be paid into the Treasury. The Act of 1865 says that the land may be sold for such consideration, or at such price, and for cash or otherwise, as the Governor should prescribe. I think these words are large enough to embrace the case of land sold on a consideration which is partly cash and partly the formation of a road, and that the strict words of the Act will be satisfied by the payment into the Treasury of the money actually received. It is to be observed moreover that nowhere, either under the Act or by the regulations, has the Governor power to make roads through confiscated lands. It is true he has power to make roads under the Immigration and Public Works Act, but that can only be done out of loan.

In considering the question another difficulty has occurred to my mind. It relates to the power of the Governor to revoke his Proclamations. Strangely enough, though the Acts of 1863 and 1865 give the Governor full powers to make regulations affecting the sale of the land, they nowhere give him the power to revoke the regulations when made and to substitute fresh ones. And this is the more extraordinary because in the Act of 1865 power is expressly given to the Governor to make regulations affecting the Compensation Court and to annul the same. It is true he is authorized to make regulations for sales from time to time, but this power might be satisfied by making regulations additional but not antagonistic to those already made. I know of no instance where similar powers have been given to the Governor unaccompanied with a power of revoking. Regulations when made by the Governor have the force of law, and it may be contended that the Governor cannot of himself alter the law when so made. On this point I can express no opinion: I only throw out the suggestion for future consideration. This matter has only been before me for a few hours, and I could not, without further consideration, express any opinion on so important a point.

The Act of 1866 confirmed all regulations previously made by the Governor. I do not know whether before the passing of that Act he made regulations affecting the district comprising the Piako Swamp; but, assuming that he had, I should think it still more doubtful whether he could revoke regulations that had received the express sanction of the Legislature. On these constitutional points I do not enter, nor do I express any opinion upon them.

October 14th, 1875.

CHARLES B. IZARD.

#### MEMORANDUM by Major HEAPHY.

Wellington, 6th October, 1875.

THE blue tint on the "tracing of the swamp purchased by T. Russell" shows the actual swamp, in so far as I saw it in 1865-66. The white spaces do not necessarily indicate dry ground, but portions that I only saw from too great a distance to be able to judge of its character.

The diagonal blue lines show that portion that was more particularly affected by the Waikato freshets.

I said, yesterday, in my examination, that I had, in 1865, had surveyed for purposes of military settlement a series of sections along the western margin of the swamp, some of which the military authorities rejected as too wet. Reference, to-day, to maps in the General Crown Lands Office here reveals, I find, that a series of sections farther in the edge of the swamp have since been laid out, and variously disposed of, to the extent of 4,929 acres. This of course pushes back the boundary of Mr. Russell's purchase into the wetter part of the swamp.

There are other deep places, difficult of drainage (besides those indicated by the diagonal lines), on the eastern side of the swamp; but as the confiscation (black) line was not cut nor the sections on the Mangatete surveyed when I was last in the locality, I am unable to indicate their position on the tracing, which is somewhat deficient of information in that direction.

CHARLES HEAPHY.

The Chairman Select Committee of the House of Representatives on the  
Piako Swamp Sale.

#### Enclosure.

SCHEDULE of LAND SURVEYED in SWAMP since Military Sections were laid out by my direction in 1865.

No.	Area.		
	A.	R.	P.
301	1,102	0	0
302	1,103	0	0
Wood's	344	0	0
224	394	0	0
223	382	0	0
	<hr/>		
Mangatete	3,325	0	0
"	507	0	0
"	268	0	0
"	604	0	0
"	225	0	0
	<hr/>		
Total Area	4,929	0	0

The CHAIRMAN, Piako Swamp Committee, to Dr. NESBIT, R.M.

(Telegram.)

Wellington, 30th September, 1875.

I HAVE been directed by the Select Committee of the House of Representatives, appointed to inquire into the matter of the sale of land in the Piako-Waikato Swamp to Mr. Thomas Russell, to request the attendance of Mr. Edward O'Meara to give evidence before that Committee at as early a date as he can possibly give his attendance.

Will you have the goodness to inform Mr. O'Meara of this, and make what other arrangements may be necessary to insure the attendance of the witness as soon as possible.

JOHN BRYCE,  
Chairman.

Dr. NESBIT, R.M., to the CHAIRMAN, Piako Swamp Committee.

(Telegram.)

Gisborne, 1st October, 1875.

MESSAGE arrived after departure of steamer. Message delivered to Mr. O'Meara, who will communicate by telegram.

W. R. NESBIT, R.M.

Mr. O'MEARA to the CHAIRMAN, Piako Swamp Committee.

(Telegram.)

Gisborne, 1st October, 1875.

ENGAGED on large surveys. If required I must have funds for passage, and expenses; also, compensation for loss of time, and men's wages. Answer immediately.

EDWARD O'MEARA.

The CHAIRMAN, Piako Swamp Committee, to Mr. O'MEARA.

(Telegram.)

Wellington, 1st October, 1875.

I HAVE been directed by a Select Committee of the House of Representatives to require your immediate attendance to give evidence before it.

The Commissioner of Customs or his Agent at Gisborne or Napier will provide you with a passage to Wellington, and the usual scale of expenses will be allowed.

It is not competent for you to decline to comply with this summons. You must leave for Wellington by first opportunity. Your refusal or neglect to do so will be reported to the House.

JOHN BRYCE.

The CHAIRMAN, Piako Swamp Committee, to Mr. SINCLAIR.

(Telegram.)

Wellington, 12th October, 1875.

SEND immediately copy of application (if any) made by Dilworth or O'Meara, in or about 1870, for portion of Piako-Waikato Swamp. Send by telegraph full particulars—extent applied for, money deposited, and remarks.

JOHN BRYCE,  
Chairman, Piako Swamp Committee.

The CHAIRMAN, Piako Swamp Committee, to Mr. SINCLAIR.

(Telegram.)

Wellington, 13th October, 1875.

REFERRING to my telegram of yesterday, please inform me whether any applications have been received by you for portions of land in Piako-Waikato Swamp sold to Mr. Thomas Russell previous to such sale; and, if so, why such applications were not entertained, and reason for returning deposit.

JOHN BRYCE.

The CHAIRMAN, Piako Swamp Committee, to Mr. DILWORTH.

(Telegram.)

Wellington, 13th October, 1875.

As Chairman of Committee, House of Representatives, appointed to inquire into sale of Waikato-Piako Swamp, I request you will be good enough to inform me by wire whether application was made by you through Mr. O'Meara, surveyor, in or about 1870, for part of swamp; what acreage, amount deposit paid, and reason given for returning same to you. Will be obliged by immediate attention.

JOHN BRYCE.

Mr. SINCLAIR to the CHAIRMAN, Piako Swamp Committee.

(Telegram.)

Auckland, 13th October, 1875.

APPLICATION by O'Meara, 2,000 acres swamp land, dated 23rd September, 1869, price five shillings per acre, deposit of one-fifth paid at time of sale, in accordance with regulations then in force. Transferred to Hall and Dilworth, who purchased remainder, amounting to 6,850 acres, and paid balance accordingly. The land was surveyed under the direction of the Inspector of Surveys.

A. SINCLAIR.

Mr. SINCLAIR to the CHAIRMAN, Piako Swamp Committee.

(Telegram.)

Auckland, 13th October, 1875.

APPLICATION was received to purchase block of 800 acres, which was surveyed and gazetted, but withdrawn in consequence of sale to Russell.

A. SINCLAIR.

The CHAIRMAN, Piako Swamp Committee, to Mr. SINCLAIR.

(Telegram.)

Wellington, 13th October, 1875.

YOUR answer refers to purchase completed by Dilworth of land outside of Swamp. Committee want information as to application made and deposit paid by O'Meara for part of swamp land, afterwards agreed to be sold to Mr. Russell, and reason why sale was not completed and deposit returned. State date of return deposit, and of withdrawal 800 acres.

JOHN BRYCE.

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Mr. SINCLAIR to the CHAIRMAN, Piako Swamp Committee.

(Telegram.)

Auckland, 14th October, 1875.

I AM not aware that O'Meara ever applied for land within the block agreed to be sold to Russell. No deposit was ever paid by him for purchase of such land. Block of 800 acres was only gazetted; it was withdrawn from land list on the 23rd June, 1873, before day fixed for auction, as provided by 7th clause of Land Regulations. No deposit was ever paid.

A. SINCLAIR.

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Mr. DILWORTH to the CHAIRMAN, Piako Swamp Committee.

(Telegram.)

Auckland, 14th October, 1875.

SIR,—In reply to your telegram about swamp land, I beg to inform you that I never applied for any land in the Piako Swamp, and consequently never had any money returned to me.

J. DILWORTH.

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By Authority: GEORGE DIBSBURY, Government Printer, Wellington.