the Agent-General of New Zealand—written in ordinary language, or by code-words, cipher (with keys to such)—in any way relating to the bank since the 1st October, 1887."

In order to save time, I have written out that which I have to say. If the Committee will permit me to read it, I will then hand it in: The Bank of New Zealand submits that it ought not to be required to produce its ledgers and books of accounts, as stated in the Committee's summons, for the following reasons:—

1. To send away from Auckland its ledgers and books of accounts would so seriously interfere with the business of the bank as practically to prevent the business being carried on in the regular and customary way. The time does not permit of copies being made. The books are numerous, and the entries innumerable.

2. The mere risk of transport of documents and books containing the official record and entry of the bank's transactions is considerable.

3. It is respectfully submitted that the summons is contrary to the law of the colony. By "The Banks and Bankers Act, 1880," section 2, "legal proceeding" is defined to mean (*inter alia*) "any proceeding or inquiry in which evidence is or may be given," and "the Court" is defined to mean "the Court, Judge, Magistrate, Arbitrator, or other person before whom a legal proceeding is held or taken;" "a Judge" is defined to mean "a Judge of the Supreme Court of the colony." By "The Banks and Bankers Act Amendment Act, 1887," it is provided—by sections 3, 4, and 5, that a copy of an entry in a banker's book shall in all legal proceedings be received as *primâ facie* evidence if one of the ordinary books of the bank, and verified by affidavit as having been examined and being correct; by section 6, that a banker or officer of a bank shall not in any legal proceedings to which the bank is not a party be compellable to produce any banker's book, the contents of which can be proved under the Act, unless by order of a Judge made for special cause; by section 7, a Judge may, on the application of any party to a legal proceeding order an inspection.

4. It is further submitted that, if in face of this enactment the bank produces its books without the order of a Judge of the Supreme Court, it will render itself liable in damages to any customer thereby damnified.

5. It is submitted that to produce the ledgers, and books, and documents, which contain the record of the accounts of numerous persons other than the persons now directly or indirectly impugned, and to leave such ledgers, and books, and documents in charge of this Committee, or permit their inspection by any other person than an officer of the bank, would be a grave dereliction of the bank's duty to its customers, and, if not a departure from duty, a serious injury and offence to its customers.

6. The bank respectfully submits that it cannot produce or offer for inspection the accounts of the persons directly or indirectly impugned without the consent in writing of such persons. It is the guardian of their confidence, both by law and by the custom of bankers, and its first duty is to protect the confidence created by the relation. The law is laid down in Walker on Banking, page 44.

The Chairman.—I would like if you would finish your remarks on the question of the production of documents, and the Committee will deliberate upon it.

Mr. Bell.—Yes. I have one further observation to make, Sir: that, according to the constitutional usage, as, I submit, with great respect to the Committee, Committees of Parliament guide themselves in matters of evidence by reference to the law which governs the proceedings in the Courts of the colony, I submit, first, with confidence, that this is a "legal proceeding" within the definition which I have read from the Act of 1880.

The Chairman.—As regards the documents?

Mr. Bell.—Yes. And, secondly, I submit that, if it were not a "legal proceeding" within the definition of the Act of 1880, this Committee, following the course which is laid down for the guidance of Committees in works of authority, would follow the precedent established by the law in regard to evidence to be produced before similar tribunals. I refer the Committee to the Shrewsbury Peerage Case, in 7 House of Lords Cases, at page 1. I will read from page 14:—

"Mr. Serjeant Byles objected that handwriting could not be proved in this manner; the Fitzwalter Peerage [10 Clark & F. 193], the handwriting to a family pedigree was there deposed to by an Inspector of Franks from the post-office as that of the same person who had signed other papers which were admitted to be genuine, but the pedigree was rejected.

"Mr. Ellis: That was in 1843; since then the 17 & 18 Vict., c. 125, has been passed. By the 27th section comparison of handwriting is admitted.

"Sir F. Kelly: The Fitzwalter case does not apply, for there the papers from which the witness acquired his knowledge were not before the Committee.

"Mr. Roundell Palmer [in support of the objection]: The statute now quoted does not extend to all Courts and all judicial investigations. The expressions in the section show that it is confined to Courts of common law.

"Lord Wensleydale: That is a mistake; the rule is universal, and extends to [section 103] every Court of civil judicature in England and Ireland.

"Mr. Serjeant Byles: This Committee is not a Court of civil judicature; it is a Committee of investigation, and may follow its own rules. The rules applicable to a trial at law are not applicable here; for, as observed by Lord Eldon in the Chandos Case, an error in a trial at law may be remedied, but an erroneous decision in a peerage case is beyond remedy.

"Lord Brougham: The comparison is defective. There are many proceedings at common law where an error cannot be remedied. It is true that, strictly speaking, the words of the 17 & 18 Vict. do not apply to a proceeding before a Committee for Privileges, but if the rule laid down in the statute is good in itself there is no reason why we should not adopt it.

"The Lord Chancellor: Where the Legislature has said that a particular rule of evidence is to be adopted in 'every Court of civil judicature,' if that rule is in itself convenient, it would be strange for us to refuse to adopt it simply because the words of the Act are not binding upon us.