

1877.
NEW ZEALAND.

PRIVILEGE COMMITTEE.

(REPORT ON THE CASE OF H. H. LUSK, ESQ., MEMBER FOR FRANKLIN, TOGETHER WITH
MINUTES OF EVIDENCE AND APPENDICES.)

Brought up 5th October, 1877, and ordered to be printed.

THE Committee on Privilege in the case of Mr. Lusk have the honor to report that they have unanimously agreed to the following resolutions, and taken evidence, which is attached to this Report.

RESOLUTIONS.

1. That Mr. Lusk has received the sum of £50 from the City Corporation of Auckland for services rendered previous to and during the session of 1876, in connection with the Municipal Act and the Auckland Waterworks Act.
2. That certain clauses appear, from Mr. Lusk's evidence, to have been inserted in the Municipal Corporations Act at the instance of Mr. Lusk, after interviews with the Government on this subject, which clauses the Auckland City Council desired to have passed into law, and for drafting which clauses, Mr. Lusk was subsequently paid on the 16th of November, 1876, after the close of the session.

5th October, 1877.

WILLIAM FOX,
Chairman.

MINUTES OF EVIDENCE.

MONDAY, 1ST OCTOBER, 1877.

Mr. J. S. MACFARLANE, M.H.R., examined.

1. *The Chairman.*] Have you any statement to make in this matter?—Only that I have heard that Mr. Lusk has received payment of money in various ways, and this particular case was brought under my notice by the document which I have put in—that is, the extract from the Auckland City Council books—which was forwarded to me in a private letter, and which was sent as being sufficient evidence to allow of my bringing the matter before the House. Last night I received another telegram to this effect, "Have you the items of Lusk's city charges, or shall I send a copy?" I now offer these two telegrams to be sent: one to E. Carr, a Burgess of Auckland, who sent me the telegram of yesterday which I have alluded to, and the other to the Town Clerk or Mayor of Auckland.

2. Is Carr the party who sent you the extract?—No.

3. Your present charge rests upon the document?—Entirely.

4. Cannot you say by whom it was sent?—I could not well do that, or give up the letter, because it is quite a private letter, and contains many other things as well as this. When I got such a letter I could do nothing else than bring the matter before the House.

WEDNESDAY, 3RD OCTOBER, 1877.

Mr. H. H. LUSK examined.

Mr. Lusk made the following statement: Some months or so before the House assembled last year, I was waited upon at my private office in Auckland by the Mayor of that city, Mr. Tonks. He informed me that the City Council was very desirous to have certain amendments made in the Municipal Corporations Act, in respect to Auckland. He said there were a number of amendments desired to be made, and he had a great quantity of papers with him containing suggestions by different Committees of the Council, and he wished to put them in my hands in order that I might embody them in a Bill. I said such a work would take up a large amount of time, and that I could not undertake to do it, except as a professional matter. He said he came to me as a professional man, and he wished me to do this work. I undertook to do it, and he asked what would be

the expenses. I said he might take it for granted that it would cost about £50. The Council he said, would not grudge £50 as long as that amount was not exceeded. I then said that for £50 I would do the work, and take the risk of what work there might be in the matter. He then placed a large number of documents in my hands, which I went through with very great care, and compared the suggestions contained in them with the existing laws; and I subsequently had a conversation with him on the matter. Whether the Town Clerk was present or not I am not aware. At any rate, we went over the whole matter, and he pointed out what the wishes of the Council were, and I was fully informed as to what work was required to be done. Mr. Tonks then told me that he had been in communication with Sir Julius Vogel, the Premier, on this subject, and that Sir Julius Vogel had spoken of a probability of the Government bringing in a measure to amend the Municipal Corporations Act generally. Therefore, it might be the case that that Act of the Government might contain such provisions as would do away with the necessity for a Bill specially to meet the wants of Auckland. He instructed me to see Sir Julius Vogel when I came to Wellington, on behalf of the Corporation, and to find out whether Sir Julius Vogel intended that such a Bill should really be brought in, and if that Bill would remove the necessity of introducing the Bill which I was to prepare for the Council. In the meantime, and before I left Auckland, I had drafted a Bill which I thought would meet the wishes of the City Council, and which, I may say at once, I intended to bring in and endeavour to get passed, for I was not aware at that time that there was any reason why I should not do so. I may mention that the Mayor had also told me that it was the intention of the Corporation to apply to Parliament for power to borrow £25,000 more for waterworks purposes. He did not ask me to prepare the Bill for the purpose, but said that such a Bill would be prepared, and that he would feel obliged if I would undertake to look after it in the House. I said I would do all in my power to assist the Corporation. On the 15th of June I got to Wellington; that was the day on which the Assembly was formally opened. I saw Sir Julius Vogel, and I arranged with him a meeting to go into the whole question of the Municipal Corporations Bill the following morning. We had a meeting, and he then told me that it was the intention of the Government to bring in a Bill, and he should be very happy to see how far it might be made to meet the special wants of the City of Auckland. It was then arranged that he should get a copy of the draft from the Solicitor-General, or whoever the draftsman of the Bill was, and that we should go through the Bill so as to compare it with mine and see how far the two coincided. A few days later another meeting was fixed, and we went at very great length through the two Bills, and we found that some of the provisions of my Bill were included in the Government Bill, while some others were not so included. As to the latter, he said he would consider them. He did so, and after a few days he informed me that some of the provisions not included in the Government Bill were such as they would desire to see in the Bill, but there were others to which they had objections. However, the result was that the provisions asked for by the City Council of Auckland were for the most part agreed to be put into the Bill. The Bill was brought in, and, as honorable members are aware, it passed through the House; but with its passage I had no more to do than any other member of the House. Now, with reference to the other matter, I may say that after I had been down here for a few days, having ascertained what the Standing Orders provided, and what was supposed to be the Parliamentary practice, I telegraphed to the Mayor of Auckland to say that it was entirely impossible for me to act as agent for the Council in reference to the Waterworks Bill; it would not be a correct thing for me to do, and I could not do it; but that if they wished to have the interests of the Council looked after, an agent must be sent down to do it. Three weeks after, or about that time, Mr. Stevenson was sent down from Auckland to act as Parliamentary agent on behalf of the Council. I saw him and explained how the matter stood, and he brought to me a Bill which had been drafted by himself for the purpose of giving effect to the wishes of the Council in respect to the borrowing of £25,000. I believe the Bill was in his own handwriting, although I am not certain of that, but I know he drafted the Bill. He placed that Bill in my hands, and I on one or two occasions saw Sir Julius Vogel and discussed the merits of the security offered by the City Council. Sir Julius Vogel stated that the Government were perfectly willing that it should be passed. The Bill was brought in by myself and passed by both Houses. I had nothing to do with the other House I may say. I believe that Mr. Stevenson obtained some member to take charge of it in that branch of the Legislature. With regard to the account (Appendix C) which has been read before the Committee, dated the 16th October, I may say that must have been sent in at the time I was in Wellington. The letter referred to is also dated October, and must have been sent while I was in Wellington. The circumstances in connection with this account were something as follows: I presume Mr. Beale, who is my partner in Auckland, was not aware of the peculiar arrangement made between Mr. Tonks and myself that a certain lump sum was to be paid for the services agreed to be rendered by me in drawing out the Bill. He supposed that there was no arrangement, and sent in a bill charging the ordinary price. As to the letter, I never heard of that before I got back to Auckland, although it was signed by Mr. Beale for me. When I returned from the meeting of the Assembly in November, the Mayor met me one day and said, "With regard to the bill sent in, it was not in accordance with the arrangements we made. You have charged a larger sum than was agreed upon." I said, "If this is so it is owing to a misunderstanding. I agreed to do the work for £50, and £50 only would be expected." He said, "Very well, there will be an end of it; I will pass the matter through the Finance Committee, and it will be paid." The £50 accordingly, as appears from this entry, was passed through the Finance Committee, and it was paid to me. I was not aware, until this moment, that any charge was made on that account in respect to the Waterworks Bill, and it is clearly a mistake, because I did not draft it, and could not possibly have charged for it—the thing is absurd. I could not have made a charge for work I did not do; that clearly was a misunderstanding on the part of Mr. Beale. He supposed that I was acting for the City Council in regard to both Bills. That was a mistaken impression, because I had nothing whatever to do with the Waterworks Bill, excepting that it was introduced by me. I may say that I telegraphed to Mr. Tonks, late Mayor of Auckland, yesterday, asking for the facts of the case. This is the telegram I sent him, and this is the reply he sent to me. I will read them, and put them in. (Appendix D.)

5. *Hon. Mr. Gisborne.*] I understand, Mr. Lusk, that you made your arrangements with the Mayor of Auckland before the session began, and that it was to this effect: that £50 should be given you for drafting an amending Bill to the Municipal Act?—Yes.

6. I see that there is among these telegrams a copy of a letter (Appendix C) in your name. It is a kind of an account, which gives the items of the services you rendered in connection with this Municipal Bill and the Waterworks Bill. This was sent by Mr. Beale. How is it that Mr. Beale put the items in that form; how did he come to be aware of the particular services you rendered, seeing that you were in Wellington?—Mr. Beale was generally aware of what I was doing, because I was in the habit of writing to him, and informing him of various business matters which I had to transact on account of firms in Auckland.

7. Did he make out that account with or without your knowledge and authority?—Quite; except the implied authority of one partner to make out an account on behalf of another partner. No express authority was given.

8. When you got back to Auckland, did you inform the Mayor that the original arrangement was to be reverted to—that you were to receive £50 for having drafted the Bill?—I have stated as far as I can recollect what took place between the Mayor and myself. I would not like to say that anything was said as to reverting to anything. I said I supposed that the arrangements we made would be stood by.

9. Were you aware of any rule or Standing Order against your promoting a Bill in consideration of which you had received any pecuniary reward?—I was not aware of the rule when I came to Wellington. I had never seen or heard of the rule.

10. *Hon. Mr. Reynolds.*] I see this telegram contains a copy of a receipt given by you. It says, "To expenses at Wellington during the session *re* Amendment Acts," and is signed "H. H. Lusk." Is that correct?—I have no remembrance of the contents of the receipt, but it is exceedingly likely that the receipt was in those terms. I believe a cheque was sent to me by the Corporation, together with a receipt, which I signed. I did certainly sign a receipt for the £50, but what the terms of the receipt were I have not the least idea.

11. *Hon. Mr. Gisborne.*] Was it a separate receipt, or were there other items included in it?—I should think it was a separate receipt.

12. *Hon. Mr. Stafford.*] You have said that you were not aware that it was contrary to the Standing Orders for a member to receive any reward for promoting a Bill in the House. When did you become aware that it was contrary to the Standing Orders? Was it during the session?—Though I was not acquainted with the Standing Orders, I was aware, from my own sense of propriety, that I was not at liberty to receive money for promoting a Bill in the House for a consideration. If such is the meaning of the question, that is my answer. I did not promote any Bill for fee or reward. It was only the other day, when this question was raised, that I for the first time read the Standing Order, and it dawned upon my mind that it was possible that I might have come within the strict interpretation of the Standing Order, although I did not believe that I had. If I have done so, it was from entire ignorance, because I did not know there was such a rule.

13. I understood from your statement that you became aware of something of that sort in respect to the Waterworks Bill during the session, and telegraphed up that Mr. Stevenson might come down and take charge of the Bill, and do what was necessary in respect to it?—I did not become aware of that. What I became aware of was that it was quite improper, and a thing which I would not in anywise do, to look after the Bill in the sense in which a Parliamentary agent would look after it—to speak to this member and that member to induce them (by proper means, of course) to look at the Bill in the light in which those who promoted it looked at it. I should always decline to take such a part in reference to a Bill, and in this case I declined to undertake any responsibility more than that which attaches to every member who assists in carrying a Bill through the House.

14. You have said that Mr. Beale sent in that account without any express authority from you to do so?—Yes.

15. Why would he come to the conclusion that you had drafted the Bill, you being in Wellington and he in Auckland, if he had no information from you?—I can only imagine that he fancied that as I had been acting for the City Council in regard to the Municipal Corporations Act Amendment Bill, and as I had introduced the other Bill into the House, I had drafted the other Bill also. That is the only way in which I can account for it. No doubt I mentioned to him in my letters that I was carrying this Bill through the House, and he in his ignorance of Parliamentary practice—an ignorance which to a certain extent I shared in—supposed I had drafted the Bill and was to be paid for it. Had I drafted the Bill for the Council, I may say at once, with the knowledge I then had, I should not have hesitated to charge for it.

16. *The Chairman.*] You arranged that there was to be a lump sum paid you?—Yes.

17. Then how do you account for the fact of Mr. Beale having broken that up by charging particular items of work on particular days?—Because he was not aware of the special arrangement which had been made.

18. But how could he have known that you advised on the 16th, drafted twenty-five clauses on the 17th, and twenty-five more on some other day. How did he arrive at these particular facts?—It is difficult to understand, but I presume he must have gained his information from my letters. I used to inform him of everything I did in connection with professional matters.

19. But about the dates?—Curiously enough it happens that the dates given are incorrect. For instance, it is stated I drafted this Bill in Wellington. As a matter of fact I drafted it in Auckland and brought it down to Wellington. It was a mistake to suppose that. I must have informed him in one of my letters that Sir Julius Vogel had asked me to give him a draft of the Bill proposed by the Auckland City Council, and he thereupon seems to have taken it for granted that I drafted the Bill in Wellington.

20. There are four or five specified transactions, and the date is attached to each transaction?—I have observed that. It must have been gathered from my letters, although I have no hesitation in saying that the dates given are incorrect.

21. Then he made up the bill with the aid of an almanac and his imagination?—Well, a great many lawyers do make up their bills by means of their diaries. I imagine that bills of such a character are not supposed to be absolutely correct as to the date on which each service is performed. In many cases bills are made out without any dates.

22. If there had been no dates it would not have surprised me; but it appears inconsistent with your statement that your partner should attach specific dates to specific items?—I am not in a position to say what influenced the mind of Mr. Beale in doing that, but I may say I telegraphed to him to give me his idea of the facts of the case. He replied to me by telegraph, saying the whole of the work had been done before the meeting of the Assembly, so that his remembrance of the matter seems to me very defective indeed.

23. *Hon. Mr. Gisborne.*] Would not the books in your office show?—I do not know that the services rendered to the Council are entered in my books. I believe they are put down in a diary, and our bills are made out from the diary. I kept no diary when I was in Wellington, but probably my letters to Auckland were used as a diary.

24. Were these letters copied into the diary?—I am not aware, but I will telegraph and find out. I have no doubt that the bills rendered will be copied into the letter-book.

25. *Hon. Mr. Reynolds.*] There is an item, "drawing thirty-five clauses to give effect to various objects of councils, to be embodied in the Government measure." How could he know you had to draft six new clauses to be embodied in the Government measure?—He must have been told of it.

26. Then there is "long conference with the Premier upon the clauses as drafted." Those clauses must have been drafted in Wellington?—That is a mistake. They may have been altered, but they were not drafted in Wellington. I do not deny that the clauses were drafted by me, or that I believed it was part of my duty to get the clauses adopted by the Government if possible; but I did not draft them in Wellington so far as my memory serves me.

27. *Hon. Mr. Stafford.*] You have stated that upon Mr. Tonks remonstrating with you against the charge of £66 3s., as being in excess of the agreement made between you and him, you were to receive £50, and you at once consented to a reduction to that amount. One item in the account, however, has reference to the Waterworks Act, which you did not claim in respect of, so that the reduction was but £5?—Yes.

28. Could you produce so much of the letters between yourself and your partner as refers to this matter?—I should have no objection whatever to do so, but I have no reason to say or know whether the letters are in existence or not.

29. Did you not keep a copy of the letters?—Not of letters between ourselves.

30. Not when you were communicating on matters of business from places at a distance?—No; not unless there was something very special. The copying of ordinary letters would involve a large amount of labour. However, I will do my best to get the letters, if they are in existence.

31. *Sir G. Grey.*] Did you advise that Mr. Stevenson should be sent down to Wellington?—I did.

32. By name?—I do not think I said anything about Mr. Stevenson, but merely said an agent should be sent down. I may have said so, but I do not recollect.

33. Are you a member of the Auckland Improvement Commission?—No.

34. Is Mr. Stevenson secretary to that body?—He is.

35. Do you know who gave him leave of absence to come to Wellington?—That body itself, I presume.

36. Do you know whether he was paid as Secretary to the Commission during the time he was here in Wellington?—I have no reason to doubt that he was, but I do not know.

37. In that case he would be drawing pay in two capacities?—No doubt.

38. *The Chairman.*] I find here an item of ten guineas for advising Mr. Stevenson. When he arrived here, did you advise him as to how the Bill should be got through the House?—If any point arose which created a difficulty in Mr. Stevenson's mind—I mean a legal point—he would come to me for advice. I remember particularly that a question arose as to the position the Auckland ratepayers would occupy under the Bill as to rating. He came to me and asked my opinion as to what the effect of a certain clause dealing with rating would be. I looked up the whole matter, and did advise him as to what course to take in order to meet what I understood to be his instructions from the Corporation. I understood he had instructions from the Corporation to get but one rate levied, and I told him how to proceed in order to achieve his object. Whether he succeeded I do not know. I advised him, however, at great trouble and great length. No doubt I told Mr. Beale of that, and for that reason he put it down in the account, although I did that in the regular way.

39. Is it not a legitimate supposition, that before Mr. Stevenson arrived here you were acting as agent?—Most decidedly not. In no sense did I act as agent.

40. Were you not when he arrived acting as joint agents?—No, I did not act as agent. I only advised Mr. Stevenson on purely legal points as a counsel would advise. And in connection with this, I may say, that position may explain why the accounts were sent in in my name instead of that of the firm. Mr. Beale regarded me as acting as counsel. I understood that Mr. Stevenson was instructed when he got into a legal difficulty to come to me for advice.

41. From whom did you understand that?—From himself, I believe.

42. *Hon. Mr. Stafford.*] Did you advise Mr. Stevenson in the same manner as regards the Waterworks Bill?—No, there was no advice required in that case. There was no alteration made in it. The Bill went through the House *verbatim* as it was introduced.

43. In the receipt you gave, the "Acts" are referred to in the plural number?—So I have heard. I did not observe that at the time I gave the receipt.

44. *Hon. Mr. Gisborne.*] Is it customary for one partner to sign for the other?—No. I do not know for what reason the account and letter were made out in my name, except that Mr. Beale regarded me as acting in the capacity of counsel, and not in the capacity of solicitor.

45. It was a partnership transaction?—Quite so, as far as the profits were concerned.

46. *Hon. Mr. Stafford.*] Was the money placed to the account of the partnership?—Yes.

47. *Hon. Mr. Reynolds.*] You are aware that the receipt was given in the name of H. H. Lusk, and not in the name of "Lusk and Beale"?—Yes.

48. *Mr. Curtis.*] This receipt appears to be made out in your office. It does not appear to be a receipt presented to you by the Council?—Looking at it I say manifestly it was not made out in my office; it is described as a voucher.

49. I should presume that it is marked "voucher" in the sense that it is produced to the Auditors?—That may be so, but I am confident it was made out by the City Council, because it is not the form in which a receipt would be made out in my office; and I believe the receipt was sent to me, together with a cheque for £50, and that I signed the receipt and handed it back to the messenger. I may say further, from recollection, that I believe the receipt was partly printed and partly filled up in writing, and was on yellow or orange-coloured paper.

50. *Hon. Mr. Gisborne.*] How do you account for Mr. Beale saying that he could not enter into details without considerably swelling the amount. I suppose he said that because he considered that the usual result; or because he had not much information himself?—I have no doubt that he spoke from general knowledge. If he went into details he must have communicated with me, because he could not have made the account out in detail himself. Possibly he used that excuse as a reason why details should not be given.

THURSDAY, 4TH OCTOBER, 1877.

51. *Mr. Lusk:* I wish to state with regard to Mr. Macfarlane's letter, which has just been read, that I was asked by Captain Morris's solicitors to undertake the charge of that gentleman's case, which was a petition for a seat in the House, and brought against the sitting member, Captain Read. I asked one or two people in Auckland whether in their opinion it was improper for me to act or take a brief. They seemed to think not; but when I came down here (to Wellington) I made some further inquiry. I went to Major Campbell and asked him for his opinion on the subject as to whether I was or was not at liberty to act. His reply was to the effect that it was not consistent with the Standing Orders of the House, and that if I acted I might place myself in a false position. I thereupon telegraphed to Messrs. Wilson and Dufaur, the solicitors for Captain Morris, informing them that I could not undertake to do the work, and requesting them to tell me what to do with the papers that had been handed over to me. They referred me to Captain Morris, and he arranged with a solicitor in Wellington—Mr. Shaw, I think—to whom I handed the brief and the papers that were in my possession. I had nothing further to do in the matter. The question of fee or reward has not been mentioned from that day to this. It was entirely upon Major Campbell's opinion that I could not act as Parliamentary agent for Captain Morris upon an election petition that I refused to go further. I did not peruse the Standing Orders, but simply took his word for it. But I did not consider, and do not consider that what I undertook to do for the Auckland City Council in respect to these bills was in any way upon the same footing as acting as Parliamentary agent for Captain Morris.

52. *Hon. Mr. Reynolds.*] How long was it after you arrived here that your attention was called to the fact that you could not act for Captain Morris?—Within a few days. I am not certain of the day. But I may say my attention was not called to the matter at all. I myself made inquiries to satisfy myself, and not in consequence of anything said to me on the subject in the first instance.

53. And what steps did you take in order to ascertain your position?—I went to Major Campbell when I came down here. I did not go to my books, because being almost ignorant on the subject, I thought I should only puzzle myself if I went into it in that manner. I knew the Clerk of Parliament would be well up in this sort of thing, and therefore I went to him and at once accepted his statement.

54. Did you ever satisfy yourself that he had given you proper advice by reading the Standing Orders?—No; I did not. I took his word at once, and as I saw there was a doubt, threw up all connection with the case, and never thought of the matter afterwards.

55. *Hon. Mr. Gisborne.*] He did not call your attention to any of the Standing Orders?—No; he merely said it was contrary to the Standing Orders, and contrary to the practice of Parliament.

56. *The Chairman.*] Did it never occur to you that as it had appeared it was improper for you to act professionally in one matter before Parliament, that it was equally improper to act in another matter of something of the same class?—No doubt it would have done; but in reference to the Auckland Bills I did not consider that I was acting professionally in regard to any matter before Parliament. But I may say at once that it might have occurred to me had I appreciated the force of the 384th Standing Order. It would have raised a question, I think, had I been aware of that Standing Order. But my view of the case was this: That I was not acting in what I did in regard to the Municipal Corporations Act as a matter before the Parliament. I would submit to the Committee that it could not in any way come within either the 383rd or 384th Standing Order, from the fact that the Act never came before Parliament.

57. Do you not consider that your interviews with the Government, and the endeavours you made to get the substance of your Act incorporated in the Government measure, was in the nature and character of promoting the passing of those clauses?—The Government did not bring in these clauses. It was promoting a Bill, perhaps; but the Bill never came before Parliament, and I do not think that comes within the meaning of the Standing Orders.

58. *Hon. Mr. Stafford.*] I understood you to say that some of the clauses which you had originally drafted were accepted by the Government?—The substance was accepted in some respects, but I do not think any of the clauses in the Bill are in the same terms as those which I drafted. In fact, I am positive of that. If the substance is the same the wording is quite different.

59. Did you read the clauses of the Bill that you had prepared with the Solicitor-General after

you had seen Sir Julius Vogel?—I cannot say. I saw the Solicitor-General once, but whether we read the Bill through or only discussed part of it I do not know. I cannot tax my memory.

60. Were you not satisfied that substantially the Bill which the Government introduced did, in some respects at least, do what the Bill you had drafted would have done had it been introduced and passed?—Yes; in very many respects it answered the City Council's views, though in some respects it did not.

61. *Mr. Curtis.*] I should like to draw your attention to this item:—"June 22. Long conference with the Premier upon the clauses drafted, when he agreed to accept most of them, subject to revision by the Government Draftsman and conference with the Solicitor-General, £5 5s"?—I may say at once I am not responsible for the wording of that document in any way.

62. Were the clauses put in at your suggestion?—The Government agreed to certain clauses which the City Council wished for.

63. And which you suggested?—I cannot say that the clauses appeared as I drafted them.

64. *The Chairman.*] And you received fees for that?—I think my evidence shows exactly the contrary. I have distinctly stated that the bargain was made to draft a Bill for a lump sum, which bargain was carried out.

65. *Hon. Mr. Gisborne.*] Your partner was unaware of that bargain?—Yes.

66. And his attempt to furnish items, was I suppose, simply to make the account more palatable or more clear?—Yes; but he made it considerably more than the amount. He clearly was not aware I was bound to a specific sum.

67. Some of your suggestions were adopted in the Government Bill?—My impression is that they were.

68. Did you waive your Bill under express directions from the City Council, or in the exercise of your own discretion, after you had interviewed Sir Julius Vogel?—Under the direction of the Mayor. I telegraphed to him what had been done, and he said of course if the Government would do what the Council wanted, it would be so much the better. He telegraphed to that effect or wrote; most probably he telegraphed.

FRIDAY, 5TH OCTOBER, 1877.

Mr. LUSK's examination continued.

70. *Sir George Grey.*] I find from the papers that on the 29th September you addressed your constituents up North?—Yes.

71. And that on the 9th October you left Auckland for Wellington again?—My impression is that I left Auckland on the 9th October, but I am not certain. However, I was in Auckland for a few days towards the latter end of September or the beginning of October.

72. This account of yours went in on the 4th October?—No; on the 16th.

73. It is dated on the 4th, and was sent in on the 16th?—That appears to be the case.

74. You must have been in Auckland then when the bill was made out?—I am not in a position to say. I can only say, as I have said before, that I was not aware of such an account being sent in until I met the Mayor. I am certain I never saw it.

75. You were in Auckland at the beginning of October, but never saw the account?—No; I may say it will be an unusual thing for me to see it. It is seldom that I see accounts sent out of the office.

76. You did not furnish details to Mr. Beale?—No; my memory absolutely serves me in that respect; but, irrespective of that, I am certain that I could not have done so, because the details are incorrect.

77. *The Chairman.*] Was it not rather singular that, if you were in Auckland at or about the date this account was sent in, your partner should send in an account giving details without consulting you, although you were in Auckland?—I do not think it is to be regarded as remarkable under the circumstances, which were these: I went to Auckland owing to very bad health. The Assembly sittings here had completely knocked me up. I was almost blind, and when I went to Auckland I was forbidden to use my eyes, and I was not to transact any business. I was simply in Auckland in search of health. It is true I addressed my constituents at a meeting, but I did not do any business. The business of our firm was carried on almost entirely without my aid, as if I were still in Wellington.

78. Did you see your partner when you were there?—Yes, more than once; but I did not see him in reference to this matter, or hear anything from him in respect to it.

79. He did not consult you, although you were at that time in Auckland—although you were in Auckland at the very time this account was sent in?—Well, I do not know for a fact that it was. It is dated the 4th October, but I do not know if it was made out on that date. It was not sent in until the 16th. But as there is a date fixed to it I am willing to accept that. Nothing was said to me about the account.

80. *Hon. Mr. Reynolds.*] Did you have a conversation with your partner about it at that time?—No. If I had, I must have told him that a bargain was made for a certain amount. I could not have allowed him to send in that account.

81. *Sir George Grey.*] I observe that the account is made out on the 4th October?—I understand that to be the case.

82. It was not sent until the 16th October?—So I gather.

83. You still believe that the items in the account must have come from Mr. Beale?—It must have been compiled by him. He did not get the information from me though.

84. *Mr. Curtis.*] You have no doubt that you were in Auckland on the 4th October?—I was in the Province of Auckland—either in town or country; I do not know which.

85. *Hon. Mr. Stafford.*] Mr. Beale not having been present in Wellington, and knowing

nothing of your interviews with Sir Julius Vogel, of his own knowledge, how could he have gained the information contained in this account unless by means of direct communications made to him by yourself?—I think it will be found by the evidence I have already given that I believe—I may go further, and say I am certain—he could only have arrived at these details by the letters which I wrote to him every mail. I was in the habit of informing him of everything that had been done by me in professional matters.

86. And yet in giving the details he has committed a series of blunders, I understand you to say?—I do not think I have gone so far as that. In two respects certainly he is wrong—viz., in assuming that I was to be paid anything in respect of the Waterworks Bill. That is absolutely wrong, because I did not draft that Bill, and could charge nothing in respect of it. The account is also erroneous in stating that certain clauses of the other Act were drafted in Wellington. I have already stated that the Bill was drafted before I left Auckland. Still the mistake on this point is easily accounted for, as I have said I was in the habit of writing to Mr. Beale, and giving full particulars of what was being done. I used, I believe, to deal with all matters of this kind *seriatim* under various heads. Thus, I might have written, “Municipal Corporations Act: Met Sir Julius Vogel and the Solicitor-General, and had a long conference with them on the question whether it was or was not necessary to bring in my Bill. Sir Julius Vogel invited me to give him a draft of the provisions proposed by the Auckland Council, which I agreed to do.” Mr. Beale would probably consider that I drafted the clause specially, and would charge the item, not knowing there had been a special bargain.

87. Then is it not remarkable that Mr. Beale should have entirely lost recollection of going through such a process?—I do not know that he has.

88. He says so. He says he has no recollection of the matter, but supposes the information must have been got from you?—Yes, he must have got it from my letters.

89. But from you personally?—If he got the information from my letters I suppose he would get it from me.

90. Is it not extraordinary that it should have passed out of his mind altogether?—No; I should think it the most natural thing in the world.

91. *Hon. Mr. Gisborne.*] Do you recollect having any conversation with him when you were in Auckland?—No; it was a matter of surprise that the account had been sent in when I saw it.

92. *The Chairman.*] Had these Acts passed when you were in Auckland?—The Waterworks Act had passed.

93. Was it not remarkable that an account should be sent in for unfinished work?—It was not for unfinished work. The work was done when the Act was drafted, or at any rate, when I handed it to Sir Julius Vogel. Most unquestionably, I should have claimed the money from that day.

94. *Hon. Mr. Stafford.*] Did you make any attempt, when the Municipal Corporations Bill was before the House, to get those clauses inserted which the City Council wished to have passed into law, and which you said the Government did not accept, notwithstanding the interviews you had with them?—No, I think not. I did, however, endeavour to make certain emendations in the Bill, and it is quite probable they were in the direction of assimilating the Bill to that which I had drafted.

95. *Hon. Mr. Gisborne.*] I see, by the “Proceedings” that, when the Bill was in Committee, you voted several times, and once proposed a new clause?—I certainly sat and voted on the Bill. The only thing I remember doing, in the way of moving a new clause, was a reference to the extension of the term of lease from twenty years to sixty-six years, which was carried.

96. *Sir G. Grey.*] Are you aware that, in doing that, you were only proposing to carry out what had been generally the rule in Auckland with regard to endowments?—Yes; that was the ground on which I moved the clause, because I knew that such a provision had worked exceedingly well.

97. *The Chairman.*] You became aware, apparently from your evidence, after you had been in Wellington some time, that it would not be legitimate for you to promote a Bill in the House for professional remuneration?—Yes.

98. On learning that, you telegraphed to Auckland suggesting to the Council that they should send down Mr. Stevenson?—Yes; an agent.

99. Are we to understand that that implies that you found yourself in a difficulty in being in the position of promoting a Bill for which you were to receive remuneration?—If I have conveyed that impression I have done wrong. Before I left Auckland a conversation took place between myself and the Mayor, as to the possibility of it being necessary to send some one down to look after the interests of the Council in respect to the Waterworks Bill, and also the Municipal Corporations Bill; and I was to ascertain when I got down here whether there would be any difficulty in my doing all that was required to be done in respect to these Bills. We thought there might be a difficulty in getting the Bills through the Upper House, because, of course, a member of the House of Representatives could exercise no influence on that body. That was the fear the Mayor expressed to me, and my telegram to him was to state that I thought it would be better to send an agent down. I found on my arrival here, and I have no doubt the conversation with Major Campbell had something to do with it, that the practice of any member having anything to do with a matter, except purely as a member, was discouraged.

100. *The Chairman.*] The point to which I wish to draw your attention is this: You discovered that a certain course would not be compatible with your duties as a member of the House, and therefore you suggested that an agent should be sent down. Now the only difficulty in a member promoting a Bill through the House is when he is to receive remuneration for it. Any member has a perfect right to promote any Bill provided he does it solely in the public interest. For instance, I am promoting the Wanganui Harbour Bill. I have introduced it, had it read a second time this morning. I have been to the Waste Lands Committee to get it passed through, and I shall promote it in all stages through the House, and then endeavour to get a member to take charge of it in the Legislative Council. There is no impropriety, or indecency, or breach of the Standing Orders in all that. It appears you must have been in a difficulty owing to your expecting to receive remuneration on account of

the Bills?—It is impossible for me to say now that you are not correct. It may have been that I was expecting to have to draft the Waterworks Bill. I am certain of this, however, that Mr. Stevenson drafted the Bill, and that I have never asked for, nor would have taken, money in respect to it. Whether it was in my name that I might have to draft the Bill, I do not know. After a lapse of fifteen months I would not undertake to say. In any case I do not think it is consistent with dignity for a member to go “lobbying” members in respect to a Bill like this, and that is why I object to do it in this case.

101. *The Chairman.*] It is done every day.—No doubt; but I should not have liked to do it, more particularly seeing that I am not member for Auckland.

102. Members are in the habit of doing it. Mr. Travers brings in a Bill to amend the Corporations Act to suit the wishes of Wellington; I bring in a Bill on behalf of Wanganui, and so on.—In those cases the member represented the constituency affected.

103. *Hon. Mr. Stafford.*] When Mr. Stevenson drafted this Bill, did you advise him on points of construction?—No; it was not necessary. It was simply a Bill of two clauses, and of a very simple character.

104. In your previous evidence you speak of advice given to Mr. Stevenson?—Yes; that was in respect of the Municipal Corporations Act, and, as I explained fully yesterday, was in reference to the effect certain clauses would have on the position of the ratepayers of Auckland.

105. You charged for that?—No.

106. It is an item in the account?—I admit that; but I am particularly anxious in this whole case to disown all responsibility for the items in that account, and I think, if my evidence is worth anything, it unmistakably shows that I never authorized those items to be set down, and am not in any way responsible for them.

107. You appear to have had various conferences with the Government in order to remove objections to the passing of the Waterworks Act?—The Government never had any objection to its passage. Mr. Stevenson and I simply waited upon Sir Julius Vogel and asked the question, and he said he saw no objection to it. Had I seen the account, certainly I should have struck out all those charges, more especially those relating to the Waterworks Bill, with which I had nothing to do. I undertook to take charge of that Bill, but it was outside all business transactions.

Major CAMPBELL, Clerk of Parliaments, examined.

108. *Hon. Mr. Reynolds.*] This is a letter, Major Campbell, from Mr. Macfarlane, in which he states that Mr. Lusk was engaged to act for Captain Morris in his contest with Captain Read for a seat in the House for the East Coast, and that a few days afterwards it was discovered that Mr. Lusk could not properly act as Parliamentary agent, whereupon Mr. Lusk had to return to Captain Morris the papers which had been given him. Then he says that you were consulted by Mr. Lusk on the occasion referred to. Can you give the Committee any information about your being consulted?—I shall best reply to that I think by producing another letter. This letter [produced and read] (Appendix A) was sent to the Speaker by Mr. Lusk, and upon its receipt I wrote the following memorandum for the Speaker which was attached to the letter [Memorandum read.] (Appendix B.) The Speaker requested me to see Mr. Lusk and point out to him the passage from “May” which I had referred to in the memorandum. Mr. Lusk came to my office, and I did point out the passage to him, and he said he saw, after reading it, that to act as agent for Captain Morris would be incompatible with his position, and he should not do so. I understood that he employed some other practitioner in Wellington.

109. Did you show him the Standing Order?—No. I do not think that the Standing Order applies to such a case as that. It refers to “business before Parliament,” and I take it that does not include election petitions. The passage I cited from “May” dealt with the point at issue directly, and I thought it more applicable.

110. *The Chairman.*] You had no conversation with him in reference to promoting Bills?—I did not know of that matter at all.

111. *Hon. Mr. Stafford.*] If Mr. Lusk had consulted you in reference to the promotion of Bills, would you have referred him to that or to any other passage from “May”?—I should have referred him to the Standing Order.

112. Do you recollect calling his attention generally to the Standing Orders?—No; I did not do so.

APPENDICES.

APPENDIX A.

Wellington, 21st June, 1876.

To the Hon. the Speaker of the House of Representatives.

I HAVE the honor to inform you that I have received from Mr. George Bentham Morris, of Tauranga (by telegraph), an authority to act for him in all matters connected with his petition against the return of George E. Read as member for the Electoral District of East Coast in the House of Representatives, and to request that, in the absence of Captain Morris, you will recognize me as his representative in the above matter.

I have, &c.,

HUGH H. LUSK.

APPENDIX B.

MEMORANDUM FOR MR. SPEAKER.

IN reference to a letter addressed to you by Mr. Lusk, informing you of his having received authority from Captain Morris to act for him in all matters connected with his petition against the return of

G. E. Read, and requesting that you might recognize him as the representative of Captain Morris in that matter, I beg to call your attention to May's "Parliamentary Practice," edition 1873, p.p. 377-78.

24th June, 1876.

F. E. CAMPBELL.

APPENDIX C.

TELEGRAM.

To the Town Clerk, Auckland.

Wellington, 2nd October, 1877.

TELEGRAPH a full statement of the circumstances under which any payment or payments was or were made to Mr. Lusk, before, during, or after the last session of the Assembly, in alleged connection with Parliamentary business, with copies of all documents and resolutions, or other accounts and records, relating to the same.

W. Fox,
Chairman to Committee.

REPLY.

Auckland, 2nd October, 1876.

COPIES.—Auckland, 4th October, 1876.—The Auckland City Council Dr. to H. H. Lusk:—

1876.—June 8th. Attending you, perusing suggestions for amendments in the Municipal Act, and comparing with existing clauses, considering how far amendments feasible, £5 5s. June 16th. Long conference with the Premier relative to desired amendments, when he at length desired me to draft new clauses to give effect to the suggestions of the Council, £5 5s. Drawing thirty-five clauses, to give effect to various objects of Councils to be embodied in Government measure, £26 5s. June 22nd. Long conference with the Premier upon the clauses as drafted, when he agreed to accept most of them, subject to revision by the Government draftsman, and conference with Solicitor-General, £5 5s. After much inquiry, advising Council to send a special representative to carry clauses through the Upper House and keeping Council advised by telegraph, £3 3s. Drawing Bill to enable £25,000 to be borrowed by City Council, to complete waterworks, and repeated conferences with the Government to remove objections to its passing, £10 10s. Advising Mr. Stevenson upon all questions affecting objects of Council, in which Government Bill was before the House, £10 10s. Total, £66 3s.

His Worship the Mayor, Shortland Street.—October 16th, 1876.—Dear Mr. Mayor,—I herewith forward my account against the Council; I have not gone into minute details, as I felt I could not do so without considerably swelling the amount of the bill. If, however, you are desirous of being furnished with each item, I shall be happy to do so if you will be so good as to return the bill.

I have, &c.,

H. H. LUSK,
Per J. A. B.

Extract from minutes of Finance Committee, November 15, 1876.—H. H. Lusk, account submitted, and account for payment for £50 was passed.—Copy of receipts.—Voucher.—Councillors of the City of Auckland Dr. to H. H. Lusk.—October 4, 1876.—To expenses at Wellington during the session *re* Amendment Acts, say £50. Copies of all papers, orders received on the 16th November, 1876.—HUGH H. LUSK.

P. A. PHILLIPS,
Town Clerk.

Wm. Fox, Esq., Chairman of Committee of House of Representatives
on Mr. Lusk's case, Wellington.

APPENDIX D.

TELEGRAM.

To B. Tonks, Auckland.

Wellington, 2nd October, 1877.

PLEASE state whether you agreed pay me for promoting Bills before House last year, or only professional work.

H. H. LUSK.

REPLY.

To H. H. Lusk, Wellington.

Auckland, 2nd October, 1877.

AGREED give you £50 professional services.

B. TONKS.

APPENDIX E.

TELEGRAM.

To J. A. Beale, Auckland.

Wellington, 2nd October, 1877.

Re account furnished by you on the 16th October, 1876, to Auckland City Council, in name of Mr. Lusk, for £66 3s., reply immediately by telegram (free) how you obtained information to enable you to make charges under specific dates for interviews with Premier on 16th and 22nd June, 1876, *re* Municipal Acts Amendments, and other specific charges and dates when given, including drawing Waterworks Bill.

W. Fox,
Chairman of Committee.

REPLY.

To W. Fox, Esq.

Wellington, 3rd October, 1877.

DON'T remember circumstances. I presume from Mr. Lusk.

JOHN A. BEALE.

APPENDIX F.

TELEGRAM.

To John A. Beale, Auckland. Wellington, 3rd October, 1877.
AFFRAID your reply will not satisfy Committee. Please examine your letters and diaries, and account for having given specific dates and specific items of business done by Mr. Lusk, as stated in your account sent into Council.

W. Fox,
 Chairman.

REPLY.

To W. Fox, Esq. Auckland, 4th October, 1877.
HAD examined diaries and books before transmitting last telegram. Found no entries elucidating matter. Some one must have given me information. Cannot swear it was Mr. Lusk. Have tried to think, but can't call to mind.

JOHN A. BEALE.

Price 9d.]

By Authority: GEORGE DIBSBURY, Government Printer, Wellington.—1877.