1894.

NEW ZEALAND.

PUBLIC PETITIONS A TO L COMMITTEE.

(REPORT ON THE PETITION OF JAMES HOLMES AND FIFTY OTHER SHAREHOLDERS OF THE EQUITABLE INSURANCE ASSOCIATION OF NEW ZEALAND, TOGETHER WITH THE PETITION AND MINUTES OF EVIDENCE.)

Brought up on the 18th October, 1894, and ordered to be printed.

REPORT.

PETITIONERS, shareholders of "The Equitable Insurance Association of New Zealand," representing 23,856 shares, pray that the House will order a special audit and investigation of the affairs of the Equitable Insurance Association of New Zealand to be taken forthwith, or otherwise pass an Act for the purpose.

I am directed to report—

That, after having taken much evidence on the petition, the Committee have arrived at the following decision:—

The company commenced operations in 1882, and its business was carried on successfully up the year 1887, in which year a series of fires occurred throughout the colonies, which entailed great losses on the company.

In August, 1888, the then chairman of directors, Mr. E. B. Cargill, sent to the shareholders a circular covering a resolution of the directors "To dispose of the business of the company by sale or transfer to any persons, company, or association." No sale was effected, but the directors unwisely purchased the business of four insurance companies, and as a result thereof, combined with previous losses sustained, the company, in 1891, went into liquidation.

The allegations in the petition affecting the *bona fides* of the directors and other officials of the company have not been sustained. The most that can be said against any one or more of the directors or officials is that from 1888 to 1891 very many blunders and mistakes were made by them, which resulted in great financial loss.

Mr. Callan and the other directors represented before the Committee are willing that the Supreme Court should forthwith be moved for the appointment of inspectors to examine into all the accounts of the company, now in liquidation.

The Committee find that great delay, loss of time, and considerable expense has been incurred by the liquidator during the past three years, and the company is not yet wound up; and the Committee recommend that the Companies Act should be so amended that upon a company going into liquidation the Official Assignee in Bankruptcy should assume control of all the assets and wind up its concerns.

18th October, 1894.

J. JOYCE,
Chairman.

PETITION.

To the Honourable the Speaker and Members of the House of Representatives of the Colony of New Zealand, in Parliament assembled.

THE humble petition of the undersigned shareholders of THE EQUITABLE INSURANCE ASSOCIATION OF NEW ZEALAND, representing 23,856 shares, showeth,—

1. That your petitioners have suffered great and continuous losses arising out of the mismanagement of the affairs of the above association for many years.

2. That up to the present time, 13s. 6d. per share has been called up on 145,956 shares, amounting to £98,520 6s., which sum, together with £14,221 18s. 11d. profits disclosed in balance-sheets, 1883 to 1886 inclusive, making a grand total of £112,742 4s. 11., has been absolutely lost during the period 1887 to 1894.

3. That your petitioners have been greatly deceived by the directors' and manager's reports from time to time on the improving prospects of the association, when, as a matter of fact, the losses were multiplying, and the nature of the business was of a most unsound and disastrous character.

4. That the balance-sheets from 1887 to 1890 disclose losses during these periods alone involving no less a sum than £56,246 0s. 7d., whilst at the same time the manager and delegates from the board of directors were calling meetings of shareholders throughout the colony, and assuring them of the soundness of the business, and the strong position the association was attaining.

5. That the manager's published statement, in compliance with the provisions of the Joint Stock Companies Act, dated the 1st January, 1890, sets forth liabilities at £23,522 8s. 11d, with assets at £27,497 8s. 10d., or a surplus of assets over liabilities of £3,974 19s. 11d.

6. That the association was placed in liquidation early in 1891, and at the general meeting of shareholders, held on the 2nd March of that year, the chairman of directors stated that "it would cost about 2s. or 2s. 3d. per share to finally wind up the affairs."

7. That a liquidation call of 2s. 6d. per share was shortly afterwards made by the liquidator, payable in sixpenny instalments at intervals of three months. A further call was made a few months ago of 2s. per share, payable in one sum, or a total of 4s. 6d. per share for liquidation purposes, thus far amounting to no less a sum than £32,840 2s., and still the business of the association is not wound up.

8. That your petitioners discovered, quite accidentally, in the year 1890 or thereabouts, that the directors had been for six and a half years illegally drawing increased fees, amounting in the aggregate to £2,000, in contravention of the articles of association.

9. That your petitioners also discovered that the directors illegally departed from the prospectus of the association in not confining the Fire operations of the business to the Colony of New Zealand, as set forth therein.

10. That your petitioners have further discovered that the directors have violated the conditions of the memorandum of association of the said company in acquiring, without the consent or knowledge of the shareholders, the following public companies, namely: The Australian Mercantile Union Insurance Company, The Hanseatic Insurance Company, The Hamburg-Magdeburg Insurance Company, and The Accident Indemnity Company, of Dunedin.

11. That no report (printed or otherwise) has ever been made to shareholders on the acquisition of these properties, nor is it set forth in any balance-sheet what sum of money was paid, or what consideration received, in connection with these transactions.

12. That your petitioners, in view of these irregularities, are of opinion that the administration of the affairs of the association have been of a most reckless character, fraught with the gravest considerations, and a scandal to commercial enterprise.

13. That your petitioners have from time to time most strenuously attempted to get qualified reports and investigations effected, and have used every legal means for the purpose, but have always failed in consequence of frivolous and technical objections being raised by the directors and their legal advisers, such as setting aside proxies at meetings, holding scrutinies of votes in private, and refusing to supply a schedule of votes when result declared.

14. That the balance-sheets have always contained the most meagre information, condensed into the fewest possible lines, rendering it practically impossible for any shareholder to arrive, even approximately, at a true state of affairs, and, judging by present disastrous knowledge and experience, those documents were as misleading and as valueless in character as the reports that accompanied them were unreliable.

15. That your petitioners have been put to considerable expense in their endeavours to unravel the financial mystery of such excessive and disastrous losses in connection with the Equitable Insurance Association of New Zealand; and that they strongly protested against any liquidator being appointed to wind up before inspectors had been appointed to report on the condition of the affairs of the company.

16. That, in view of the ascertained illegal acts committed by the directors of the said association, and the large amount of money lost in so short a period—losses that hitherto have no parallel in the history of any Fire and Marine Insurance business in the colony—and to the exceptional circumstances under which your petitioners have been kept in a state of ignorance with regard to the nature of the losses and the extent of their responsibilities, your petitioners most earnestly and respectfully ask your Honourable House to order a special audit and investigation of the affairs of the said Equitable Insurance Association of New Zealand to be forthwith undertaken, or otherwise pass an Act of the General Assembly for the purpose.

And your petitioners, as in duty bound, will ever pray.

JAMES HOLMES,
And fifty-four others.

MINUTES OF EVIDENCE.

FRIDAY, 28TH SEPTEMBER, 1894.

Mr. Bevan, the first witness, gave evidence with regard to the first allegation: "That up to the present time 13s. 6d. per share has been called up on 145,956 shares, amounting to £98,520 6s., which sum, together with £14,221 18s. 11d., profits disclosed in balance-sheets (1883 to 1886 inclusive), making a grand total of £112,742 4s. 11d., have been absolutely lost during the period 1887 to 1894."

Mr. Bevan: I produce the copy of the share-register, which was very difficult indeed to obtain, for, though I tried repeatedly to obtain a copy of the document, it was always denied me. I obtained one at last. I say that the first allegation is true. Discrepancies from unpaid calls may have occurred, which it is impossible for an outsider to ascertain without reference to the books. We were kept in total ignorance of the affairs of the company for many years. When the alarm was first taken as to the position of this company, I was appointed permanent chairman to represent the interest of the Hokitika shareholders. We formed a sub-committee to make full inquiries, to examine every balance-sheet, and take steps to procure every information possible, so that we could be better informed as to what was going on, as we could get no information, and there were many things in the balance-sheets that wanted explanation. With reference to allegation No. 3, "That your petitioners have been greatly deceived by the directors' and manager's reports from time to time on the improving prospects of the association, when, as a matter of fact, the losses were multiplying, and the nature of the business was of a most unsound and disastrous character": Here is a summary of the whole business before they went into liquidation [Appendix A]. Under the first heading during that period, net premiums, interest, and transfer-fees received amounted to £163,824 17s. 11d. The preliminary expenses continued for seven years, and included office furniture, stationery, and bad debts, the whole amounting to £9,383 3s. 3d. Now we come to charges, salaries, licenses, rent, agency, and other expenses, £61,531 17s. 9d. Now we come to total cost of management, £70,915 1s.; losses paid in addition, £135,683 15s. Now, we will show the profits on the first four years' business amounted to £17,394 18s. 11d.; deduct dividend, £3,173, left £14,321 18s. 11d. to deduct from the losses, which show a total loss of capital of £42,693 18s. 1d. I produce their last balance-sheet, which shows that same amount of capital lost. The losses, you observe, commence in 1887, when we have a premium income of £25,284 16s. 6d.; the following year £20,624 6s. 8d.; in the third year, £16,072 16s. 2d.; and in the fourth year, £17,094 11s. 4d. I desire particularly to direct attention to the increase of charges on the reduced income. In 1887 the cost of management was £9,299; losses paid, £32,047 6s. in addition. In 1888, the cost of management £17,036 15s. 5d., and losses paid in addition £22,410 10s. 7d. In 1889, the cost of management was £11,937 3s. 8d.; losses paid in addition, £20,990 15s. 8d. In 1890 the cost of management was £9,714 7s. 8d., with losses paid £11,254 18s. 10d., with a further appropriation for losses of £2,201 9s. 10d. I wish to draw your attention to the fourth annual report, dated 7th March, 1887. The chairman says, "We might say, with regard to fire losses, that every effort had been made by the directors to keep the risks within reasonable limits; the largest single loss was £500, and the greatest loss in a block fire was £550; the average loss was £75 12s. The shareholders would see that great care had been exercised in not taking too large risks. In the marine department the heaviest loss was £891, and the average £45 5s. 9d. A very considerable lot of these fire losses arose from insurances on cottages and houses, which was a most difficult class of risk. The directors had adopted a system of close inspection for risks and of the sites of the fires, and by this means he thought the losses would be less in the future than they had been in the past. He could assure the shareholders that the business was well conducted. From a memorandum which had been put in his hands, he found that the aggregate result of underwriting during the four years the company had been in existence was a credit of £9,911; of this sum £7,380 8s. had gone into a reserve fund, and the balance, £2,530 12s., remained in open account. He thought, all things considered, that to show this result for the first four years' underwriting must be regarded as very satisfactory. He was quite sure that the shareholders had got a property in the business of that company of very considerable value indeed, and it was only a question of time as to the company taking first rank amongst insurance companies. As to the life department, it involved great expense at the first; the figures he would put before them would show that they had done exceedingly well. The total annual income at December last was £4,520 10s. 10d.; since the closing of the books the sum of £783 15s. 7d. had been added to the trust fund, and there was now a sum of £3,287 19s. 9d. in trust for policyholders."

Now comes the first allusion to having taken over the business of the Australian Mercantile Union, which had been doing a good deal of business in this colony. "They were unfortunate in regard to the Wellington fire, as they had several of the Australian Mercantile's risks in the block destroyed."

The circular of the 5th April reads as follows: "In view of the largely-increasing volume of the company's business, the directors have decided to call up additional capital. According to returns already to hand on the 5th April, the gross premium for the current year is estimated at about £65,000." The absolute total receipts for that year amounted to £47,319 3s. 5d., whilst the reinsurance of that volume of business is £22,501 16s. 8d., leaving a net revenue of £24,817 6s. 9d., instead of £65,000.

We arrive, then, at 1887. I want to show an alleged constant improvement in the condition of the company. In 1887 the chairman remarks, "On previous occasions it has been with pleasure we have met to receive reports showing good progress, and while, of course, could desire be realised, we should do so to-day, our duty to the shareholders demands that we should lay the facts before them just as readily and candidly when the balance happens to be on the wrong side." Further on he says, "My desire in this—and I speak the desire of the Board as a whole—is that you may have full information concerning the affairs of the company. . . . The year has been a most disastrous one for the company in the matter of losses, which to some extent is traceable to laxity of managerial supervision, showing an abnormal increase of nearly £10,000 as compared with the preceding year. But your directors feel that we have now 'turned the corner,' for, as previously mentioned, operations this year show a very satisfactory result, and there is every promise of our meeting you next year with a gratifying statement to present. The charges have slightly increased during the year, the increase being chiefly at the branches and agencies, and that has been incurred after careful consideration, with the view of giving a more complete control from head office; the beneficial results of this are already apparent. During the year your directors made a call upon the shareholders to the extent of £14,659 5s. Of this there was due and unpaid £8,440 8s. 6d. on the 31st December last, a considerable portion of which has since come in; and with this the company will, financially, be in a much better position than when we commenced operations five years ago, besides having to procure a large and valuable connection in New Zealand, Australia, and London, instead of having now to make it" Reference is also made to the life department, showing that there is a great increase in the annual income at the close of that year of £3,817 10s. 2d.: "Our total annual income this year is increased to £6,302 9s. 9d. In the life department we have a valuable and increasing business." I wish just to refer to what one shareholder mentioned. This is what Mr. Sligo, a shareholder present at the meeting, said: "He trusted that the directors would so act as to prevent the public outside from being in any way justified in making a statement that the company was worked in the interests of private individuals or of any family or clique. They had been justified, probably, for the public were not speaking entirely without book in making these accusations; and he hoped no personal considerations would stand in the way of the company getting a chance to thrive in the future." Referring to a remark that the balance-sheet did not furnish sufficient details, he said he "was sure that any shareholder could get any explanation he wanted, and he was sure it was quite impossible to enter into such details in an insurance company's balance-sheet to enable any individual, at a moment's notice, to trace out the financial operations of the company." He was speaking on the report of the balance-sheet of 1887.

Now comes the time when we got another circular, dated 23rd June, 1888: "It is with much reluctance that the directors have been compelled, in order to conserve the interests of the association, to make the calls on capital of which notice is now given. As, however, the business of the company on the 31st December, when the year's accounts were closed, to the 5th March last, the date on which the general meeting of the company was held, showed a very considerable improvement, the directors were justified in believing that the necessity for further calls during the year would be avoided. In this, however, they were unfortunately disappointed, owing to a succession of heavy losses recurring shortly afterwards. Overtures have been made to the directors by a strong company in Victoria of the purchase of the business of the Equitable, and as these negotiations have reached a satisfactory stage full particulars will be submitted to the shareholders in the general meeting." This is signed by a man named Charles E. Lloyd, as acting general manager.

On the 22nd August, 1888, a circular was sent round embodying the following resolution: "That the directors being and are hereby authorised to dispose of the business of the association by a sale or transfer to any persons, company, or association on such terms as to price and mode of settlement as they shall think fit." I wish to draw particular attention to this, as it means that the company was to be taken into their confidence in dealing with the best interests of the company. That was signed by E. B. Cargill, chairman of directors.

On the 24th August, 1888, a circular is sent out directing the shareholders' attention—particular attention—that in the articles of the association no proxy shall be appointed who is not a shareholder, and that the instrument appointing a proxy must be deposited at the office at least forty-eight hours before the time of meeting.

My reason for directing particular attention to this is to show that they were conversant themselves with the articles of association—that they wished the shareholders to be conversant with the articles of association. This would disprove any subsequent plea made by the directors that they were not conversant with the articles of association. To further support this contention here is a circular of the 15th February, 1889: "I have also to direct your attention to clause 46 of the articles, which provides that no shareholder shall be entitled to take part in the proceedings or vote at any meeting or poll unless all calls, interest, and charges due by him have been paid."

That is another answer to their knowledge of the articles of association. Here is yet another; for in calling a meeting for the 4th of March, 1889, they say, "In accordance with clause 26 of the articles of association, the annual general meeting of the association will be held on Monday, 4th March proximo, of which notice has already been given by advertisement in the usual way." If they had put "unusual way" they would have been right. The shareholders scattered from one end of the colony to the other were supposed to see this advertisement. Then the circular goes on to say, "It will be necessary to adjourn the meeting to a future day, as it has been found impossible to prepare the annual statement of accounts in time for the above date"—mark this—"owing to the necessity of sending a number of books and documents to Melbourne in support of an important suit in progress there involving a large sum of money."

I am told that over two hundred books went to Melbourne. I will prove it. On the 9th March, 1889, another circular was sent out, to this effect: "I have to inform you that at the ordinary general meeting of the association held last Monday it was unanimously resolved that the meeting be adjourned to Monday, 29th April next, at 3 p.m." That was to do the business of the year before; but they go on further to say—and this further proves their knowledge of the articles of association—"You will please note that new proxies are necessary for the adjourned meeting, and must be deposited at the office of the association not later than 3 o'clock on the 27th April—that is, forty-eight hours before the time fixed for the meeting." And they go on to say that other proxies distinct from those to be used at the adjourned meeting are necessary, and must be lodged as provided above. They conclude: "Any shareholder desirous of being nominated or nominating any shareholder as a director must give thirty days' notice as provided for in the articles of association."

Then, we have another circular on the 27th March, drawing the attention of the shareholders to clause 50 of the articles of association, showing that no instrument appointing a proxy shall be valid after the expiration of one month. This is signed by James Hazlett, deputy chairman.

After the delegates had visited the various centres another circular was issued: "You are doubtless aware it has been decided to carry on the association. The directors freely admit that mistakes have been committed in the past. Experience has been dearly purchased, but the directors are determined, and confidently assure you, that there will be no repetition of past errors. The directors are making a vigorous effort to render the association a success." In another paragraph it says the association requires all the assistance it can get. Then they go on to the last paragraph: "Your attention is especially drawn to a leading article in the *New Zealand Insurance and Finance Journal*, mailed to you this day, which will give you the opinion of the insurance Press upon the position of affairs, and should go a long way to restore confidence in the minds of the shareholders. The same paper contains a full report of the proceedings at the adjourned general meeting, which should be of interest to you." This is signed by Mr. J. B. Callan, chairman.

During this interval it came to the knowledge of shareholders that the directors had for about a period of six and a half years been drawing increased fees amounting in the aggregate to about £2,000, and this caused the general meeting to express astonishment that such things could be, and led to a vast deal of correspondence, and after the general manager had visited the Coast the following circular was issued, dated 16th October, 1890: "Notice is hereby given that an extraordinary general meeting of the Equitable Insurance Association of New Zealand will be held on Monday, the 24th of November, to consider the following resolution: 'That the association ratify, validate, and confirm the payments of remuneration made and received by the directors since the 3rd May, 1884, doubts having arisen as to the validity of those payments, and that the directors who have received such payment be released by the association from all claims and demands on account thereof.'" This was in October, 1890.

On the receipt of this, circular meetings were held in Hokitika, in which fourteen or fifteen thousand shares were represented, and the shareholders decided to permit nothing of the kind. Mr. Maxwell goes on to say, "Referring to the attached notice of the extraordinary general meeting, I desire to make the following explanation, which you are requested to carefully consider before voting: Clause 7 of section 55 of the articles of association reads as follows: 'Until the company in general meeting shall otherwise determine, a sum of £3 10s. shall be paid to the directors out of the funds of the company, as remuneration for their services at each meeting, to be distributed amongst those directors actually present within twenty minutes of the advertised time of meeting, and such meetings for attendance at which remuneration is hereby provided shall not be held more frequently than once a fortnight.'"

Acting upon this, the following resolution was passed unanimously at a general meeting of the association: On the motion of Mr. R. A. Lanson, seconded by Mr. Mark Sinclair, it was resolved to amend clause 7 of section 55 of articles of association so as to provide that the directors at each meeting should receive among them the sum of £7 for remuneration—just double the original sum, and without stipulation as to the number of attendances. "This meeting was attended by about fifty shareholders, and a full report of the proceedings was sent to each shareholder"—at least, that is the assertion of Mr. Maxwell, who was not manager at the time, so he cannot say whether it was or not—"and it was only quite recently that the attention of directors was called to the fact that this resolution had been advertised"—mark this—"in a Dunedin paper twenty-one days before the meeting was held." Even if they wanted to smuggle it through, the contention being that this addition rendered this passage illegal. A number of Hokitika shareholders requested the directors to take legal advice on the subject. This the directors did, and being advised that on purely technical grounds—"technical grounds"—the resolution had not been properly passed, they wrote the following letter to the Hokitika shareholders: "Referring to the resolution"—that is addressed to me—"passed by the meeting over which you presided, relating to fees drawn by directors, I am instructed to inform you that, in deference to the opinion expressed, after taking advice, and giving the matter due consideration, the directors have decided to draw only £3 10s. a fortnight until the next meeting of shareholders, when the whole question of directors' fees will be laid before them, and of this due notice will be given, so that each shareholder will have an opportunity of expressing himself and voting upon the whole question. I think you will agree with me that this is a fair arrangement, and should thoroughly satisfy those shareholders who expressed views upon the subject." I may here remark that no general meeting was ever held. Mr. Maxwell, resuming, says: "From a perusal of this letter, you will note the frank manner in which the directors meet the shareholders; that they went back to the old fees, and offered to place themselves entirely in the hands of the shareholders at the next general meeting of the association. They would at once have called an extraordinary meeting, but they saw no necessity for calling the shareholders together before next

March." However, the Hokitika shareholders were not satisfied, and, at a meeting at which 15,000 shares were reported to be represented (says Mr. Maxwell), passed the following resolutions: "(1.) That the letter from the directors, relating to the directors' fees, is deemed most unsatisfactory. (2.) Expressing surprise that the directors have been holding meetings and illegally drawing fees for the same in violation of the articles of association for six and a half years, the excess of such fees with interest amounting to about £2,000, and that, having admitted their responsibility, the directors be requested to refund. (3.) Failing compliance, this meeting pledges itself in view of the many calls upon shareholders to take the necessary legal steps to enforce a refund, and to enlist the co-operation of shareholders throughout the colony. (4.) That the directors' allusions to Mr. Lloyd, a shareholder, are uncalled for and unnecessary, as the information respecting the directors' fees was obtained in another way. (5.) That the foregoing resolution be telegraphed to the directors, requesting immediate attention."

This action left the directors no option but to call the shareholders together, and they do so in the full belief (says Mr. Maxwell) that the shareholders will not cause the Board to suffer for a purely technical defect, the directors having acted in good faith—mark this particularly—and in "absolute ignorance of this obscure point of law. In conclusion, I will just draw your attention to the fact that the increased fees of the directors are very low indeed, and the present fees, 10s. per man per fortnight, simply absurd for men who devote a considerable portion of their time to the Association, and give it a very large amount of exceedingly profitable business. Since I have joined the association I have received from one director alone £1,000 in premiums and have not paid a penny of loss to any of the directors, or those connected with them in business. I wish, however, to state that, but for the excellent advice and support I have received from your directors, it would have been impossible to have improved the position of the association so much in so short a time, and I unhesitatingly assert that a very large sum of money has been saved to the shareholders. I have every confidence in the future, and trust you will carefully consider the above before voting. I enclose for your information balance-sheet and full report of procedings of first general meeting of the association, in which appears the resolution relating to fees. Proxies must be lodged at the office of the association forty-eight hours before the meeting.—ANDREW MAXWELL, General Manager."

This is immediately followed by another circular, dated 5th November: "Your attention has, no doubt, been called to certain statements regarding the association, emanating from Hokitika, which have appeared in the newspapers, and, as these statements are untrue and misleading, I am instructed by the directors—(1) to give them unqualified denial; (2) to warn you against being misled by such misstatements circulated by certain individuals for some purpose which does not appear on the surface, and to the injury of your property, which is day by day improving; (3) to give you the following information: First, no promise whatever was made by me to the Hokitika shareholders to get Sir Robert Stout's opinion on the question of directors' fees; on the contrary, I informed them that I did not for one moment think the directors would go behind their own solicitor. This can be proved by minutes taken at the meeting. Second, that the illegality respecting the raising of the directors' fees is purely technical. Third, that the directors have made no excuses whatever; they leave the matter entirely in the hands of the shareholders. Fourth, that the amounts standing in the books at the close of last year owing by the Accidents Indemnity Company is £11,401 13s. 4d., not £16,675 2s. 11d.; that an award has been given for over £12,000; that the money which can be recovered is in course of collection; that at last general meeting every shareholder was distinctly informed, though that amount stood in the books, that nothing like that sum would be recovered; that we could not write it off, as we had not the slighest idea what the loss would be. In May last, I personally gave the Hokitika shareholders the fullest information in connection with this matter. On reference to your last year's report you will see how absolutely untrue the statement is that we took £16,675 2s. 11d. as a good asset."

I wish to draw the Committee's special attention just here. He (Mr. Maxwell) fences the question between the report and the balance-sheet, misleading those who could not go critically into figures.

"Fifth, that no director's business to January, 1889, showed a loss of £4,232 9s. 11d.; that the business received from the directors has resulted in a profit to the association. The figures quoted in this connection are, like others, incorrect. The account of the director referred to resulted in January, 1889, in a direct loss of only £846, whilst, including the business influenced through him, it has resulted in a profit."

I wish to make a remark. You would gather from that that an amount of £4,242 in excessive premiums was paid by him, and that was during a period of five years, and Mr. Maxwell fences the question that during his time £4,000 had been lost.

"Sixth, the libellous and unfounded statement, 'It is an undoubted fact that the whole of the capital is irretrievably lost,' is on a par with the other statements emanating from the same source. I personally gave the Hokitika shareholders in my last full information on this point, and proved to them beyond all doubt that a considerable amount of capital was left, at which they expressed satisfaction. Seventh, that the shareholders are at liberty to make any investigation into the affairs of the association they please."

He comes into the plural just here, and says, "We court inquiry, being well aware that there can be no adverse criticism of the manner in which the business has been conducted since the shareholders decided to carry on; but that, on the contrary, the position has been improved, and I absolutely deny the statement that any irregularity whatever exists." From the foregoing the unprejudiced shareholders will at once see that such unfounded statements are only calculated to injure their property and cost many who can ill afford it a serious loss when there is no occasion for it. Let shareholders inquire for themselves and await the result of the present year's operations

and the proposals of the directors which will then be submitted to them. You have already by a very large majority agreed to carry on the business and pay up to 9s. per share.

Mr. Callan: I only represent myself, but at the same time I would point out that Mr. Bevan is going into a number of charges which do not appear in the petition. He has stated there something in connection with some director that he got £4,000 from the company. If this had been put in the petition it would have possibly led to the other directors being here. My short point is this: Is it fair for Mr. Bevan to make charges without putting them in the petition?

Mr. Bevan: I maintain this comes under the heading of paragraph 3, "That your petitioners have been greatly deceived by the directors' and manager's reports from time to time on the improving prospects of the association, when as a matter of fact the losses were multiplying and the nature of the business was of a most unsound and disastrous character."

The Chairman: There is something in Mr. Callan's objection. I should have stopped him if he had mentioned the name without your concurrence. This Committee, however, does not stop at nice legal points; but it wants to arrive at an equitable and general conclusion on the whole thing.

Mr. Callan: I think the name should be given, in justice to the other directors, but I think the whole of the charges should have appeared in the petition in the first instance to have enabled those interested to become fully cognisant of them. It does not touch me at all, but I think it is hardly fair to other members of the Board.

Mr. Bevan contended that the matter was touched on in a general way in a circular which he produced.

Mr. Callan said that the fact of its being a circular was not a proof of the charge.

The Chairman replied that they could consider the matter of the £4,000 in a general way in connection with Mr. Bevan's statement, but that it need not necessarily form a factor in their ultimate deliberations.

Mr. O'Regan: Are the directors going to attend?

The Chairman said that he had received the following telegram that morning:—

"J. Joyce, Esq., Chairman, Public Petitions A to L Committee, House of Representatives,
"Wellington.

"THANKS for telegram. Allegations contained therein do not concern me, as matters referred to were prior to my joining company. Would like to have been present, but notice too short to permit arriving in time. "ANDREW MAXWELL,
"Late Manager Equitable, Dunedin."

Mr. Callan said he had been instructed to employ counsel to represent Messrs. Meenan, Hazlett, Guthrie, and Sinclair, but that he had had no communications on the subject from Messrs. Cargill, Hogg, and Grigg.

Mr. Bevan: Adverting to Mr. Maxwell's circular to shareholders, he says: "You have already by a very large majority agreed to carry on the business, and pay up to 9s. per share. There was only one thing wanting to absolutely insure the ultimate success of the association, and that was the cordial support of the shareholders. Given time, I have never had the least doubt about the future; but you will admit that the management was entitled to expect the support of the shareholders in every way, and without this the task was rendered much more difficult. In the face of the agreement to continue, and the fact that the shareholders have only had before them the results of eight months of the new management, does it not seem extraordinary that the section above referred to should so strongly advocate winding-up? I leave you to draw your own conclusions, and counteract the injury which is done.—ANDREW MAXWELL, General Manager." Mr. Maxwell emphatically denies that Sir Robert Stout's opinion had been asked for, and I therefore wish to give the answer of a number of shareholders in the public Press to his denial. It is signed by myself as chairman of the meeting. He refers to the meeting, and it could be proved we made no such request at all. The following letter appeared in the *West Coast Times* of 10th November, 1890 (it was also sent to the *Otago Daily Times* and the *Post*, Dunedin). [Appendix B.]

Mr. Callan: If you admit this evidence there is no doubt you should have taken written statements. This is evidence of Hokitika shareholders about a certain fact which you allow to come before the Committee by letter.

The Chairman: The practice is to admit evidence which may be fairly assumed to have come to the knowledge of those who are giving their testimony. I understand this appeared in the West Coast paper and the *Otago Daily Times*. We shall be able to discriminate. The functions of parliamentary Committees is to get the whole of the evidence they can; and when you speak of evidence it is not evidence as strictly obtained in our Courts of law.

Mr. Bevan: I will not vouch that it appeared in the *Otago Daily Times*, because I have not got a copy of that paper, but copies were sent to the *Otago Daily Times* and the *Evening Star*, Dunedin, to my knowledge. I wish now to affirm the truth of the allegation appearing in clause 4 of my petition, also that of clause 5, and I hereby append a copy of the published statement mentioned therein in support thereof [see Appendix C]. In support of clause 6, I append the balance-sheet of the company from December, 1883, to the 5th March, 1891. I affirm the correctness of sections 7 and 8 of the petition. In regard to clause 9, I will produce the prospectus as an exhibit, of which I would just like to extract a paragraph: "Economy and co-operation will be important leading features in the management of the association, and these are features which cannot fail to insure success, especially as a fair business will be confined to the Colony of New Zealand, and therefore under the immediate control of the directors." That is the prospectus, signed by the interim secretary, Mr. Kirkcaldie.

Mr. Callan: About that £4,000—may I ascertain the name of the director?

Mr. Bevan: This is a copy of the document. I got it indirectly from the office. We had to get our information in that way; we could get it in no other.

SATURDAY, 29TH SEPTEMBER, 1894.

Dr. Findlay: I appear before you, Sir, on behalf of Messrs. Meenan, Hazlett, Guthrie, and Sinclair. In respect to the petition, the copy which my clients received relates to a period between 1889 and 1894. This has placed my clients in a somewhat difficult position, inasmuch as evidence covering the whole of the ground in the amended petition is not immediately available.

The clerk explained that there had been some difficulty in discovering from the original petition whether 1887 or 1889 was meant.

Dr. Findlay: The second point I wish to ask your attention upon is this: I have just had a moment to look at the report of evidence given yesterday, and I observed a very serious charge had been laid by Mr. Bevan against Mr. Guthrie. The charge is that he received £4,000 more than was due to him during the time that he was director. There is nothing in the petition setting forth such an offence as that. Any one against whom such a charge is brought should be familiarised with the charge, but it is impossible for them to meet it when it is levelled in general terms, as in this instance. I take objection now against Mr. Bevan being allowed to introduce such an important matter in a general charge. The prayer of the petition really asks for an inquiry subject to a condition, and that condition is that the House be asked to order a specali audit, or to pass an Act to that effect. I submit that it is against all constitutional rule and law, and it would be unfair not to take exception to that part of the petition.

The Chairman: I will just say that this inquiry is a preliminary one. The House would have to order a special audit, and in the face of that it is our duty to make such an investigation into affairs as will enable us to make a report of the whole matter. The function of a parliamentary Committee is to either recommend that the House will or will not take up the matter.

Mr. Bevan: Before proceeding to clause 9, I wish to put in this circular. It is dated the 26th November, 1888, and it emanates from the investigation committee, of which Mr. Callan was one, and several other gentlemen. I might add to this that, with regard to the gentleman who was to be appointed, the shareholders generally protested against any appointment being made at this period, before the investigation of affairs of the association was held, in order that they would be placed in a position to judge satisfactorily to themselves, as against a private committee that had examined the affairs without their knowledge. And, moreover, when it was proposed to enter into an agreement for three years with the gentleman referred to for a salary of £1,000 a year—an increase of something like £300 a year more than the previous manager received—and, moreover, in view of the fact that he was a great expert, who, subsequently, it appears, came from the South British Insurance Company, where he received £400 per annum, so that I wish particularly to put that in. I will put this document in in its entirety. [Appendix D.] There was also, it appears, a stipulation in the agreement that in case the company got into liquidation he was to be remunerated to the end of the term, whether he worked or not.

Mr. Crowther: Was liquidation contemplated by the directors when that agreement was made?

Mr. Bevan: It was in the deed of appointment of Mr. Maxwell that in case of liquidation taking place within three years he was to receive his salary, so that it was evidently in contemplation that liquidation would arise. Now, Sir, I will read clause 10: "That your petitioners have further discovered that the directors have violated the conditions of the memorandum of association of the said company in acquiring without the consent or knowledge of the shareholders the following public companies—viz., the Australian Mercantile Union Insurance Company, the Hanseatic Insurance Company, the Hamburg-Magdeburg Insurance Company, and the Accident Indemnity Company of Dunedin." I produce memorandum of association, which I put in, together with articles of association. [Appendix E.] I divided the memorandum of association into two parts, and I may here remark that I took the opinion and advice of my own firm of solicitors, who assisted me in this matter. This memorandum of association is divided into two parts, giving first the objects of the corporation, and the duties the directors were empowered to discharge. In one sentence it says, "On such terms as shall be deemed expedient by the directors of the company." Further on it says, "As far as may be deemed by the company to be conducive to its interests." I wish to lay stress on the distinction "what may be deemed expedient by the directors of the company" in the first place, and "that which may be deemed by the company conducive to its interests" in the second place. In paragraph 4 this is clearly set out "to act as agent for any person or company or person whomsoever, or to enter into any partnership and to dissolve the same, to amalgamate with or take over the business of any company formed for carrying on business of the same or a similar nature." I refer you, gentlemen, to articles of association at page 11 as distinguished from the memorandum as showing exactly what their powers are, but I will not weary you by enumerating them. I further wish to say that my legal adviser, arriving at a conclusion on this matter, points to a decision given by Lord Cairns in the House of Lords. The decision was that directors were responsible for their illegal acts, and that no majority of shareholders could patch up or ratify such illegal acts, and, further, that any memorandum of association could not be altered even if every shareholder on the register assented thereto. That answers No. 10. I never discovered myself that these three last companies had been acquired by the directors until the month of November, 1890, when I went to Dunedin. Accepting the directors' oft-repeated request that they courted inquiry, I called a meeting by advertisement in the *Evening Star* and *Otago Daily Times* asking the directors to meet the shareholders in the long-room of the Grand Hotel, as it was a matter of great importance to shareholders and the public generally. I asked Mr. Albert Cohen to attend and take a shorthand report of the proceedings. He attended, and I suppose there must have been eighty or a hundred shareholders in the room. A long discussion arose as to the exclusion of Mr. Cohen, and I was defeated at every point, and instead of courting inquiry I found my duties would be very arduous indeed, and that the meeting was rather one to burke inquiry. Mr. Cohen had to withdraw at last to enable me to address the shareholders generally on the gravity

of the position. The report up to the time when Mr. Cohen withdrew is fully reported in the *Evening Star* of the 18th November.

Mr. Crowther: Was it on the vote of the shareholders that Mr. Cohen was excluded?

Mr. Bevan: Yes, it was on the vote of the shareholders. I read them these papers which I hold in my hand. I pointed out to them how dangerous was the pursuit we were following. Points or order were raised—legal technicalities introduced. In fact, it was a matter of impossibility to make a clear statement—I had too many legal gentlemen about me.

Mr. Crowther: Who was in the chair?

Mr. Bevan: Mr. Charles Reeves.

Mr. Callan: One of the company's auditors.

Mr. Bevan: I failed to get a satisfactory answer from the directors. I put a number of questions to the meeting, but the first only was answered in the affirmative. The question was, "You state in your circular of the 5th November instant that you court inquiry: are you prepared to afford information on the affairs of the association for the benefit of the shareholders at this meeting, especially now that so much interest is aroused in connection with the management by the directors?" I had a number of other questions to put, but I found it was no use. I submitted those questions at a subsequent meeting. At the same meeting I directed particular attention to the shareholders of the Australian Mercantile Insurance Company, whose business had been acquired, and I pointed out that they embraced nearly every leading business-man in Melbourne—members of Parliament, distinguished members of the legal profession, and others—and I marvelled greatly that such a company should have to be taken over by a weak company like the Equitable Insurance Association of New Zealand. I went carefully through the whole of these papers with the shareholders, and from that meeting gathered the fact that other companies had also been acquired of which not a single mention had been made in any balance-sheet or in any report; and I wish further to draw attention to the fact that the balance-sheet of the life department never appeared after 1887 up to the present time, though we were supposed to have some thousands of pounds in trust. I wish to put this in too. Although it appears in the life department some thousands of pounds to the credit of reserve funds, besides £5,000 deposited with the Government for that branch, it is never shown in the balance-sheet or report whether there was any money received or paid for these properties, nor was it ever referred to. With regard to clause 11, I will take it as read; also clause 12. I now direct your attention to the balance-sheet of 1885. It will there be seen that the credit balance at the foot of profit and loss account is £6,289 19s. 3d. We turn to 1886, and we find the credit balance brought forth from 1885 on the credit side of profit and loss to be £1,741 18s. 4d. There is another discrepancy in the balance-sheet of 1884. It shows on the credit side £6,048 9s. 8d., which is brought forward by balance £2,948 0s. 8d., less dividend paid £1,167 12s. 11d.; leaving a balance of £1,780 7s. 9d. I wish to show the irregular manner in which the accounts are kept, and what a jugglery of figures was committed, misleading to those who were not conversant with finance. In the assets we have an item—fixed deposits and investments, £10,800. In the previous balance-sheets fixed deposits had been kept separate. I wish to say that in 1885, under the heading of assets, these fixed deposits and investments had gone up to £16,225 7s. 6d. In the 1886 balance-sheet assets, fixed deposits and property were £19,623 18s. 1d. In 1887 fixed deposits, investments, and property came to £21,182 12s. 7d.; calls not due and unpaid, £8,440 18s. 6d. Now we come to the first debit balance of £5,339 10s. 7d., and we owe at that period to secured creditors £11,530 1s. 7d. On the debit side of profit and loss, bad debts are written off to the amount of £166 14s. 4d. Coming to the 1888 balance-sheet, unpaid calls represent here £6,986 19s. 6d.; calls not due, £10,946 14s.; and now comes a large item—outstanding accounts due to company, £10,064 5s. 6d. Fixed deposits, investments, and property reduced to £12,016 8s. 5d.; cash in hand, £99 18s. 2d.

Mr. Crowther: Is that the first record you have got of that £10,000?

Mr. Bevan: Yes. Bad debts in profit and loss account of some years are again provided for, but it is not shown what they are; they are included in office furniture, preliminary expenses, stationery, and bad debts written off, £3,567 4s. 7d., leaving the natural assumption that the outstanding accounts, £10,064 5s. 6d., were a valuable asset. Now we come to the balance-sheet of 1889. Calls not due are shown under the heading of assets, and amount to £14,595 12s.; unpaid calls, £9,036 2s. 7d. Now for the first time we see property by itself. Property, £6,200; outstanding accounts due to company, £16,675 3s. 11d.; cash in bank and in hand, £20 8s. 7d.; office furniture, stationery, and preliminary expenses, £1,075 9s. 7d. This is the first year that ever we got a little detail, at the urgent solicitation of shareholders, after Mr. Callan had visited the Coast. That is what we are supposed to accept as a detailed balance-sheet. We find that fire and marine premiums are now put in in a different form, whereas in all previous balance-sheets the gross annual revenue from these premiums was shown, and reinsurance charged on the debtor's side. A new mode is now introduced, and the shareholders are not afforded any information as to how much business had been done. It reads, "By fire and marine premiums, less reinsurances, £16,072 16s." Now we come on to the other side: Agents' commissions, salaries, and other expenses, £7,052 1s. 6d.; underwriters' associations and fire-brigades, £562 19s.; Government licenses, rates, and taxes, £596 9s.; interest, £1,611 2s. 9d.; office furniture, stationery, preliminary expenses, depreciation of property and bad debts, £2,014 11s. 5d.; appropriation for unadjusted and probable losses, £669 16s. 5d.; fire and marine losses, £20,990 15s. 8d.; less appropriation for December 1888, £7,854 8s. 5d.; net, £13,136 7s. 3d.: total, £25,743 7s. 4d.—to do a £16,072 16s. 2d. business: leaving a debit balance or loss of capital at that time of £38,187 9s. 6d. With regard to this balance-sheet, it is the last balance for the year ended the 31st December, 1890. This balance-sheet should have been in the hands of the shareholders at a very much earlier period: the fact is it reached the Hokitika shareholders on Wednesday, 7th March, 1891, whilst the general meeting

was held in Dunedin on the 2nd March, 1891, five days after the meeting. A departure in this connection was made in inviting shareholders by advertisement, whereas they had always been invited by circular previously. An advertisement about an inch long was put in the Dunedin newspaper.

Dr. Findlay: Did you say no circular was sent at all?

Mr. Bevan: I never got any. I saw the advertisement, which appeared in the *Otago Daily Times*. The report of the meeting and the balance-sheet arrived in the same letter. Now, we will analyse this balance-sheet of 1890. This is the last one. Calls unpaid, under the heading of assets, £10,665 9s. 2d.; property, £6,200. For the first time has the following item appeared under its proper heading: "Fire, Marine, and Accident Indemnity Company (in liquidation), as an asset, £11,401 13s. 4d." Cash in bank, £18 7s. 3d.; branch balances, £2,012 16s. 6d.; outstanding amounts due to company, £6,790 7s. 10d.; office furniture, stationery, and preliminary expenses, £1,613 15s. 8d.—leaving a debtor balance of £42,693 18s. 1d., absolutely lost. Now we arrive again at liabilities: Sundry creditors, £13,513 18s.; unclaimed dividends, 16s.; appropriation for unadjusted and probable losses, £2,201 9s. 10d.: total liabilities (according to this balance-sheet), £15,716 3s. 10d. The company ceased operations about the 21st February, 1891. The branches in South Australia, Queensland, and Victoria having been sold or disposed of a month or six weeks earlier than the 21st February, 1891, evidently showing that the directors, when they issued this balance-sheet, were in treaty for the sale of the company's property. Now, in this year, we have fire and marine premiums dealt with in the same way as in the previous year, not showing reinsurance, but merely giving the net result of the year's operations, which was £17,993 16s. 4d.; transfer-fees, 15s. (evidently some transfer had taken place of somebody's shares when other transfers were being refused). Now we come to the debtor's side, and we will take agents' commissions, salaries, and other expenses, £7,619 2s. 10d.; underwriters' associations and fire-brigades, £327 5s. 4d.; Government license, rates, and taxes, £518 5s. 4d.; interest, £778 2s. 4d.; office furniture, stationery, and preliminary expenses written off, £471 11s. 10d.; appropriation for unadjusted and probable losses, £2,201 9s. 10d.; fire and marine losses, less appropriation for 1889, £10,585 2s. 5d.: or a gross total for that year of £22,500 19s. 11d. (in the acquisition of business amounting to £17,994 11s. 4d.), whilst in the circular of Mr. Maxwell, issued in November, he says the business is improving day by day. Now comes the report which reached Hokitika on the 11th March. It is dated the 2nd March, 1891, and I will put it in evidence. The chairman of directors says,—

"On looking over the figures you will note that there is an increase of nearly £2,000 under net premium income as compared with last year, a decrease of nearly £1,100 in losses, and a decrease of £2,225 in charges. The amounts owing by the association are £9,450, and the total losses for the year are £5,175 less than last year. These figures show a very marked improvement in the position of the company."

I particularly point out this, as a personal charge is made against me that my actions were causing a vast deal of injury to the business of the company. With regard to clause 13—"That your petitioners have from time to time strenuously attempted to get qualified reports and investigations effected, and have used every legal means for the purpose, but have always failed in consequence of frivolous and technical objections being raised by the directors and their legal advisers, such as setting aside proxies at meetings, holding scrutinies of votes in private, and refusing to supply schedules of votes when results declared"—I will read some notes from my note-book made at that time. I went down armed with proxies for 25,470 votes for the purpose of refusing to ratify the illegal acts of the directors. These proxies were duly lodged, and 11,070 of them were thrown out, notwithstanding that I protested that the directors had no right to throw out a single vote, seeing that at the time of their taking the increased fees there was not a shareholder owing one sixpence to the company, and that they had a perfect right to vote on a question which meant taking money out of their pockets.

1. *Mr. Crowther.*] Were the proxies in due form?—Yes.

Mr. Callan: It was the articles of association which prevented them voting.

Mr. Bevan: I was excluded from voting in the interests of a deceased friend who held 800 shares in the company. I had always been notified of the calls, and I had always paid those calls regularly, and the rejection of that proxy was based on the frivolous pretext that I could not produce the will. The same applied to Mr. Alexander Spence, whose attorney has paid calls for years, who was refused on the ground that no power of attorney had been sent. I have nothing to say of clauses 14 and 15, except that in regard to clause 15 we have already been put to the expense of fully £150 in connection with the whole case. I have the evidence of this. I myself prepared a requisition addressed to the chairman of directors, Mr. Callan, which was delivered to him, signed by shareholders representing 30,756 shares in perfect order.

Mr. Callan: To shorten matters, I admit receiving the petition, and refusing to act on it.

Mr. Bevan: It was for the appointment of inspectors under section 94 of "The Companies Act, 1882." It was handed to Mr. Callan, and he absolutely refused to act on the requisition. With regard to clause 16, on the 10th January, 1888, I became alarmed as to the plunging tendencies of the Equitable Insurance Association, as set forth in this letter and this bundle of letters.

[After some discussion, it was decided to refuse the correspondence as irrelevant.]

Mr. Guinness: I wish to state that a few weeks ago, before I knew any petition was coming up, as one of the largest shareholders in this unfortunate company, I wrote to Mr. E. B. Cargill, one of the first directors of the company, and asked him if he could supply me with a statement as to the operations of the company from the time of first entering into business up to the time he ceased to have any connection with it as chairman of directors, or in any other capacity. He replied that he would be most happy to do so. By the post from Dunedin which arrived in town yesterday I received from Mr. Cargill this very interesting document, which I now wish to produce and hand in as evidence. It is dated the 22nd September, 1894. [Appendix F.]

MONDAY, 1ST OCTOBER, 1894.

Mr. Bevan: I wish to put in some supplementary evidence which has escaped my notice. I refer to the delegates' visit to the West Coast, which took place after the issue of the circular on the 26th November, 1888. The delegates were Messrs. Callan and Sinclair. They came with reassuring proposals to the shareholders. They stated that if we went into liquidation then—they were delegated by the directors—we would, by the payment of half a crown in addition to the amount already called up, place the company in a strong financial position, and retrieve all its past losses. The balance-sheet of that year disclosed, unfortunately for their remarks, that the losses had multiplied to an enormous extent, the increase of management being £6,000, and the losses were very large, amounting to 191 per cent. in that year. This alarmed the shareholders to a very great extent. The balance-sheet came out in March, the business being closed at the end of December. When the shareholders met they discovered that, instead of these nice promises being verified, the thing was going headlong into ruin. That naturally led to a good deal of comment at several meetings. Then Mr. Maxwell, the general manager, visited Hokitika and the West Coast towns, ostensibly with the view of assuring the shareholders of the sound position of the company, and, to show his faith in the association, said he had himself acquired 400 shares. He fully satisfied the shareholders that all things were right. That was about the month of May, 1889, and we got the balance-sheet in March. We were so fully assured that all things were right that no further notice was taken till again a balance-sheet came up about March, 1890. The balance-sheet of 1889 disclosed greater losses than ever—the cost of management and losses came up to 205 per cent. Naturally enough the suspicions of the shareholders were aroused that something was wrong. Presently I got a telegram from Mr. Mark Sinclair, one of the directors, from Ahaura, dated the 3rd October, 1890, to this effect: "Will call at Hokitika on Monday night; would like to meet the shareholders." The shareholders acquiesced, and the meeting was held on the 8th October. Mr. Sinclair said he appeared there as a director and a shareholder, but at no expense to the association. Believing that our losses were nothing more than other companies were suffering, I took the trouble to enlighten shareholders by drawing up a table showing the result of six years' business, transacted from 1884 to 1889, by six companies in New Zealand. [Witness then went on to enumerate the companies, but Dr. Findlay objecting he was not allowed to proceed.] The Equitable Insurance Company showed a loss of 28 per cent. for six years on their net premium income—that is to say, that we paid £128 for every £100 we received.

2. *Mr. Callan.*] I intend to examine Mr. Bevan on matters relating to the company from May, 1889—that, is during the time of my connection with the company. I direct your attention to clause No. 2 in the petition, "That up to the present time 13s. 6d. per share has been called up on 145,956 shares, amounting to £98,520 6s., which sum—together with £14,221 18s. 11d., profits disclosed in balance-sheets, 1883 to 1886 inclusive, making a grand total of £112,742 4s. 11d.—has been absolutely lost during the period 1887 to 1894." When you say that 13s. 6d. has been called up on 145,956 shares, do you assume every one of these shares to be good?—I cannot make any qualification, but I am quite prepared to admit anything that you can prove has not been paid. I have assumed that shares amounting to £98,520 have been paid, and have based my statement on that assumption.

3. If I tell you that we could not put several of the shareholders on the list of contributors because they had gone bankrupt you will not deny it?—No.

4. If I tell you that the sum called up, but not paid, is not £98,520, but £96,428 14s., I suppose you will admit it?—Well, I will admit that.

5. Now, you put down the profits at £14,221 18s. 11d., will you tell me how you make it up?—Your first year's balance-sheet shows a profit of £3,390 13s. 2d.; your 1884 balance-sheet shows a profit of £7,514 13s. 8d.; the 1885 balance-sheet is not quite clear to me.

Mr. Callan: I will show you what the profits of that year are. The credit balance was, as you say, £6,948 0s. 8d. Then the amount carried forward from last year, which is £2,552 19s., has to be deducted, leaving a credit balance of £4,395 1s. 6d. That is for the year ending 1884. Now we come to the year 1885, and the credit balance that year is £6,289 19s. 3d., from which is to be deducted the sum carried forward, thus showing a total profit amounting to £13,275 6s. 1d., instead of £14,221 18s. 11d., as stated by Mr. Bevan, from which must be deducted dividends amounting to £3,173.

Mr. Bevan: Then, that is £10,102 6s. 11d. you make it?

Mr. Callan: Yes.

6. *Mr. Callan.*] Why did you not deduct the profits paid to the shareholders in the first instance?—I admit the error, and I attribute it to the documents of the company not being placed before the shareholders.

7. But you had the balance-sheets to go by?—Yes, but other documents were denied me.

8. Well, now, I come to this: How do you make out that the whole sum of £112,742 4s. 11d. was lost from 1887 to 1894?—It is calculated on 13s. 6d. per share, and the balance of profit in hand, as disclosed by the balance-sheets.

9. Now, I ask you this: The previous balance-sheets showed profits. Then, the balance-sheet of 31st December, 1887, showed a debit balance. Then, is it not a fact that all the profits must have been lost at the end of 1887? How can you say now all this sum was lost between 1887 and 1894 if it was lost at the end of 1887?—Because you have £5,000 in hard cash lying in the life department of the Government, and you have got a trust fund of £3,970 9s. 6d.

10. But that does not touch the question of these figures at all. My question is, How do you make out that £112,742 4s. 11d. has been lost since 1887?—I never got a life balance-sheet after that.

11. I ask Mr. Bevan again how the £112,742 4s. 11d. is made up, and why he put that sum in the petition?—I pinned my faith to the balance-sheets.

12. Well, then, Mr. Bevan, there is the £5,000: do you include that in the losses?—Of course; you called up the money from the capital, did you not?

13. But you have not told us about the £112,000 yet?—Well, of course, it was very easy to make an error; it really needed a very careful and competent accountant to go through the balance-sheet to get an insight into the affairs of the company, and I could not calculate unpaid calls by guesswork.

14. You are an accountant, are you not?—I know something about figures, but I am not a professional accountant.

15. Well, we will let that pass, and go on to allegation 3: "That your petitioners have been greatly deceived by the directors' and manager's reports from time to time on the improving prospects of the association, when, as a matter of fact, the losses were multiplying, and the nature of the business was of a most unsound and disastrous character." Now, I ask you this question: During the time I was connected with the company I issued two reports; do you consider they were calculated to deceive?—Yes, they were. I will show you. In the first place, in the fourth annual report of 1887——

16. I am not alluding to the fourth annual report. I am asking you this question: Did the two reports sent out—the last two reports—were they calculated to deceive?—Yes. That would be in 1890 and 1891, would it not?

Mr. Callan: Yes, in 1890 and 1891.

Mr. Bevan then read from a printed report of the 3rd of March, 1890, of proceedings of a general meeting as follows:—

"The general manager, at the request of the chairman, read the notice calling the meeting as published in the *Otago Daily Times*, dated 7th February, and setting forth the business of the meeting, as follows: 'To receive the directors' report and balance-sheet for the twelve months ended 31st December, 1890; to elect two directors, in the room of Messrs. John Bartholomew, Callan, and James Haylett, who retire, but, being eligible, offer themselves for re-election; to elect two auditors, in the room of Messrs. Thomas Callander and Charles Stephen Reeves, who, being eligible, offer themselves for re-election.'

"The chairman, in moving the adoption of the report, said, It is with feelings of keen disappointment and regret that your directors have to lay before you a balance-sheet showing a loss on the year's operations of £4,506 8s. 7d. On looking over the figures you will note that there is an increase of nearly £2,000 in net premium income as compared with last year, a decrease of nearly £1,100 in losses, and a decrease of £2,225 in charges. The amounts owing by the association are £9,450 less, and the total loss for the year is £5,170 less than last year. The figures show a very marked improvement in the position of the company, and the result would have been very satisfactory indeed but for a circumstance which I will refer to later on. In the meantime I draw your attention to two items in the assets—viz., unpaid calls, £10,665 9s. 2d., and amount due by the Accident Indemnity Company in liquidation, £11,401 13s. 4d. As regards the first item, I wish to explain that £3,650 became due only on the 30th December last—the day before we closed our books—and further, that your directors do not, as stated at last meeting, consider the item a good asset. From careful investigation, we have arrived at the conclusion that about 31,200 shares, representing £7,250, now due to the association, will have to be cancelled; but as this can only be done by reducing the capital of the association, which requires a special resolution of the shareholders, we are compelled to allow the item to stand in the sheet without alteration. With regard to the second item, I have to repeat what I stated to you at last meeting—viz., I feel certain we will not get anything like the amount owing to us. The liquidation of the Accident Indemnity Company, over which your directors have no control, is proving a long and vexatious matter. The latest report received from our Melbourne manager, dated 17th February, is as follows: 'I have seen both the liquidator and Madden and Butler *re* this matter. From both of them I learn that there is very little fresh to report. The gist of their remarks is as follows: Liquidator's views as to the winding-up of the company are by no means sanguine. The list of contributors for this colony is practically "hollow." The only parties worth powder and shot are in Sydney, and, as this necessitates proof of claim and other preliminary inquiries being all gone over in the New South Wales Courts, action is very much hampered in consequence, and even in that list there are only one or two men of position who will pay from that circumstance. With regard to the others, the question arises as to whether it is worth while to sue them, and, if necessary, force them through the Insolvent Court, to do which, of course, means costs and costs.' The life department shows a loss of £883 8s. 6d. for the year. That a loss would occur was fully expected, as we only had our renewal premiums to depend on for income, and this has been largely reduced by the payment of surrender values. Your responsibility in this department has been lessened to a very considerable extent during the year, and there is now only about £26,000 of life assurances to be got rid of, and I am happy to report that negotiations have almost been concluded for closing our liability in this department. This, of course, will entail a loss to the shareholders, the amount of which I cannot as yet advise you of."

Again,—

"The chairman said of course the sixpenny call due on 30th December was included in the balance-sheet, and of that about £719 was regarded as bad.

"The general manager (Mr. A. Maxwell) remarked that the call was good for about £2,800, roughly speaking."

Further,—

"Mr. Gore: It is quite different.

"The chairman: No. No notice has been sent in that such a resolution would be submitted. I have already told you that section 94 of the Act says that the appointment of Inspectors can only be done by special resolution, notice of which must have been given previously to every shareholder.

I assure you that the thing cannot be done legally. There is nothing to prevent you from proceeding under the section of the Act to which I have referred. The company will not be wound up for some months yet, and during the whole of that time your board of inquiry can be making their inspection, so that you will lose nothing by the postponement. If you at once take steps to call a meeting, and send out the necessary notices, you can have your board appointed under this section, and then you will be able to pay them for their services."

Mr. Bevan: You see I want to show all about this improving business.

Mr. Callan: That is not the point. The statement is that the report is directly deceiving. I want you to show in what way.

Mr. Bevan: I was greatly deceived, because I thought it would be the truth.

17. *Mr. Callan.*] Well, I will not ask you any more about that, but will go on to clause 4, "That the balance-sheets from 1887 to 1890 disclose losses during these periods alone involving no less a sum than £56,246 0s. 7d., whilst at the same time the manager and delegates from the board of directors were calling meetings of shareholders throughout the colony, and assuring them of the soundness of the business and the strong position the association was attaining." Have you not made a mistake about this £56,000?—Of course, I have not verified the figures in the petition.

18. If I say the correct sum is £42,693 18s. 1d., will you say it is a mistake?—An error has crept in there.

19. The correct sum, then, is £42,693 18s. 1d., and the sum of £56,246 0s. 7d. is an error?—Yes, I think so.

20. When I went to the West Coast with Mr. Sinclair, did I put the affairs of the company in a very strong light? Did I say the affairs of the company were in a very prosperous condition?—Undoubtedly you did.

21. What did I say?—You said the company would shortly take first rank with the leading fire insurance companies in the colony.

22. Did I not say that the affairs of the company were not at the present time in as good condition as could be wished?—No, you said this: "We have gone into calculations, and we find that it would take 5s. to wind up."

23. I did not say we were in a good position?—You said it would take 5s. to wind up now; but if the shareholders paid a call of 2s. 6d., and gave the affair their hearty support now, they would retrieve past losses.

24. Did I say they would retrieve, or have the chance of retrieving, past losses? Did I say that the company would be a success, or did I say that it would have a good chance of being successful?—Decidedly not. You said that the company would be a success.

25. Would you deny that I stated that it would have a fair chance of success?—No; you made use of no such word.

26. Do you remember that just the month before I went round some gentlemen held meetings with the object of having the business wound up?—There was great dissatisfaction amongst the shareholders, which caused them to hold meetings.

27. Do you remember Mr. Michel rising up and saying that the shareholders were putting the company in a worse light than the gentlemen who had been there the month before?—No; I will say that it did not happen.

28. Well, I could swear it did, and could get others to do the same. With regard to allegation 5—"That the manager's published statement, in compliance with the provisions of the Joint Stock Companies Act, dated the 1st January, 1890, sets forth liabilities at £23,522 8s. 11d., with assets at £27,497 8s. 10d., or a surplus of assets over liabilities of £3,974 19s. 11d."—the figures are right in this, and I will explain that in the statement. In regard to clause No. 6, "That the association was placed in liquidation early in 1891, and that at the general meeting of shareholders held on the 2nd March of that year the chairman of directors stated that it would cost about 2s. or 2s. 3d. per share to finally wind up the affairs"—did I not, Mr. Bevan, largely qualify that statement?—Well, we will read it. This is what you did say:—

"Mr. Taylor suggested that there might be something to get back.

"The chairman said that Mr. Taylor, and others who had opposed the carrying-on of the company, could not expect to get much back. It was very difficult to say what the winding-up would cost. He might state, however, that shareholders would get nothing back. They might think, arguing from what had occurred in the case of the Colonial Insurance Company, that they might get something back, but he would point out that the Colonial had assets of £68,000. The Equitable had no assets, and therefore shareholders would get nothing back; but it would cost something to wind up. The directors had gone into the matter, and, basing their calculations upon this—that they got nothing from the Accident Indemnity Company—they thought that, roughly speaking—and he was only speaking roughly—it would cost something like 2s. or 2s. 3d. to wind up; but that was a mere guess, and he wished shareholders to understand that they were not to pin him down to that. It would depend very much on what they might have to pay for reinsuring their business, or what they might sell their buildings at, and on how the shareholders paid up; but, roughly speaking, that might, he thought, be taken as something near the mark."

29. Is not that a very different statement to the bald statement that I said it would cost 2s. 3d. to wind up?—I say so still; to my common-sense reading, it would cost 2s. to 2s. 3d.

30. Now we come to the seventh clause, "That a liquidation call of 2s. 6d. per share was afterwards made by the liquidator, payable in sixpenny instalments at the intervals of three months. A further call was made a few months ago of 2s. per share, payable in one sum, or a total of 4s. 6d. per share for liquidation purposes, thus far amounting to no less a sum than £32,840 2s., and still the business of the association is not wound up." Of course, the amount here stated is not the correct one.

Mr. Bevan: Now tell us what it is.

Mr. Callan: The correct amount is £30,748 10s.

Mr. Bevan: I admit your correction. It should, then, have been £30,000, instead of £32,000, owing to less calling-power.

31. *Mr. Callan.*] Yes. Then we come to allegation 8, "That your petitioners discovered quite accidently, in the year 1890, or thereabouts, that the directors had been for six and a half years illegally drawing increased fees, amounting in the aggregate to £2,000, in contravention of the articles of association." I will answer that in connection with my statement. Clause 9 I will leave to Dr. Findlay, also clauses 10 and 11, as they do not touch me. In regard to clauses 12, 13, 14, and 15, I will deal with them afterwards. In reference to clause 16, I object to Parliament interfering on constitutional grounds, and I hope to show that there are ample means open to any shareholder if he has anything to allege against the directors. I would like to put a few more questions to Mr. Bevan in reference to statements he has made. On page 13 of the first of your evidence you say, "I may here remark that no general meeting was ever held." What do you mean by that?—I think there must have been some mistake in the transcription. I will take a note of it.

32. You say here that Mr. Maxwell was appointed manager of the Equitable, and that previous to that he was only getting a salary of £400 a year. Are you quite positive of this?—I only know it by hearsay.

33. You say something about the life balance-sheets. You say that balance-sheets of this life department never appeared from after 1887 to the present time. What will you say if I produce them?—I will say that I, as one of the largest shareholders, have never seen the balance-sheets which you produce until the present time.

34. You will admit that they have been printed?—Yes, I see that; but that proves nothing.

Mr. BEVAN examined by Dr. FINDLAY.

35. When did you become a shareholder of the association?—At its inception.

36. How many shares had you?—My firm had 1,500 originally.

37. Who is your partner?—Mr. Pollock.

38. You received a series of balance-sheets from the inception to the time of instituting the petition, I suppose?—Yes.

39. Can you tell us how many you had received?—I received all these.

40. When did they usually reach you?—Generally before the general meeting, except in the case of 1890.

41. Now, you formed a sub-committee?—Yes.

42. To make full inquiries, examine every balance-sheet, and obtain every information possible?—Yes.

43. When was that sub-committee formed?—About the time of the appointment of Mr. Maxwell.

44. What time was that?—I think, about 1889.

45. What month?—I cannot say.

46. Would it be January?—It was after we received the balance-sheet. It would be some time in March.

47. When did you first take steps to make inquiries into the funds of this company?—When we saw the losses.

48. When would that be?—Of course, at the end of 1888; more particularly in 1889.

49. That was when you personally began to make inquiries?—I first took alarm myself about 1888.

50. What did you do in consequence of that alarm?—I conferred with shareholders.

51. In consequence of that conference, what did you do?—Mr. Maher, who was passing through Dunedin, went into inquiries.

52. Was the formation of that sub-committee the first step taken by shareholders?—O dear, no.

53. What was the earliest step?—They held meetings. I took no part in them, for the reason that we were agents for the Equitable Association.

54. When did you first identify yourself with the movement of inquiry?—About 1889.

55. At what time was the action Pollock *v.* Cargill and Kirkcaldie tried?—I will believe you if you say it was in 1889.

56. Was the sub-committee formed in the same year?—Yes.

57. You say in your statement that you were kept in ignorance of the affairs of the company for many years?—Yes.

58. Why did you not previous to that year attempt to get information?—We did not know that anything was wrong. We put our trust in the directors.

59. You made no inquiry before 1889?—Undoubtedly we did. I made inquiries from Mr. Kirkcaldie in 1887, and was very much alarmed by what he told me. Meetings were held at Dunedin about that time.

60. Did you attend, or were you represented there?—No, I had no time; but the directors were constantly writing to us to get the use of our proxies.

61. You do not wish to imply that because you were an agent you deliberately refrained from making inquiries?—I was satisfied that all was going right.

62. Although kept in ignorance?—I was not alarmed up till the end of 1887. The losses shown in the balance-sheet first alarmed me.

63. When did you get the fourth annual report?—Somewhere about the 7th March, 1887. That was the first time I knew that we had got hold of the Mercantile Union.

64. And did you make no remonstrance at that?—I did.

65. In what manner?—Amongst the shareholders.

66. Did you direct any remonstrance to the directors?—I might have done. I did not write to them directly.

67. Do you remember the circular of the 5th April, 1887, in which it states that in view of the largely-increasing volume of the company's business the directors have decided to call up additional capital?—Yes.

68. This was a circular to call up capital, and the call follows after the taking of this Mercantile Union Association?—I did not know they had acquired it.

69. After getting that circular did not you direct any remonstrances to the directors?—Oh, no.

70. Further in your report you say, "I want to show a decided improvement in the company," and you quote the Chairman's remarks referring to 1887, in reference to the year being a most disastrous one for the company. This is the year to which Mr. Cargill refers in his letter put in on Saturday. You stated in your evidence that you had not been allowed a vote, on the ground that the calls had not been paid?—I did put them in, but they were thrown out.

71. You admit from time to time getting circulars placing particular stress on the articles of association?—Yes.

72. You talk of a meeting being called in an "unusual way." What do you mean by that?—We did not get the notice until after the meeting was held.

73. Can you say that no circulars were sent out?—I can swear that every shareholder in the Town of Hokitika did not get one.

74. You emphasize "unusual," but do you know that, according to the articles of association, the only duty of the directors is to call meetings by advertisement?—Yes.

75. Why do you take exception then?—Because they had not done it before.

76. You admit that they did their duty?—They might have put it in some country paper hundreds of miles away.

77. There are shareholders in every part of the colony? There may be some in England?—I will admit they are all over the colony.

78. What notification in the paper would be sufficient?—Well, it would be necessary to send advertisements to the papers all over the colony.

79. Then it would be better to send circulars?—Yes.

80. One of your main grievances is the increase of directors' fees?—Yes.

81. You might have got a report of proceedings in which the directors' fees were raised and may not have noticed it?—I cannot say.

82. Will you say you did not?—I will not bind myself to that.

83. If Mr. Callan is prepared to show that a report of proceedings of the meeting at which these fees were increased was sent to every shareholder will you deny it?—I cannot say.

84. You will not say you never got such a report?—I cannot say. My attention was never drawn to it till six years afterwards.

85. If it had been mentioned in the report, and you had read it, your attention would have been drawn to it?—Yes.

86. With regard to these assertions with reference to Mr. Guthrie: are you prepared to bring any charge whatever against Mr. Guthrie, as having used his position as director in any way to effect this insurance, and get this £4,000?—I make no charge against Mr. Guthrie.

87. Did you not make a charge that Mr. Guthrie violated his position with the object of getting £4,000?—No.

88. Do you know of Mr. Guthrie's dealings with the company in connection with moneys he has drawn?—I do not single him out.

89. You say in your petition that your petitioners also discovered that the directors illegally departed from the prospectus of the association. I suppose in a question of law you would not set your opinion against that of Justice Williams?—No, I would not.

90. If Justice Williams decided that it was not illegal for the directors to carry on business outside of the colony, you would not say it was illegal?—I would not be bound by Justice Williams—only by Court of Appeal of the Privy Council.

91. Do you know of the case Gray *v.* the Equitable Insurance Company?—I never heard of it.

92. If I tell you that on reference to a certain book in the public library you can obtain information which agrees with what I am telling you, will you admit that you are in the wrong?—I am not satisfied with the decision. The law may be right. I do not know how this case was put before the Judge.

93. With regard to the meeting you called at Dunedin, you say you failed to get one satisfactory answer; and then you say you only put one question, and that was answered in the affirmative. What do you mean?—I put more than one question, and I got an answer only to one.

94. Now you say that no balance-sheet of the life department ever appeared after 1887?—I did not get one.

95. Why did not you apply for the balance-sheet of 1888?—I could not tell you. I might have been from home; I do not know.

95A. Do you want to know anything more about this £5,000 given to the Government, or do you know, as a matter of fact, that the Government holds this as a security as long as the association is carried on?—Not to my knowledge.

96. Do you know if the liquidator has made an application for its release?—I do not know. I only wanted it shown in the balance-sheet.

97. Is your grievance, regarding the ejection of the reporter, against the shareholders or the directors?—It was due in the first place to the directors. I went down in answer to their "court inquiry," and so as to get the matter made public; but I was stopped on every side.

98. Was Mr. Cohen's removal due to the shareholders?—I assented to it, as they kept raising points of order.

99. What directors raised the points of order?—The whole of them.

100. How do you know this?—Because the voice of dissent came from the spot where the directors were sitting.

101. Do you feel justified in blaming the directors because of voices which came from the place where they were sitting?—Yes, I do.

102. Was there a resolution put to compel the withdrawal of Mr. Cohen?—No; I assented to it. I said to Mr. Cohen, "You had better go."

103. You did not want to get a resolution of the meeting?—No, they were all against me.

104. *Mr. Crowther.*] Were the majority of voices against you?—No; a number of the shareholders in the room were in my favour.

105. *Dr. Findlay.*] You blame the directors, and yet you would not put it to the meeting?—The truth was, I did not care. I was in a perfect ferment the whole time. I assented to the reporter going away so that the business might proceed.

106. In dealing with the balance-sheet of the Equitable, you object to the form in which it is made up?—Yes; they do not show debtor and creditor.

107. What would you ask them to show?—I would ask them to show gross premiums and reinsurances.

108. Do you complain that the balance-sheets are not made up in the usual form followed by insurance companies?—Yes.

109. Would you be surprised to know that the balance-sheet of the National Insurance Company for 1893 is made up in exactly the same way?—No. If I were a director I would never assent to a balance-sheet going out without showing full particulars.

110. After examining the balance-sheet of 1889, are you prepared to retract your former statement that property does not appear under its proper heading in the balance-sheet of that year?—I meant the Fire and Marine Accident and Indemnity Company.

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TUESDAY, 2ND OCTOBER, 1894.

Mr. BEVAN examined by Dr. FINDLAY.

Mr. Bevan: Yesterday, Mr. Chairman, you will remember, I was challenged, at a moment's notice, to verify the figures in a very involved number of balance-sheets. I found this very difficult, and, under cross-examination, declared that my first figures were wrong. I am now prepared to verify every one of my figures and to assert that they are incontestably correct.

Dr. Findlay: Gentlemen, I do not know what you think about this matter; but it seems very strange that, after making a deliberate statement and then giving it a denial, Mr. Bevan comes here again to-day to verify his previous remarks. Yesterday he was asked a number of questions, and he was forced to confess that he could not substantiate the figures appearing under these different headings, and he agrees to accept the statements made by Mr. Callan as to the correctness of the figures. Now he comes again, and wishes to retract what he stated to Mr. Callan, and support what he previously said. If that kind of thing is to go on we shall never be finished, for what he has done in regard to the figures will apply to everything else.

The Chairman: Go on with your examination, and afterwards Mr. Bevan can make his statement.

1. *Dr. Findlay.*] In your statement made on the second day of this inquiry, Mr. Bevan, you say that "there is a gross total on the debtor's side of the balance-sheet for the year ending 31st December, 1890, of £22,500 19s. 11d. in the acquisition of business amounting to £17,994 11s. 4d.?—Yes.

2. Now, if the insurance premiums of an insurance company amounted to £100 in the insurance of a block of buildings, and the whole of that block was burned down, involving the company in a loss of £10,000, would you say that that £10,000 had been spent in acquiring business—the hundred pounds' worth of business?—Certainly not. I would say that £9,900 had been lost, though.

3. But you say here that the total for that year is a debit expenditure of £25,700, to do a business of £17,994 11s. 4d.?—Yes.

4. What were the losses of the year?—The loss on fire and marine risks was £11,250.

5. And yet you include that in the amount you said was spent in acquiring the business of £17,994 11s. 4d.?—I did not say to acquire. I meant that the sum of £22,500 19s. 11d. was lost during that year.

6. And you wish to withdraw the words in your statement, "in the acquisition of business"?—Certainly.

7. And you want to say now that £17,994 11s. 4d. cost £9,614 7s. 8d., instead of £22,000, as you originally put it?—Yes.

8. In your petition you say, "That your petitioners discovered quite accidentally that the directors had for six and a half years been illegally drawing increased fees, amounting in the aggregate to £2,000, in contravention of the articles of association." Yesterday I asked you whether you had received a circular containing a report of the meeting at which these fees were increased, and you said "No." Do you still say that?—I cannot say at such a distance of time.

9. If you had received such a circular, containing this information, you would probably have seen it?—I might have done.

10. The circulars which you have got, I suppose, you have received from time to time?—I suppose so, or I would not have them in my possession.

11. You have a report here of the general meeting of shareholders held on 3rd March, 1894, and I see you have underlined it in red ink, which shows that you have read it carefully through?—I have.

12. Have you the articles of association there?—Yes.

13. And I suppose you have always had a copy?—Not always. Not till after a considerable time after joining the company.

14. But you could have got a copy if you had liked?—I suppose I could have got a copy if I had asked for it.

15. In clause 7 of section 55, of articles of association, you will see that there is a provision there that, "Until the company in general meeting shall otherwise determine, a sum of £3 10s. shall be paid to the directors out of the funds of the company as remuneration for their services at each meeting, to be distributed amongst those directors actually present within twenty minutes of the advertised time of meeting, and such meetings for attendance at which remuneration is hereby provided shall not be held more frequently than once a fortnight." That is the provision in articles of association for directors' remuneration in general meeting. You say in your petition that in 1890 you accidentally discovered that the fees had been increased?—No, I said they had been illegally drawing them.

16. Were you aware that any resolution had been passed at general meeting increasing the fees of directors?—It is a blank in my memory if I ever knew of it.

17. I read from Exhibit No. 3, the report put in by yourself, "On the motion of Mr. R. A. Lawson, it was resolved to amend clause 7 of section 55 of articles of association, so as to provide that the directors present at each meeting shall receive amongst them the sum of £7 as remuneration for their services." Did you ever read that report?—I read it six years after, when all the noise was made.

18. Do you want the Committee to believe that you did not get it for six years afterwards?—I cannot say.

19. Will you deny that you received it immediately after its face date?—I cannot say that either.

20. Now, may I ask you your reason for coming to the House at all with this petition?—I wanted to get justice.

21. Was that because you could not get it in the Court of law?—I could not get anything to go to a Court of law with. We were prevented from appointing inspectors to enable us to go to law. Under section 94 of "The Companies Act, 1882."

22. In other words, you had no case if you had gone to a Court of law?—No, we wanted inspectors appointed under the Act, and we could not get them. We applied, but we were refused.

23. What was the reason?—Mr. Callan refused to act on the shareholders' requisition, and would not call a general meeting.

24. You have looked into this matter very carefully?—I have, and also with my solicitor.

25. You say in your petition, "That from time to time you have strenuously attempted to get reports and investigations effected, and have used every legal means for the purpose." I am going to read to you a few very clear lines of section 90 of "The Companies Act, 1882": "The Supreme Court or any Judge thereof may appoint competent inspectors to examine into the affairs of the company under this Act, and to report thereon in such a manner as the Court or Judge may direct upon the applications following, that is to say: (1) in the case of a company that has a capital divided into shares, upon the application of members holding not less than one-fifth part of the whole shares of the company for the time being issued." Now, Mr. Bevan, did you ever attempt that application. That could be made directly to a Judge by yourself?—We would have made application to a Court if we had had sufficient *prima facie* evidence to place before it.

26. *The Chairman.*] You have got simply to make application by one-fifth of the whole shares of the company, and the Judge will appoint inspectors. Did you ever make that application?—No.

27. Did you have shares representing one-fifth of the shareholders when you requisitioned the directors?—Yes.

28. *Dr. Findlay.*] By this provision, then, the shareholders may, on the application of a certain number, hold a meeting in spite of the directors?—Yes.

29. I want to know this: You admit that you could have had a legal audit or audits of the accounts of the company?—I do not admit anything.

30. Then, you know it was competent for you to have appointed such auditor or auditors? Do you deny that you could not have had a resolution passed to that effect?—No; the directors could always crush us with their proxies.

31. Did you try to enforce article 92 of the articles of association?—I did not. I had no reason to complain about the auditors.

32. You said just now that the directors armed themselves with proxies. Do you mean to say that you could never command a sufficient number of shares to carry out your object?—If it was found to be necessary.

33. Could you force it by the number of votes behind you? Had you the necessary number of shares at your disposal?—I could not say; I never asked them.

34. Referring to your statement that you have used every legal means, do you mean to say that the directors of the company mismanaged the business and should be held responsible?—Yes.

35. This company has been in liquidation since 1891?—For three and a half years.

36. I will read to you section 226 of "The Companies Act, 1882": "Where, in the course of the winding up of any company under this Act, it appears that any past or present director, manager, official, or other liquidator, or any officer of such company, has misapplied or retained in his own hands or become liable or accountable for any moneys of his company, or been guilty of any misfeasance or breach of trust in relation to the company, the Court may, on the application of any liquidator

or of any creditor or contributory of the company, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of such director, manager, or other officer, and compel him to repay any moneys so misapplied or retained, or for which he has become liable or accountable, with interest after such rate as the Court thinks just, or to contribute such sums of money to the assets of the company by way of compensation in respect of such misapplication, retainer, misfeasance, or breach of trust as the Court thinks just." Did you make any application to the Court under this section?—I never made any application whatever under this section.

37. You say, Mr. Bevan, that you were "bluffed" at every point?—Yes.

37A. I suppose you know enough of companies and liquidation to admit this: that if liquidation once begins the directors have no power in the control of the company?—I believe so.

38. Then, since the liquidation, you cannot say the directors "bluffed" you in any way?—No.

39. In your evidence, you stated that you had never been able to get an inspection of the share register?—I did not say that. I said I had not been able to get a copy of the share register.

40. Did you say you tried to get an inspection of the share register?—I said I tried to get a copy of the share register, and was absolutely refused.

41. Who refused you?—Mr. Maxwell.

42. Was the refusal made by letter?—No. I asked him in Hokitika and Dunedin.

43. Was it important that you should have seen the share register?—Certainly. I wanted a list of the whole of the shareholders throughout the colony.

44. Let me read you section forty-two of the Companies Act: "The register of members, commencing from the date of registration of the company, shall be kept at the registered office of the company hereinafter mentioned. Except when closed as hereinafter mentioned, it shall during business hours (but subject to such reasonable restrictions as the company in general meeting may impose, so that not less than three hours in each day be appointed for inspection) be open to the inspection of any member gratis, and to the inspection of any other person on the payment of one shilling, or such less sum as the company may prescribe for each inspection. Every such member or other person may acquire a copy of such register or any part thereof, or of such list or summary of members as is hereinbefore mentioned, on payment of sixpence for every hundred words required to be copied. If such inspection or copy is refused, the company shall incur for each refusal a penalty not exceeding £5 and a further penalty not exceeding £2 for every day during which such refusal continues, and every director and manager of the company who shall knowingly authorise or permit such refusal shall incur the like penalty, and in addition to the above penalty any Judge of the Supreme Court sitting in Chambers may by order compel an immediate inspection of the register." I think you will admit that would have enabled you to get an inspection if you liked?—I did not want to go to law.

45. Did you ever make a written application to see the register?—No.

46. You have never brought the matter under the notice of the directors, and then been refused a copy?—No.

47. You say in section 14 "That the balance-sheets have always contained the most meagre information, condensed into the fewest possible lines, rendering it practically impossible for any shareholder even approximately to arrive at a true state of affairs of the company, and that those documents were as misleading and as valueless in character as the reports that accompanies them were unreliable. Have you ever looked at the balance-sheets of other companies?—No; I do not interest myself in other companies.

48. Have you seen the National Insurance Company's balance-sheet for last year?—No.

49. I will now show you the balance-sheet for last year of the National Insurance Company Are you satisfied with the way that is made up?—No, there are many things in it which would not satisfy me.

49A. Here is the Standard, then?—It is just the same—altogether deficient in detail.

49B. Well, what about the Union?—I am also dissatisfied with that. Neither of these companies give sufficient detail for the enlightenment of the shareholders.

49C. It is the same defect that you urged against the Equitable?—Undoubtedly.

50. And you think the Act requires to be amended?—I do, certainly. I think it should be amended on the lines of the Government, and Australian Mutual Provident, and other well-conducted life offices.

Mr. Bevan: I maintain that the sum of £14,221 18s. 11d., described in clause 2 of my petition as profits disclosed in balance-sheets, is correct. I also maintain that the sum of £56,246 0s. 7d., losses from 1887 to 1890, is correct.

Mr. Callan.] Will you tell us how this £14,221 18s. 11d. is made up? [Mr. Bevan here quoted the balance-sheets of 1883, 1884, and 1885 in support of his contention. Questioned by Dr. Findlay, he admitted that he had not compared his figures with the context.]

51. Have you ever been employed as a professional accountant?—Never in my life.

Mr. ALEXANDER SIMPSON, Insurance Agent, examined.

Mr. Simpson: I was cashier for the Equitable Assurance Association for five years. I worked for five years at the head office and two years in charge of a branch of the company in Christchurch. After that the company went into liquidation.

52. *Dr. Findlay.*] Are you a shareholder?—Yes.

53. Is this list which I produce a list of shareholders?—That is one of them. Some were printed with covers and some without.

54. Were there two series?—There has been a revised share-list.

55. Did the revised list show a less amount of shares than the first one?—I cannot say.

56. *Mr. Bevan.*] As an accountant, are you aware that up to the present time 13s. 6d. per share has been called up on the shares of the company?—I cannot say positively as to the amount.

57. If you were petitioning the House on a petition of this kind, on what basis would you make your calculations? Would you take the share register as a basis?—I do not know what you want to get at.

58. Would you calculate 145,956 shares at 13s. 6d.?—I would go according to the share register.

59. Could you make an approximate calculation, and arrive at the number of shares which have not been paid up?—No.

60. *The Chairman.*] Do you know anything of the books of the company, or how the affairs were managed? Had you any experience of the books?—I used to see the register periodically.

60A. Can you tell us anything about the transference of shares?—I had nothing to do with the transference of shares.

60B. Can you say how the calls made were paid up, or what deductions there were?—I could not say, but I know that there were a number not paid.

61. Was the business of an unsound and disastrous character?—Some of it was good and some bad.

61A. Did any of the shareholders speak to you about Mr. Maxwell's appointment?—Yes; I told them I was speaking as a shareholder, not as an employé. I objected to Mr. Maxwell's appointment as manager until we knew whether we were going to get any money from Melbourne. It was then proposed to engage Mr. Maxwell for three years at a salary of £1,000 a year. I said we should not do this, because if we did not get the money from Melbourne we would have to go into liquidation. The money was to have come from our treaty company.

62. Did you speak to many shareholders about this?—I did not go out of my way to speak to them. I did not speak to the directors at the meeting, but Mr. Pollock did. I cannot say who the directors present were. It was at the board meeting, and I was preparing the room. This was in 1889 or 1890. I think this was the meeting at which Mr. Maxwell was appointed, but I cannot say positively.

63. What did Mr. Pollock say?—He told them that it was not wise to make the appointment. I left the room then, and did not hear anything he said.

64. Did Mr. Pollock protest on the same lines as yourself?—I heard him say that it was not prudent to appoint any one at the present time.

65. How many directors were present at the time?—There might have been three or four, but the Board had not met at that time.

66. It was just a chat between Pollock and three or four directors, then?—Mr. Pollock was there, and I understood that he was discussing the matter.

67. Were you present at the conference between Mr. Pollock and the directors?—I retired, leaving Mr. Pollock there and the other directors when they started the board meeting.

68. *Dr. Findlay.*] Do you know if any of the directors took risks in the company?—Yes.

69. Who were they?—Well, we had Hogg, Howison, Nicoll and Co., Henry Guthrie, Grigg, Meenan, Mackerras and Hazlett, Scoullar, Cargill, and, I believe, Mr. Mark Sinclair.

69A. Did they give you business to a large extent?—As much as we could take.

70. Did you pay losses to one or more of them?—We paid small losses, as far as my memory serves me, to Messrs. Meenan, Grigg, Hogg, and Cargill. Mr. Cargill's might have been £5 or £10, the others might have been £100, and to Messrs. Mackerras and Hazlett I believe a large one—perhaps £1,000, or £1,500, on a marine risk.

71. I understand that their accounts were profitable to the company and all others, with the exception of one that was Mr. Guthrie's. Can you state the amount paid to him?—No, I cannot.

72. Did it run to hundreds or thousands?—The net losses from premium, I think, runs into thousands.

73. Can you state the gross losses?—I cannot say; something like £5,000 or £6,000.

74. In connection with these losses paid to Mr. Guthrie, was the business of a sound or unsound character?—I would rather not answer that question.

75. But I want my answer?—Well, yes, some of them were very rotten.

75A. *The Chairman.*] We want something more definite than that?—They were marine losses.

76. Can you name the ships?—Well, there was one the "Nauphante," on which a risk was effected in Dunedin.

77. Where was the vessel at that time?—I think she was in China.

78. Was she ever in New Zealand waters?—Not at the time the risk was taken.

79. Do you know why the risk was taken?—Because the other companies would not take it. The reinsurance companies took business of this kind only on the promise of other good business.

79A. Had they risks upon this vessel when she was lost?—There was one. I cannot say positively which it was; it was a reinsurance from the Equitable.

80. What other vessels did you consider rotten risks?—There was another, I have forgotten its name, which was taken, and a portion of the risk reinsured.

81. And was the vessel lost?—I believe she was, but I cannot speak definitely. This "Nauphante" is in my mind on account of being doubly insured. She was insured in New Zealand and at the other end. That means that she was insured for £4,000 when her value was £2,000. The insurances were paid, but repaid afterwards. The money was refunded *pro ratâ*.

82. Who refunded the money?—I think it was Mr. Guthrie.

83. Did you know of any other vessels?—I cannot remember any just now.

84. Did the directors insist on these risks being taken?—I cannot say.

85. You say there was some objection?—That, of course, I would not know. The manager would give instructions in that respect.

86. How do you know that objections were made?—I heard the manager say that he did not care about them. It was Mr. Jolly who said this. He was in the Marine Department. He said he did not think he could get cover for them.

87. How long was the risk running before the ship was lost?—I cannot say.

88. Can you speak of any other risks of an "unsound and disastrous character"?—No; I do not think so.

89. Is this one risk of Guthrie's the only case you know of—I mean bad risks?—No; I cannot say. I think the other accounts were profitable.

90. *Mr. Crowther.*] Was it possible or probable that the authorities or the owners at Dunedin knew that the vessel was insured at the other end?—I do not think they knew it at the time. I am unable to say.

91. *Mr. Bevan.*] Was Mr. Guthrie the owner of the vessel?—Well, I cannot say if he was the whole owner or not. I believe the policy was in his name.

92. Did he make the proposal?—He signed it.

93. Where was the vessel when she was insured?—I believe she was in China.

94. Was she insured through the directors of the company?—I do not know.

95. In what office was the vessel insured in China?—I do not know.

95A. Had you an agency in China?—No.

96. How long afterwards was the money refunded by Mr. Guthrie?—I cannot say; it was some months afterwards. It might have been six or twelve months.

97. *Dr. Findlay.*] When you speak of money refunded, was it refunded to the China office of the Equitable?—I think it was *pro ratâ*, half each.

98. Do you know of other rotten risks undertaken?—I cannot say their names. I know that there were two or three whose business the directors did not care to take.

98A. How do you know this?—The marine clerk told me he did not care about the business.

99. *Mr. Bevan.*] You stated that Mr. Guthrie's business resulted in losses: can you tell us the actual figures?—No.

99A. Do you recognise this [handwriting produced]?—That is Voller's writing, the late accountant.

100. This is what he says [Appendix G]: to whose business does that refer?—Business received from Mr. Guthrie.

101. *Dr. Findlay.*] Do you say that it is correct?—I know it is in Voller's handwriting, but I do not know if it is correct.

102. *Mr. Bevan.*] I place in your hands a copy of a letter, written by Mr. Cargill to Mr. Guthrie, dated 5th January, 1889 [Appendix H]: have you ever seen a letter of that description amongst the letters of the company?—Yes, there is such a letter showing losses on Mr. Guthrie's business.

103. Can you give any information as to who authorised Mr. Hazlett to purchase the site on which the Equitable building in Dunedin is erected?—Nothing from my knowledge.

104. Did you have access to the minute-book?—Yes, at periods.

105. Did you ever see a minute authorising that purchase?—Never.

106. Do you know a man of the name of Grant, a shareholder with 2,550 shares on the register?—No.

107. But you know him as a shareholder?—Yes, I knew his name was on the share-list.

108. Did you think he was a responsible man for such a large holding?—No.

109. Who paid the first calls on those shares?—I do not know.

110. *The Chairman.*] Who is Grant?—He is a farmer on the Peninsula.

111. Had he a freehold there?—He might have had. I do not know. I know he is a shareholder. The reason that no action was taken against him, Mr. Voller informed me, was that he had got no money.

112. *Dr. Findlay.*] Was the first call paid by him?—It came through Hogg, Howison, Nicoll, and Co.

113. What was the registered address?—It was care of Hogg, Howison, Nicoll, and Co., Dunedin.

114. Not the Peninsula?—No.

115. *The Chairman.*] The second call, who paid that?—I think it was unpaid.

116. How do you know that?—When it got to hundreds of pounds I remarked to Mr. Voller, "How is it that he is not pressed?" and got the answer, "He is not worth it."

116A. Do you know, of your own knowledge, that he was then in arrears?—Yes.

117. *Mr. Bevan.*] Are you aware that applications have been made for copies of the list of shareholders and refused to some and given to others by Voller?—Yes; I know Mr. John McGregor, an old employé, was refused.

118. *The Chairman.*] How do you know?—I asked Mr. Voller for a copy to give to him.

119. What reply did you get?—I was told that the lists there were private ones. That was the only reason. There was a parcel there containing a printed list of shareholders. I asked Mr. Voller if I could give him one of those, and he said, "No; they were private ones."

120. Were other applications made?—Yes; there were others, but I cannot remember them.

121. Can you remember the year you went to Christchurch?—1889, I believe it was.

122. Then, you could not say anything about the administration of the company after 1889?—No.

123. Therefore you know nothing about Mr. Callan's presidency and chairmanship?—No; nothing further than hearing that Messrs. Callan and Sinclair had gone round the Coast to put the position of the company in front of shareholders.

124. *Mr. Crowther.*] Had these share-lists anything about them to show that they were private property—any private marks, or anything of that kind—or were they piles of books available to everybody?—They were a list of shareholders paid for by somebody other than the company.

125. *The Chairman.*] Do you know who got them printed?—I cannot say positively, but I believe they were ordered to be printed by Mr. Voller on instructions frome some one else. Mr. Voller held meetings at Walters's hotel (private meetings), and these share-lists were used there. They were not available for any one else.

126. *Mr. Crowther.*] Then, you would infer that the lists were private property?—Yes, and available to those only who were of the "right colour," if I may put it so.

127. *Mr. Bevan.*] Where were they kept?—In a private room.

128. *Dr. Findlay.*] As a matter of fact, there were some available?—Yes.

129. *The Chairman.*] Were you connected with the company when the Australian Mercantile Insurance Company, the Hanseatic Insurance Company, the Hamburg-Madgeburg Insurance Company, and the Accident Indemnity Company of Dunedin were acquired?—Yes.

130. Have you any idea as to whether any of the business of these companies resulted in profit or loss?—I cannot say further than that at the time of the large fire in Thompson and Shannon's, in Wellington, the risks were reinsured with the treaty company, which turned out badly.

131. *Dr. Findlay.*] Do you know what was paid, or whether any consideration was received, for taking over these companies?—The Australian Mercantile Union gave a percentage for admission into the company, I believe.

132. And the Hanseatic?—I cannot say.

133. The Hamburg-Madgeburg?—I believe that we reinsured the unexpired portion of their risks, they allowing us the discount of 20 or 25, perhaps 30, per cent.

134. *The Chairman.*] The question is whether your company was wise or unwise in taking them over?—That I cannot say.

Witness (to the Chairman): The Fire and Marine Accident and Indemnity Company first acquired the business of the Accident Indemnity Company of Dunedin, and then came as a treaty company to the Equitable. The Equitable issued certain risks, and debited the Fire Marine and Accident Indemnity Company with the losses. The Equitable Company then drew on the Fire Marine and Accident Indemnity Company for £400, and the draft was dishonoured. We still continued to act with them as a treaty company until they became indebted to us to the amount of between £11,000 and £12,000. An action was then brought against them, and they submitted it to arbitration. I then went to Melbourne, taking with me the cash-books, ledgers, &c., to the number of about one hundred. We got an award for between £11,000 and £12,000, with costs. I cannot say how much of this has been paid.

135. *Mr. Bevan.*] I want to ask you about the 2,000 shares held by John Davie. Can you, of your own knowledge, say whether they belonged to one Franzen at one time, and were transferred to Mr. Davie?—Yes, but I cannot say the date.

136. Did you consider Mr. Davie a responsible man to hold such a large number of shares?—I have heard it said he was not a responsible person, but I cannot say of my own knowledge, only by hearsay.

137. Was Mr. Davie representing a syndicate?—I have heard so, but cannot say.

138. Did you know Franzen was a bankrupt?—No.

139. Are you aware that Mr. Hogg transferred 300 of his own shares to Mr. Sinclair in order to qualify Mr. Sinclair to become a director, when at the same time the transfer-books were closed to other shareholders?—The transfer-books were closed to all other shareholders when Mr. Sinclair took over these shares qualifying him for a seat on the Board.

140. *The Chairman.*] When was that?—It was about a couple of months before Messrs. Sinclair and Callan visited the Coast.

141. *Mr. Bevan.*] Do you remember anything about the transference of shares by the Misses Callender?—The Misses Callender held 350 shares. They became bankrupt, but when the bankruptcy was annulled the calls were paid, and Mr. Maxwell, the general manager, became the transferee.

142. Do you remember a case brought by Mr. Lloyd against Mr. Voller?—Yes, Voller bought Lloyd's shares, but made a fuss afterwards when he found the calls were not paid. He brought an action in the Court against Lloyd to obtain a verdict.

143. Did you ever hear Maxwell say he held 450 shares in the company?—No.

144. Did you ever have life balance-sheets sent to you, or do you possess them?—I do not remember seeing these [produced]. I might have done, but I do not remember.

145. How long would a stranger going into a business like the Equitable as manager require to take to make all inquiries and examinations to enable him to get a grasp of the business?—That all depends on the character of the business.

146. *The Chairman.*] Do you know what time Mr. Maxwell spent in acquiring a knowledge of the business before taking it over?—No; I never saw him in the office.

147. But it would have been possible for him to be in a portion of the premises without your knowledge?—Yes.

148. As a matter of fact, would not the knowledge which he obtained during his connection with the South British serve him in taking over the Equitable?—I consider that he would require to visit the different centres where business was being done by the company to enable him to obtain a knowledge of block limits.

149. *Mr. Bevan.*] Was it customary to lock up the books in the strong-room at night?—The key was in the place, and anybody could obtain access to them.

150. Were they locked up in the safe?—There were some in the safe, and some in the strong-room.

151. Who kept the key of the outer door?—There were several keys belonging to the officials.

152. Did you ever see a credit of £20,000 shown anywhere in your cash-book?—When I came back from Melbourne I did not take up my old position, but went on to Christchurch. I never saw the cash-book after that.

153. Was Mr. John Davie one of the investigating committee?—Yes.

154. Was Mr. David Russell a member of the investigating committee?—Yes.

155. Was he still paying his calls then?—I cannot say whether he was in arrears or not.

156. Did he get his calls compromised?—Yes.

157. Do you know that Mr. Maxwell was officially appointed as liquidator?—Mr. Maxwell was not legally appointed in the first instance. There was a difficulty about his appointment. Mr. Maxwell took action against me, and I then took action against him as liquidator, and it was then discovered that there was some flaw in his appointment.

158. *The Chairman.*] Was the appointment afterwards legalised?—Yes, by the Supreme Court.

159. *Mr. Bevan.*] In the issue of circulars and notifications to shareholders, what was customary up to the period of your connection with it?—The annual meetings were advertised in the Otago newspapers, and a circular was sent out as well.

160. *The Chairman.*] To the whole of the shareholders?—As far as my memory serves me.

161. *Dr. Findlay.*] When did you go to Christchurch?—It would be about 1889.

162. *The Chairman.*] What did they usually do in respect to annual meetings?—They used to meet on the first Monday in March, and the balance-sheets used to be sent out in February.

163. *Mr. Bevan.*] Did the directors get proxies out all over the colony, with a request to get them sent back in their favour?—Blank proxies were sent out to different agents, with a request to them to get them filled up in favour of the directors.

164. Did you receive any circular at all inviting you to attend the last annual meeting of shareholders preparatory to liquidation?—I cannot say.

165. Are you aware that delegates and the general manager were sent round the West Coast to the different towns, and the purpose for which they were sent?—The delegates went round to put the true position of the company before the shareholders.

166. To your own knowledge, were they furnished with facts and figures from the office before they left?—I cannot say.

167. Was the company in such a position as to warrant them in advising shareholders to continue on?—I cannot say. My own opinion was at that time, and I still hold it, that unless we got the money from the Fire and Marine Indemnity Company, of Melbourne, we were bound to go into liquidation.

168. That is, unless that money was forthcoming, you would consider it very imprudent to carry on a life and fire insurance business with so small a capital?—Yes.

169. *Dr. Findlay.*] Do you mean the money in hand, or in prospect?—I mean in hand.

170. You mean to say that they were not justified in carrying on unless they had the cash?—Yes. We were in a bad way, and if we did not get the money we were bound to go into liquidation.

171. Would you have closed up if there had been a good prospect of getting the money?—I cannot say that there was a good prospect. It stands to reason that if we could not recover £400 from them we could not get £11,000.

172. *Mr. Bevan.*] Do you think your bankers would have advanced anything on the prospect of getting the money?—No.

173. Did you look upon the Equitable before getting that money as practically bankrupt?—I say it was practically bankrupt.

174. If Mr. Voller said at that time it would take 2s. to wind up, do you think that was a reasonable estimate?—I think it was a very good margin.

175. When you were in Melbourne I suppose you had good opportunities for judging of the value of the Melbourne Indemnity Company?—I was on the arbitration.

176. Did you look upon the company as in a fairly good position?—I looked upon it that we would not get much out of it.

177. Can you tell the Committee the amount which this company had reached in the balance-sheet? Had it ever reached £15,000 or £16,000?—Not to my knowledge.

178. For instance, here is the balance-sheet for 1889, which shows amounts outstanding due to the company, £16,675 3s. 11d. Would this have reference to the Melbourne company?—I am not in a position to say. I have no doubt it would prove to be due by the Accident Indemnity Company, and other outstanding premiums.

179. Then, in the balance-sheet for 1890, it is set out as £11,401 13s. 4d. Is that the amount the award was given for?—As near as I can say, yes.

180. Was it a larger claim before the award was given?—There were two or three items which had been twice charged, which the arbitrators took off it.

181. *Dr. Findlay.*] It would not have stood at more than £12,500 at any time, then?—No.

182. *Mr. Bevan.*] Do you not think, in the production of a balance-sheet, it would be very much clearer if the shareholders could see how much the gross premiums were?—Yes.

183. For instance, how do you debit the reinsurance in the books?—I should always put it down as a gross amount of premium, and debit the reinsurance on the opposite side.

184. Was it done in the early part of the company's operations?—Yes.

185. *The Chairman.*] Was that departed from?—Yes, in Mr. Maxwell's time.

186. Would it be quite possible for a volume of business to be £100,000, and to be reduced in this form to £20,000?—Some companies lay themselves out to get big insurances on blocks, and then reinsure.

187. *Dr. Findlay.*] Do they all do it?—It is a common practice with some, but not with all.

188. Did you have anything to do with the life branch?—Well, I did make one inquiry at one time. When Mr. Voller left the office I examined the books to see how he stood with the company.

189. When Mr. Callan mentions in his report that he does not think much will be got from the Indemnity Company, and he thinks it will cost about 2s. or 2s. 3d. to wind up, did you think that would be sufficient?—I was not in a position to judge.

190. *Mr. Callan.*] When you say Mr. Pollock objected to the appointment of Mr. Maxwell, was I a director?—I cannot say; I do not remember. If you say you were not, I have no reason to doubt it.

191. Now, when what you call these "rotten risks" happened, was I a director?—No.

191A. *The Chairman.*] You refer especially to marine risks?—Yes.

192. *Mr. Callan.*] When the transfer was made from Hogg to Sinclair, was I a director?—No; Mr. Sinclair was elected some short time before you.

193. *Dr. Findlay.*] Do you know Mark Sinclair?—I just know him by sight.

194. Did he do business with the company?—Yes.

195. Substantial?—I do not know.

196. Was there a transfer from Mr. Hogg to Mr. Sinclair while Mr. Sinclair had already 200 shares?—Yes.

197. You say that the reason Mr. Sinclair was appointed was because Mr. Scoullar was a Wellington resident, and the directors thought it better that he should be a Dunedin man, in order that he might be upon the immediate scene of operations?—Yes.

198. In regard to share-lists, do you know that written application was ever made for a copy of the share-lists?—There was, but I cannot remember their names. A hand copy was made, and sent to the applicants.

199. Do you know of any written application having been refused?—No.

200. Do you know that there is a provision in the articles of association enabling any shareholder to inspect the register?—I know of one occasion on which such an application was refused, the reason being given that the register was engaged.

201. You have spoken of the losses arising from the loss of the ship "Nauphante." You say she belonged to Mr. Guthrie?—I knew he was a part owner. I understood it as a matter of general report.

202. The ship had been insured in China?—Yes.

203. In what company?—I do not know.

204. The risk must have been satisfactory for the China company to take it?—That is according to circumstances.

205. But you do not suggest that the Equitable had anything to do with the insurance in China?—No; but there are some companies which would take anything.

206. To which ones do you refer?—Well, the Straits Company would take anything, and the North German would take anything.

207. Is the North German in liquidation?—It is not.

208. Do you know if the Equitable reinsured the "Nauphante" risk?—It was reinsured in at least one other company.

209. Do you know what the Equitable lost through the "Nauphante"?—It would be about £125 or £250.

210. I think you told the Chairman that the "Nauphante" was the only rotten risk you knew of of Mr. Guthrie's?—I cannot name any other vessels. There were one or two other boats—we did not care about them.

211. You do not wish to say that other risks of Mr. Guthrie's were rotten?—They were bad risks—third-class risks—but I do not know their names. The reason this one is impressed upon me is because of the trouble we had to get the money.

212. But you did not wish to imply that all Mr. Guthrie's risks were rotten?—No.

213. Can you say what the company lost by the rotten risks of Mr. Guthrie?—I cannot say what premiums they received for the good and what for the bad, but as a whole they were unprofitable.

214. That might have taken place with the most excellent risks, might it not?—Yes; that might be.

215. You have said there was a difficulty in getting a refund from Mr. Guthrie?—Speaking from hearsay, yes; I heard it in the office.

216. Were any legal steps required?—I do not think so.

217. Was it necessary for Mr. Guthrie to have known that the ship was insured in China before he insured her with the Equitable?—I cannot answer that question. All depends on the shipper or agent.

218. As a matter of fact, the captain might have insured in China without Mr. Guthrie's knowledge?—Yes.

219. These risks, I suppose, could be accepted by the general manager without reference to the directors at all?—There was for a number of months a book that was written up to go into the Board room. Whether it was used or not I cannot say.

220. But for the greater part of the time was it the practice to submit the risks to the directors before accepting them?—No.

221. Then it is probable that these risks of Mr. Guthrie's were received by the office without reference to the directors at all?—Yes.

222. With regard to this company in Melbourne, and the loss of £11,000, can you say if the draft for £400 was dishonoured?—About that amount; I am not quite sure.

223. About what time would that be?—I should think about the latter end of 1887 or the beginning of 1888; I am not quite sure.

224. And what would be the amount of the risks held by the company from the Equitable at that time?—I cannot say.

225. Would they exceed £11,000?—I should think so.

226. You did not say, I understand, that the £11,000 of losses arose from the business given by the Equitable to this company after the draft was dishonoured?—The draft for £400 was the first to be paid. Prior to the action taken by the Equitable against the Fire and Marine they never paid us any money. It was at the latter end of 1888 the action was started, and the award was given in March, 1889.

227. And the draft was sent over?—Some twelve or eighteen months after that.

228. Before the action was started, was the last business given to the company?—I think it was given almost up to the time of the action.

229. Were you engaged in any department which enabled you to know this of your own knowledge?—Yes; I used to make up the slips.

230. You cannot tell us what portion of the £11,000 was given previous to the time the draft was dishonoured?—No; I cannot say. They would come round, and the risk would be renewed again.

231. A great deal of this £11,000 would arise from business given to the company before the draft was dishonoured, then?—I cannot give you any proportion as to how much business was given to the company after the draft was dishonoured.

Witness (to Mr. Crowther): They kept on giving business after the draft was dishonoured, but I cannot say how much. I know the whole sum of £11,000 did not arise from business given prior to the draft being dishonoured.

232. *Dr. Findlay.*] Was five thousand pounds' worth of business transacted after the draft was dishonoured?—I should think something like that.

233. You wish the Committee to believe that this £5,000 arose after the draft was dishonoured?—Yes.

234. Was the loss suffered through the fire at Thompson and Shannon's, in Wellington, reinsured with the Indemnity Company before the draft was dishonoured?—It was after the draft.

235. What sort of a risk was Thompson and Shannon's?—It was looked upon as a good risk, but the agent reckoned it as being two blocks instead of one.

236. *Mr. Bevan.*] Does the report of 1887 refer to Thompson and Shannon's fire?—It might; I cannot say.

237. *Dr. Findlay.*] Do you know why Messrs. Callan and Sinclair visited the West Coast?—Yes, to place the position of the company before the shareholders. A sub-committee was formed to bring up a report.

238. A good deal of correspondence was going on in the newspapers at that time about the conduct of the business, was it not?—I saw some letters.

239. Messrs. Bevan and others were stimulating this agitation, were they not?—The feeling was that we were not moving as we ought to do. I remember Mr. Pollock going through Dunedin in the early part of the year, and protesting against Mr. Maxwell's appointment.

240. In your opinion, did the criticisms and the complaints proceeding from Mr. Pollock and his friends on the West Coast injure or benefit the company?—Policies were being refused at that time. I can only speak for myself, however, and in Christchurch it did not injure business at all.

241. But do you believe no harm was done anywhere?—The shareholders would not put their business into the company, because they had not any confidence in the company.

242. Do you think these complaints against the management were likely to increase the confidence of the shareholders?—No.

243. The result of these complaints and criticisms was to prevent the shareholders from giving their share of the business to the company then?—Yes.

244. Then, did not these complaints and criticisms really injure the business of the company?—I can only say it did not injure me in Christchurch. Directly the public began to imagine the business was not sound they naturally would not give their business to the company.

245. Do you know yourself that Messrs. Callan and Sinclair went to the West Coast to put the affairs of the company before the public?—I believe they did.

246. How is the Standard Insurance Company conducted, in your opinion?—I know nothing wrong about the company. It had some little losses some time back, but it has weathered them.

247. Do you not think that if the shareholders of the Equitable had stuck together as loyally as those of the Standard the thing would have come out right?—That depends upon the circumstances, but I dare say we might have come through.

Witness (to Dr. Findlay): It was suggested to a gentleman that he should take over the management at £500; if he pulled the company through he was to get £750 a year, and if he succeeded in placing it on a sound footing he was to get £1,000 a year.

248. *Dr. Findlay.*] Would you have taken the office on these terms?—Yes; but he was superior to me.

249. Mr. Maxwell was at this time manager of the South British?—Yes.

250. Did he leave the South British for this?—I do not know of my own knowledge.

251. You speak of the National Fire Insurance balance-sheet. Do you know that the balance-sheet of this company is compiled on similar lines to that of the Equitable?—The Act only requires that the statement shall appear as published by the National and Equitable.

252. *Mr. Bevan.*] Can you tell the Committee whether £20,000 was borrowed from Mr. McLean?—I cannot say; I think it was—to pay the losses.

253. *The Chairman.*] When was the money borrowed?—I think about 1888 or 1889, before I went to Christchurch.

254. *Mr. Bevan.*] Do you think that pledging the share-register to Mr. McLean for £20,000 at 8 per cent. had a damaging effect on the company?—Yes.

255. *Mr. Callan.*] Was it 8 per cent.?—I do not know that, but I know it was against the interests of the company to get a loan on uncalled shares.

256. *Dr. Findlay.*] Did this provoke criticism?—I heard it when I was in Christchurch.

257. Do you think, then, that had the directors applied to the shareholders they could have raised £20,000 from them by making calls?—No; I think it would have forced them into liquidation.

258. How do you know?—That was the feeling.

259. Do you think it would be a good thing to do?—It would have paid the shareholders better.

260. *Mr. Crowther.*] Had a large number of shareholders prior to the borrowing of the £20,000 shown a reluctance to pay up calls?—As far as my memory serves me, they were averse to further calls.

261. *Mr. Bevan.*] Did Mr. Pollock make public criticism of his protest against Mr. Maxwell's appointment?—Not to my knowledge.

262. Did he write to the papers?—Not to my knowledge.

263. Did I write to the papers?—Not to my knowledge.

264. Have you any proof that the shareholders had not stuck to the company?—Some of them took their business away.

265. Did you get any fresh business?—Yes.

266. Did the business on the West Coast fall off?—I cannot say.

267. Whilst you were in Dunedin, what was your knowledge of the West Coast business?—As far as I can remember, it was fair. As far as I remember, Mr. Pollock referred to Hokitika as a profitable agency.

268. *Mr. Bevan.*] Did Mr. Maxwell's appointment help to destroy the company?—I cannot say.

269. My name was mentioned as a member of a deputation. Are you aware of any previous deputations?—Yes; I heard of them.

270. Were private meetings held in Dunedin?—Yes; by Mr. Voller, an officer of the department; for what purpose I cannot say.

271. Do you remember private meetings of shareholders held to examine into the affairs of the company?—I remember a meeting at the Occidental, but I was not present.

272. Do you think these private meetings were calculated to do harm to the company's business?—I should not think it would do any good holding these hole-and-corner meetings.

273. Did you read a letter signed "Common Sense" in a Dunedin paper of the 12th December, 1888?—Yes.

274. It reads as follows: [Appendix I]. Do you think that would do harm to the business—Well, I had shares offered me at 1s. a share to take them over.

275. And were shares being sold freely?—Yes.

276. Do you not think the publication of a letter like this would do more harm than Mr. Pollock's protest to the Board?—Yes.

277. *The Chairman.*] When was that letter written?—In 1888.

278. When did Mr. Pollock appear on the scene?—In the early part of 1889.

279. *Mr. Bevan.*] Have you read a letter signed "No Confidence"?—I might have read it.

280. It reads as follows: [Appendix J]. Do you think that such a letter as that would favourably influence business?—It would damage anybody's business.

281. When did you first hear of any action being taken?—When first William Lloyd started raising a dust and writing to the papers in Dunedin.

282. You say the delegate went to the West Coast for the purpose of patching up the affairs of the company: what do you mean?—I do not remember saying anything about "patching up." I remember saying that they went to the Coast to lay the affairs of the company before the shareholders.

283. *Dr. Findlay.*] You know that by memorandum of association the company is empowered to borrow money?—Yes.

284. Is it a common thing for companies to borrow money in this way?—I cannot say.

285. Do you think the shareholders would rather have paid a call or negotiate a mortgage?—I cannot say.

286. Was there an offer made by two Australian firms to take the Equitable over?—The Australian-Caledonian and British and Colonial offered to take it over as a going concern.

287. What time was this?—About June or July, 1889.

288. What were the terms?—I did not see the terms. I understood from Mr. Cargill that they were good ones.

WEDNESDAY, 3RD OCTOBER, 1894.

Statement by Mr. CALLAN.

Mr. Callan read a written statement, previously compiled by him, as follows:—

I shall deal with the charges that touch me. First, I would remark that the shares in this company are £2 shares, and that of this £2, only 13s. 6d.—a third—has been called up during a period covering close on twelve years. This 13s. 6d. covers amount paid on application, amount

paid on allotment, all calls made by the directors, and all calls made by the liquidators. The second charge deals with figures, which Mr. Bevan admitted in his cross-examination on Monday to be incorrect. On Tuesday he attempted to maintain the correctness of two sums mentioned by him in the petition—namely, the sum of £14,221 18s. 11d. mentioned in charge 2, and the sum of £56,246 0s. 7d. in charge 4. I still say he is wrong, and that his admission on Monday regarding them is correct. Referring to charge 2, the amount called up is £96,428 14s., and not £98,520 6s.; and the amount of profits is £13,275 6s. 11d., less dividends paid, £3,173, making a sum of £10,102 6s. 11d., and not £14,221 18s. 11d., as profits disclosed in balance-sheets 1883 to 1886 inclusive. This sum of £10,102 6s. 11d. is arrived at in this manner:—

	£	s.	d.
Credit balance to 31st December, 1883	3,390	13	2
Credit balance to 31st December, 1884, £6,948 0s. 8d. (less £2,552 19s. from last year)	4,395	1	8
Credit balance to 31st December, 1885, £6,289 19s. 3d. (less £1,780 7s. 9d. from last year)	4,509	11	6
Credit balance to 31st December, 1886, £2,721 18s. 11d. (less £1,741 18s. 4d. from last year)...	980	0	7
	£13,275	6	11
Less dividends paid	3,173	0	0
Leaving a balance of	£10,102	6	11

A grand total of £112,742 4s. 11d. has not been absolutely lost during the period 1887 to 1894. The sum lost during that period was £74,131 16s. 11d., made up in this way: Total amount called up, £96,428 14s.; less unpaid, £16,957 6s. 6d.; leaving capital paid-up as £79,471 7s. 6d., of which sum £5,339 10s. 7d. was lost during the year 1886. I may mention here that the liquidator estimates that of this sum £15,000 at the least will never be recovered.

The third charge in the petition is that your petitioners have been greatly deceived by the directors' and managers' reports from time to time on the improving prospects of the association, when, as a matter of fact, the losses were multiplying, and the nature of the business was of a most unsound and disastrous character. Two reports were sent out during the time I was connected with the association. The second of these reports told the shareholders that, on account of the action of a section of the shareholders, and of the varions letters which had appeared in the Press, the business of the association had been so seriously affected that a resolution to wind up would be submitted to the shareholders. I fail to see how a report of that kind could deceive the shareholders as to the condition of the company, and lead them to suppose it was in a prosperous condition. The first of these reports was not calculated to deceive either. It was very full and explicit. I put in both reports, and they will speak for themselves.

Referring to the fourth charge, the balance-sheets from 1887 to 1890 do not disclose losses during these periods of £56,246 0s. 7d. At the end of 1890 the debit at profit and loss is £42,693 18s. 1d. This part of the petition goes on to say that the manager and delegates from the board of directors were calling meetings of shareholders throughout the colony, and assuring them of the soundness of the business, and the strong position the association was attaining. Now, I only went once as a delegate to the shareholders—at Hokitika, Greymouth, Westport, and other places—and that was when the company was admitted on all hands to be in a low position, and before the new general manager was appointed, and before the shareholders had agreed generally to give the company another trial instead of winding up. I could never, therefore, have assured them of the strong position the company was attaining, because the shareholders had not then resolved whether it was better to carry on or wind up. Such a speech as the above, if ever made, could only be made after the company had started afresh. I did tell the shareholders that the company had a good connection, which, if properly attended to, and if we had ordinary luck, I thought, the business was capable of being made a success. This circular, which I put in [Appendix D], had been sent out to all the shareholders, and they had it before them when I visited them. My remarks were based upon this circular. I urged the shareholders to give the company another trial; and two facts particularly influenced me in doing so: First, that Mr. Maxwell, who had been for many years engaged in insurance business, and who was then the manager of the South British Insurance Office in Dunedin, investigated the affairs of the company, and after doing so was ready to give up his position as manager of the South British, and take the management of the Equitable. I spoke to one of the directors (in Dunedin) of the South British, and he expressed a very high opinion of Mr. Maxwell's abilities, and said they were very sorry to lose him. Second, that the Standard Insurance Company some years before had sunk very low, and the shareholders were considering whether they should not wind up. They resolved, however, to carry on, got a new general manager, loyally supported the management, and the result is that they are to-day in a good position. I felt that, though the Equitable was in a low state, it had a splendid body of shareholders, dispersed over the whole colony, and if they all pulled together and worked in the interests of the association there was a chance for it to retrieve itself. And, in further proof of the line of action I adopted when a delegate to the shareholders, I put in a circular [Appendix K] which I sent out to the shareholders a few days after I had been elected to the board of directors. In this it will be seen that I urge that the success of the association mainly depended upon the hearty co-operation of the shareholders. Again, as a proof that I did not exaggerate matters in any way, I may mention this fact: When I went to the West Coast I learned that some gentleman had gone round about a month before, holding meetings of shareholders, with the object of inducing them to wind up. As soon as I had finished my remarks to the Hokitika shareholders, one of them rose up and said that I had put a worse complexion upon the

affairs of the company than the gentleman who had addressed them a month before with the object of winding up. Mr. Bevan states, in cross-examination, that this did not happen. Well, gentlemen, I assure you I have not invented this incident; and I invite you to believe that Mr. Bevan has forgotten all about this matter, rather than to believe that I have deliberately concocted an untruth. The incident did happen, and it is, I submit, significant of the fact that I did not put the affairs of the company in a very rosy light. The shareholders were not deceived. They had the balance-sheet, and Mr. Kirkcaldie's telegram of the 6th October, 1888, addressed to Messrs. Pollock and Bevan (one of Mr. Bevan's exhibits), before them, which showed the company was not in a flourishing condition; and all I did was to put before them the opinion of Mr. Maxwell, an insurance expert, to impress upon them the absolute necessity—if they resolved to carry on—of paying the additional call promptly, and of rallying round and assisting the directors by their insuring themselves, and influencing others to insure in the company.

Dr. Findlay deals with charge 5.

The sixth charge is that which says that the chairman of directors stated that it would cost 2s. or 2s. 3d. per share to finally wind up the affairs. I will read an extract from the printed report of the meeting by which it will be seen I largely qualified this statement: "The directors had gone into the matter, and, basing their calculations upon this, that they got nothing from the Accident Indemnity Company, they thought that, roughly speaking—and he was only speaking roughly—it would cost something like 2s. or 2s. 3d. to wind up; but that was a mere guess, and he wished shareholders to understand that they were not to pin him down to that. It would depend very much on what they might have to pay for re-insuring their business, on what they might get for their life business, on what they might sell their buildings at, and on how the shareholders paid up; but, roughly speaking, that might, he thought, be taken as something near the mark." The building, which I understand cost over £6,000, and which was estimated to bring in about £4,000, after repeated attempts to sell privately, by public tender, and at auction, was finally sold at public auction for £550. Many of the calls, as has been pointed out, have turned out bad. This mainly accounts for the increased amount which it has been necessary to call to wind up; but I understand from the liquidator that the last call made will cover everything, as the liabilities now stand at about £900. Mr. Bevan has admitted in cross-examination that the sum of £32,840 4s., mentioned in charge 7, is incorrect; the correct sum is £30,748 10s.

Regarding the charge that the directors have been for six years and a half illegally drawing increased fees, I will read the statement which I made to the shareholders upon this matter which will explain it. [Appendix L.] The notice convening the meeting at which this statement was made set out the above resolution in full, and intimated that the meeting was to be held for the purpose of considering, and if thought advisable passing, it with or without amendment or modification, and a copy of this notice was sent to every shareholder. The resolution was passed with the addition of the following words: "Provided, however, that the directors will, in accordance with their expressed intention, be satisfied to conduct the affairs of the association without fees until the annual meeting in March, 1892."

The next charge in the petition which touches me is the thirteenth: "That the petitioners have used every legal means to get qualified reports and investigations effected, but have always failed in consequence of frivolous and technical objections being raised by the directors and their legal advisers, such as setting aside proxies at meetings, holding scrutinies of votes in private, and refusing to supply a schedule of votes when result declared." With regard to this, I have to say that every legal means has been used. Those shareholders feeling themselves aggrieved could at any time have applied to the Supreme Court under section 90 of "The Companies Act, 1882," for inspectors to be appointed to examine into the affairs of the company, but this has never been done. I cannot call to mind any proxy having been set aside except upon good and sufficient reasons; and as to a scrutiny in private, the usual course, when a ballot has been demanded, has, as far as I am aware, always been followed—namely, for the meeting to appoint scrutineers. These gentlemen compute the votes, and report to the chairman; and, unless their honesty is impeached in a formal manner, no one has a right to demand the particulars of the voting. Proxies were thrown out at the statutory meetings alluded to by Mr. Bevan in his evidence, and at other statutory meetings, because shareholders who had given the proxies had not paid up their calls; but I refer the Committee to article 46 of the articles of association, which says, "No shareholder shall be entitled to take part in the proceedings, or vote at any meeting, or poll, unless all calls, interest, or other charges due from him to the company have been paid." I submit that, with such an article as that before him, a chairman would not be performing his duty properly if he permitted shareholders with unpaid calls to vote. Again, Mr. Bevan complains that he and some other gentlemen, who were executors of deceased shareholders, were not allowed to vote. But neither of these gentlemen had ever applied to be registered in relation to these shares; and very wisely, because if they had applied and had been put upon the register, they would at once have become personally liable for all future calls. Never having been put upon the register in connection with these shares, they were incapacitated from voting in respect of them. The payment of calls by an executor does not make him a shareholder and entitled to all a shareholder's privileges.

Some remarks have been made regarding the agreement appointing Mr. Maxwell as general manager for three years, and the provision in it that, in the event of the company going into liquidation before the expiration of his time, he was to act as liquidator, his salary for the unexpired portion of the term going towards remuneration for his services as liquidator. This agreement was made with Mr. Maxwell before I joined the board of directors. The clause regarding liquidation is not, of course, a usual clause in an agreement of appointment. But it seems to me that, considering the circumstances the company was in at the time of his appointment, the clause was a wise one. When the company started afresh, under Mr. Maxwell's

management, its success depended upon several conditions being fulfilled—amongst others the prompt payment of calls, and the co-operation of all the shareholders. The directors, I have no doubt, argued that if any of these conditions were not fulfilled the chances of success would be small, and that the company might be forced into liquidation, and that if such should happen before the third year expired he should continue to work as liquidator. I understood that Mr. Maxwell would not leave the South British unless he got a three years' engagement certain. The clause in the agreement is binding upon Mr. Maxwell to take the liquidatorship if appointed, but not binding on the company to appoint him. If this clause had not been in the agreement, and the company had been forced into liquidation, say, one year after Mr. Maxwell's appointment, the shareholders would have been compelled to pay him £2,000 for doing nothing, and pay another large sum to someone else to act as liquidator.

Referring to Mr. Bevan's statement that the balance-sheet for 1890 was sent out late, I admit that was so. In reply, I would say: First, that there was no obligation upon the directors to send out to the shareholders the balance-sheet. Article 82 of the articles of association says: "A balance-sheet shall be made out as soon as possible after the termination of the financial period, and laid before the next ordinary general meeting of the company, and shall contain a summary of the property and liabilities of the company at the end of the financial period." When, therefore, the directors laid the balance-sheet before the meeting, they discharged all the duty incumbent upon them in respect of giving it publicity. They did not, however, confine themselves to their strict duty in these matters—but were always in the habit of sending out the balance-sheets to the shareholders. This particular one for 1890 was sent out late, and I explained the reason of this in my remarks at the annual meeting, held in March, 1891. The report of this meeting, with these remarks in it, is in the possession of Mr. Bevan. He has often quoted from it, and therefore ought to be well acquainted with the reason given for the delay in sending out the balance-sheet. The report has been put in as an exhibit by me, and the Committee will be able to see my explanation of the delay in it.

Great stress has been laid by Mr. Bevan upon the rejection, by the Board, of a petition asking the directors to call a meeting of shareholders for the purpose of appointing inspectors under the Act. Let me inform the Committee that the Board received the petition just as they were leaving the board-room to attend the first meeting called for passing the winding-up resolution. By that time the business of the company had ceased—there was no revenue coming in. We had made a provisional arrangement with the Union to take over our New Zealand business, provided the company consented to same, and went into liquidation. We feared that if there was any delay in passing the liquidation resolutions, the Union office might cry off from the arrangement with us; and we would then be left in this position, that if heavy losses occurred, we had no revenue coming in to meet them. Now, inspectors—when appointed by the shareholders of a company—must be appointed by a "special" resolution. A "special" resolution is a resolution passed at one meeting, and confirmed at a subsequent meeting, which cannot be held earlier than fourteen days after the first. Notice of the resolution must have been given to the shareholders, and our articles require twenty-one days' notice; altogether it would have meant a delay of at least six weeks before the final meeting confirming the resolution to appoint inspectors could be held. The directors would have taken a very grave responsibility upon themselves, if they had consented to postpone the liquidation resolutions for the purpose of calling meetings to appoint inspectors. It might have meant many thousands of pounds to the shareholders if losses had occurred in the meanwhile. The directors were not prepared to face the risk. They saw that the sooner the company was wound up, the sooner they got rid of all liability to the shareholders; they therefore determined not to act upon the petition, but to proceed at once and have the company wound up. I may say, in conclusion, that I am speaking for myself, and cannot speak with the same freedom as if appearing as counsel for some other person. I may tell you this, and the Chairman will bear me out, that charges such as have been made in this petition are calculated to do infinite harm to a man in professional life; and it was for this reason that, when I got the telegram asking me to come up and meet these charges, I decided to come up and give every information which lay in my power, feeling that I had nothing to fear. I feel these charges more acutely from the fact that I had tried in every way in my power to make the thing a success, and this is the reward. I ask you to exonerate me from having done any wrong, which I am sure you can fully do, after hearing the evidence which has been disclosed to you during the consideration of this case. Let me draw your attention to the last two or three lines in paragraph 16, asking the House to order a special audit and investigation of the affairs of the company, or that a special Act may be passed. My answer to that is that, as far as I personally am concerned, I do not object to this inquiry, but I do object to the Legislature dealing at all with the matter in any way. The reason for my objection is this: that I consider that these petitioners have ample means of forwarding their desires, without the interference of the Legislature. It is, I submit, derogatory to the dignity of Parliament that it should be asked to inquire into matters of this kind, when appeal to the Courts of justice is so inexpensive and easy of consummation. If your petitioners had exhausted every legal means and then failed, then there would have been some excuse for their coming here; but, as they have not done so, I submit that they are not justified, and on those grounds I object to the petition that special legislation should be exerted on their behalf.

The Chairman: The pith of the question is their right of inquiry, this is the prayer of the petition, and we want you to address yourself more particularly to that.

1. *Mr. Crowther.*] You say the petititioners have not exhausted the remedies of the Courts of justice?—I do, Sir. I say that by "The Companies Act, 1882," special provision is made for cases of this kind to enable shareholders and contributories to obtain the fullest measure of information concerning companies with which they are connected. It seems to me, however, that this petition is for the purpose of a fishing expedition, for trying to find something for future reference, and I say that the functions of Parliament should not be thus employed.

2. *Mr. Bevan.*] When did you absolutely become a director?—About April, 1889.

3. Then you would be thoroughly conversant with the business from that period?—As conversant as a director generally is.

4. And what is that?—With the general policy of the management.

5. And what is the general policy?—To make it a success.

6. And nothing else?—Yes; and to watch over its finances, of course.

7. And, if anything faulty, to report it?—Not to report it, but to repair it.

8. Not to report it?—No; not generally. There may be cases where it would be very injudicious to do so.

9. You are not, then, conversant with affairs?—With all details, certainly not.

10. Then, you cannot furnish information to this Committee of your own knowledge as to the accounts of previous directors?—Certainly not.

11. Can you tell us in round numbers how much capital is absolutely gone?—It is in my statement. £79,471 7s. 6d. is the amount of capital up to the present time from the year of inception.

12. Do you include the profits on land in that amount?—No.

13. How much, then, of profits have been paid way in addition to that? You say the profits were £10,102 6s. 11d.?—Yes.

14. Then these amounts must be added to the total loss?—Yes, these profits have gone also.

15. A gross total of £89,573 14s. 5d.; is that correct?—Yes, about that.

16. Are there any moneys left to credit, and, if so, how much?—No.

17. *The Chairman.*] Has the liquidator anything to credit?—Not that I know of. I do not know that.

18. When the company went into liquidation, did you have any money to credit?—I cannot answer that either.

19. Do you know what calls the liquidator has made?—Yes, he has made calls of 4s. 6d. a share. That is included in the 13s. 6d.

20. Is it a fact that, in the balances brought forward in the balance-sheets, the dividends had been deducted before bringing the balance forward, and then afterwards you deduct the total amount of dividends paid again?—Certainly not. The figures down in my statement are the figures of the liquidator, who is a member of the Institute of Accountants of New Zealand.

Mr. Bevan: I now call attention to balance-sheet of 1884, dividends from which are deducted. The same in 1885, dividend therefrom deducted; and the same in 1886, making a total of £5,713, which leaves £14,221 18s. 11d. balance of profit in hand. These figures are correct, as I am now reading from your own balance-sheets.

21. *Mr. Bevan.*] Did you send a telegram to the Colonial Secretary (Sir P. A. Buckley), from Dunedin?—Yes. I saw that a discussion had taken place in the House, an abridged report of which appeared in the Dunedin papers. Feeling that the statements made were of a very serious character, I called the directors together, with the result that a telegram was sent to Sir Patrick Buckley, signed by Messrs. Cargill, Meenan, Hazlett, Callan, Gregg—in fact, all the past and present directors, with the exception of Mr. Scoullar, who was not in Dunedin, saying that we denied the statements made, and courted inquiry.

22. You said in that telegram that you courted inquiry?—Yes; and we court inquiry now.

23. *The Chairman.*] Could you give an inquiry, not of a costly character, to these petitioners?—The Companies Act provides for an inquiry, not of a costly character at all.

24. Supposing an application was made to the Supreme Court by the petitioners for the appointment of inspectors?

Mr. Callan: As far as I am concerned, I have not the slightest objection.

Dr. Findlay: As far as my directors are concerned, they would be willing.

25. *Mr. Bevan.*] When the shareholders requisitioned you in the proper legal form for the appointment of inspectors, under section 94 of the Act, why did you refuse them?—At that time we had resolved that it was a prudent thing to wind up. We considered the requisition would have delayed matters, to the detriment of the company, on account of the difficulties raised on the West Coast.

26. *The Chairman:* Was not this the position: Certain shareholders were dissatisfied, therefore the directors decided to wind up?

Mr. Callan: Calling meetings meant two months' loss of time, and this would have been very serious to the shareholders, besides jeopardising negotiations which were then pending with the Union in regard to taking over the business, and I have explained this fully in my statement.

27. *The Chairman:* Supposing it was agreed upon that two inspectors should be appointed under the authority of the Supreme Court, would you be prepared to act as one of the inspectors?

Mr. Bevan: Yes, certainly.

Dr. Findlay thereupon, on behalf of his clients, would oppose the appointment of Mr. Bevan, on the ground that he was a special advocate of the petitioners, and might be influenced thereby.

Mr. Callan also objected strongly to Mr. Bevan's appointment as an inspector for similar reasons.

Mr. Bevan: Am I to understand that the objections raised to my appointment are based on the assumption that I am incapable of doing a duty of such a nature honestly and faithfully, and that, because I have unravelled so much of the past history of the company it forms a plea for my disqualification.

28. *The Chairman:* Could you not, Mr. Bevan, nominate one, and the directors the other?

Mr. Bevan: I would be prepared to submit the appointment of both inspectors to the shareholders.

Dr. Findlay and *Mr. Callan* would object to such a proposal.

Mr. Bevan: Then I decline to commit myself in any way until I have conferred with shareholders.

29. *Mr. Bevan.*] You say, Mr. Callan, the amount of losses was incurred within twelve years; how many years was the company in business?—It started in 1883, and closed in 1891. These losses occurred from the 1st January, 1883, up till now.

30. Can you tell me if any directors were employed by the liquidator?—Yes, my firm was, the firm of Callan and Galloway. Of course, I was not the solicitor for the company; but, since the company went into liquidation Mr. Maxwell asked me to act, as I had a knowledge of the affairs of the company.

31. Have you had much legal advice to give?—I have had a great deal to do, but it has not involved more than the usual expense.

32. Do you know the reason Mr. Maxwell resigned?—The reason he gave was that he could not attend to it.

33. Did you tell him that there were sufficient reasons for his removal as liquidator by the Court?—I did not.

34. Why were not the shareholders consulted as to who should be his successor?—The Act provides that the Judge shall appoint his successor, who was so appointed.

35. Was it a voluntary winding-up?—It was, and is.

36. Was Mr. Maxwell to receive £300 at the conclusion of the winding-up?—He was to receive a bonus. I cannot say if he received it; the books will show.

37. Would he be entitled to it?—The shareholders voted it. It was mentioned at the meeting that it would only take eighteen months to wind up, and the shareholders, in discussing the matter, took that into consideration. After a long discussion it was decided to vote him this. That is, if Mr. Maxwell had not been appointed as liquidator, he could have demanded his salary for the unexpired period of three years, which salary would amount to £840. The company would then have had to appoint another man as liquidator, and they would not have got him for less than £800. It was a big saving.

38. Are all the books and documents intact?—I cannot say.

38A. Have any been destroyed?—I cannot say.

39. Can you give me any information about the Treaty Company?—Nothing, practically. It was long before my time on the Board.

40. You say that the causes that led, in your opinion, to the falling-off in business were due to what occurred on the Coast, and the effect it had upon the business generally?—I do.

41. The premiums in 1889 were £16,072 16s. 2d., were they?—I am satisfied they were, on the authority of the general manager and the auditors.

42. In 1890, the balance-sheet shows that you had £17,994 11s. 4d. gross income: how do you make it to be a falling-off of business from the previous year?—I am not aware that I made it a falling-off.

43. Would you admit that, if the business of 1890 is larger than 1889, that it would not show a falling-off but an increase?—I say this, that towards the end of the year the business stopped entirely, through the newspaper reports and other disturbing influences.

44. You closed your business on the 18th February, 1891?—Yes.

45. How can you blame the action of the shareholders as causing a falling-off when really there was an increase? Your figures cover the entire year.—I say good business was done in the early part of the year, and would have continued but for the action of the West Coast shareholders.

46. Were the transfers laid before the meeting up to the latest moment before the liquidation?—Transfers were laid before us, but I know of none going through at that stage. If they did it was wrong.

47. Did your Board transfer shares on the 21st, 23rd, and 24th February, 1889, from Mr. John Davie to Mr. Whitworth Russell, or his storeman?—I am almost certain they never did. I may say I am certain, for this reason: Myself and others put our foot down to stop this kind of thing. There was one case where two ladies went bankrupt, and their shares went to a very good man, who has paid up all his calls since.

48. There is £15,716 3s. 10d. detailed as owing, according to your last balance-sheet, on 31st December, 1890, is it correct?—My answer to this is that, looking at the fact that the general manager passed it, and that two men like Messrs. Callender and Reeves audited it, I come to the conclusion that it is correct.

49. Are you aware that they put a footnote to the balance-sheet of 1890, and not to any of the previous years, stating they would not vouch for the value of certain large assets?—It is down in the balance-sheet to warn shareholders that, although none of the calls were put down as uncertain, some could not be always put down as good.

50. *Dr. Findlay.*] Do you remember Mr. G. W. Russell, M.H.R., being present at a meeting at Dunedin?—Yes, that would be in 1890.

51. Do you remember it was suggested that a committee be formed to look into the affairs of the company?—Yes.

52. What did the directors agree to?—Mr. Russell, or one of the party who was with him, moved that a resolution be passed appointing inspectors. I pointed out that they could not get inspectors appointed without the sanction of the shareholders. Finally, it was settled this way: Pass these liquidation resolutions, and we will agree with the resolution appointing inspectors. I observed that the inspectors could not be appointed in that way under the Act; but it was decided to agree to their appointment for the purposes of examination. Mr. Bevan was mentioned as one of them. Mr. Gore was also mentioned, and some one else. They were to confer with representatives appointed by the directors, and every opportunity was open to them to inspect the books.

53. *Mr. Bevan.*] But you refused to pay them?—We had no power to pay them.

54. *Dr. Findlay.*] Have you heard any more of that Committee from that day to this?—No.

55. Up to 1887, and from 1887 to the close of the operations of the association, was the directorate substantially the same?—There was no change. Mr. Scoullar left the Board, and Mr. Sinclair was appointed.

56. Then, from the inception of the society to 1889, the directorate was substantially the same?—Yes; Mr. Sinclair took Mr. Scoullar's place, and when Mr. Cargill resigned I was appointed.

57. *Mr. Bevan.*] At that same meeting, did you not lay stress on the fact that, if the shareholders wanted investigation, that section 94 of "The Companies Act, 1882," must be the mode by which they should get the inspection?—Certainly, if they wanted payment; but if they wanted to be appointed with full powers they could not be appointed at all at that time.

58. Supposing the committee had been appointed, would it have had legal power?—It would not.

59. *Dr. Findlay.*] How was the committee to be constituted?—They named three men, and the directors were to name two. They were to have communicated with the directors, but they have not done so ever since. Evidently they never even communicated with Mr. Bevan.

60. Why did you not go a legal way about getting the investigation?—Because it would have been in the very worst interests of the association had we done so.

Dr. Findlay: Mr. Chairman and gentlemen, I believe it is one of the first principles of right, reason, and common justice that, where a man is accused of having committed a delinquency, a *primâ facie* case must be made out against him before he is called upon to answer the charge at all. If these considerations weigh with a Court of justice, should they not apply to a case such as we are at present considering? It seems to me that, where petitioners come to Parliament making such charges as these, "That business has been carried on in a scandalous, fraudulent, and reckless manner" in a period extending over a number of years, they should be made to substantiate them. In this case they have brought not one scintilla of evidence to sheet home their charges; and, notwitstanding that the *onus probandi* rests with them, they have failed, and failed signally, to substantiate the various assertions which they have here so vigorously put forth. With a view to brevity, I propose to deal with the clauses *seriatim*. In regard to the first clause, in which it is declared, "That your petitioners have suffered great and continuous losses arising from the mismanagement of the affairs of the company for many years," I wish to draw your attention to this: that, up to the year 1887, the company was a prosperous one—a substantial one, and in every way affording a position highly gratifying to its management. Now, I learned from Mr. Callan that the management was not changed from the inception of the company until 1889. Then, you have to ask yourselves, Was the failure of this company due to gross mismanagement, or have you to look to some other cause to furnish you with the true reason? I say its failure cannot be laid at the door of the directors, and, in proof of this, I will refer you to a letter put in by Mr. Guinness, and written by Mr. Cargill. In this letter you will find that Mr. Cargill states that during the year 1887 what he calls a "storm of fire" swept over these colonies, and that not only this company but others were reduced to a low ebb, and staggered under crushing losses. That is the explanation of those losses, and this letter proves that up to 1887 everything was going well, and that to inevitable causes, and not to almost criminal mismanagement, as asserted in this petition, the present state of affairs is really due. I want to make an admission on behalf of my clients, and that is, that there have been errors of judgment on their part. We admit that. They do not claim to be immaculate in any way; but errors of judgment should not justify such terms as "scandal to commercial enterprise," and other damaging phrases used in this petition. Now, I will pass on to the second paragraph. Mr. Callan has shown that every figure of this second paragraph is wrong. On the first day, when Mr. Callan cross-examined Mr. Bevan, the latter admitted that his figures as set out on the petition were wrong. The next day he altered his figures again, and wished to reinstate his former statement. But where he still further discloses his disingenuousness is in this: that in the £14,221 18s. 11d. mentioned in this petition there cannot be the faintest shadow of a doubt there have been included the dividends paid back to the shareholders themselves. Thus we have Mr. Bevan, with all the facts and figures before him, solemnly declaring these amounts to be losses, when they really went into the pockets of the shareholders themselves; and such blunders as this one are reflected over the whole face of the petition. Now, sir, with regard to paragraph 3, "That your petitioners have been greatly deceived by the directors' and manager's reports from time to time on the improving prospects of the association, when, as a matter of fact, the losses were multiplying, and the nature of the business was of an unsound and disastrous character." If the English language means anything this means that there was practised a distinct and deliberate deception in the directors' and manager's reports. What are the facts? Has Mr. Bevan established one single instance in which misrepresentation of figures has taken place? Has he shown any one act of falsification of the balance-sheets? I submit that he has not done so in one single instance—not one single allegation of misrepresentation has been proved. The balance-sheet of 1887 plainly shows losses incurred of £8 789 9s] Serious losses did take place, it is freely admitted; but can it be said in the face of this stated loss that this balance-sheet was compiled in a way calculated to misrepresent or deceive? The greatest offence disclosed is a sanguine hope for the future, a frank and open admission of the committal of errors, and a desire that all concerned may pull together and weather the storm. That, I repeat, is the only offence of Mr. Callan and his co-directors. But is it not the duty and common practice of directors, when drawing out a report accompanying a balance-sheet, to speak hopefully of the future? A directorate of Jeremiahs would damn any company in the world. If the future would not justify any hopeful expression of the kind, then the sooner the company was wound up the better. Now, in connection with this matter, it has been sought to

discredit Mr. Guthrie. The charge against him amounts to this: The ship "Nauphante" was insured and subsequently lost. The consequence was, £125 or £250 was lost by the association. In the face of the fact that Mr. Guthrie had paid some £2,000 in premiums, can it be said that anything has been proved sufficient to warrant the allegations of unsound and disastrous business contained in the petition? And, further, in regard to this ship "Nauphante," which is called a rotten risk, is not the fact that an independent company in China took the risk proof that the risk might well be considered a good one from an ordinary basis of calculation? Then, too, both the Standard and National Companies found no difficulty in reinsuring the risk as a good one. It was most unfairly said that these companies took this so-called rotten risk with a view to future business. You are aware of the position that the National holds in this colony. It has always held the highest position on account of the size and character of its business. Do you think that this company would stoop to practices of this kind in order to get business? I do not think so. I leave it to you to say whether you consider three independent and well-established businesses would be likely to accept a criminally rotten risk of this kind. Mr. Bevan referred to the fact that Mr. Guthrie has not thought fit to appear before you, leading to the conclusion, I think, that he was quite content to allow facts and figures to speak for themselves. I say that nothing has been shown to bear out the allegation that Mr. Guthrie used his position as a shareholder to get money or do anything discreditable in regard to this insurance. A great deal was sought to be made of the reinsurance effected in Australia. In regard to the losses due to the failure of some offices in Australia, the sum of £11,000 was mentioned a number of times. It was suggested that after the draft of £400 had been presented to the company on the other side and dishonoured, fresh business was given to the company. The explanation is very simple. This company had suffered considerable losses, and was struggling to regain its feet and pay off all its obligations. The directors of the Equitable sought to assist it by putting business in its way—quite a usual thing—and, as a matter of fact, this company has since repaid £2,000, and there is a prospect of getting more; but I can give my assurance of this: that any dealings with that company were only made after the most mature deliberation, and with a view to the very best interest of the Equitable Company. Paragraph 4 has been dealt with so thoroughly by Mr. Callan that I will not weary you by recapitulation. I think he has fully explained his dealings with the company, and has cleared up everything in regard to his connection with it. You will notice that everything Mr. Bevan has to say in regard to deception and misrepresentation is directed against Messrs. Callan and Sinclair. Let me read to you the charge in clause 4, which goes on to say, "That the balance-sheets from 1887 to 1890 disclose losses during these periods alone involving no less a sum than £56,246 0s. 7d. (this, as you will remember, was altered), while at the same time the manager and delegates from the board of directors were calling meetings of the shareholders throughout the colony and assuring them of the soundness of the business, and the strong position the association was attaining." This is a direct statement that while losses were being incurred these gentlemen were going to the West Coast and deliberately falsifying the position of the association in the eyes of the shareholders. You have had Mr. Callan's assurance that such was not the case, but in addition to that I wish to convict Mr. Bevan of at least carelessness out of his own mouth. You will observe that the statement here is that while the losses were accumulating the shareholders were being reassured by the directors. What does Mr. Bevan say in regard to the actions of Messrs. Callan and Sinclair on the West Coast? Let me read you some of the evidence already given before you. Mr. Callan asks this question: "What did I say?" and the reply is, "You said the company would shortly take first rank with the leading fire insurance companies in the colony." "Did I not say that the affairs of the company were not at the present time in as good condition as could be wished?" asks Mr. Callan; and Mr. Bevan replies, "No, you said this: 'We have gone into calculations, and we find that it will take 5s. to wind up.'" Mr. Callan then says, "I did not say we were in a good position"; and Mr. Bevan replies, "You said it would take 5s. to wind up now, but if the shareholders paid a call of 2s. 6d. now, and gave the affair their hearty support, they would retrieve past losses." Now, gentlemen, if I got up at a meeting and told you in connection with a company with which you were connected that it would take 5s. to wind up, would you accept that as an inference of the sound position of that company? Does not this conclusively prove that there was no misrepresentation on that occasion? I need not repeat what has been said to you, that Mr. Callan's mission to the West Coast was consequent on a circular sent out to every shareholder, asking them to work together, and to give the company another trial. It seems perfectly plain on the evidence that Mr. Callan expressed no other opinion than that he had every hope that with the co-operation of the shareholders the company would succeed. What would you gentlemen as business men do in such a case as this? Would you not look into the facts of the case, and you yourselves judge whether the sanguine hopes expressed were likely to be realised, or would you swallow open-mouthed everything that was told you, and look upon it as binding? It may be that some of the West Coast people may be more amenable to this kind of thing than the majority of other people, but if that is so this instance does more credit to their hearts than their heads. Now, the fifth clause has been left for me to deal with. It is as follows: "That the manager's published statement, in compliance with the provisions of the Joint Stock Companies Act, dated the 1st January, 1890, sets forth liabilities at £23,522 8s. 11d., with assets at £27,497 8s. 10d., or a surplus of assets over liabilities of £3,974 19s. 11d." Well, gentlemen, any one reading this petition would make the obvious inference that the whole sum of £3,974 19s. 11d. was involved. You all know that the manager's published statement is in accordance with the absolute requirements of "The Companies Act, 1882." There is no option about the construction of a manager's public statement. There is a cast-iron form, as you know, in which it is to be set forth, which may not be departed from, and this was done in this instance. It has simply to show the capital of the company, the number of shares, that calls have been made, the liabilities, and the dates. The object of this statement is not for the enlightenment of the shareholders at all, but to

show the public and the creditors what the position of affairs would be if the company were wound up. It was never intended to be a statement to inform shareholders as to their position with the association; and to try and make us responsible for that is utterly unfair. It shows that Mr. Bevan and those who are petitioning with him have been very (pardonably, perhaps) ignorant of the requirements of the Companies Act. But I think it was due to Mr. Callan to have made some inquiry into these so-called misleading statements before bringing him here to meet such absurd allegations as these. With regard to clause 6, I think Mr. Callan has answered that in regard to the cost of winding-up. It will show you, I think, how, far from misleading the shareholders, as Mr. Bevan asserted, and the replies of Mr. Callan show, the directors were under the impression that it would take 2s. to 2s. 3d. to wind up. Mr. Bevan states that, some months before, he had Mr. Callan's assurance that it would take 5s. to wind up. But could any man short of the angel Gabriel tell what it would cost, considering the exigencies of the case, and the uncertainty of the surroundings? The admission, that Mr. Callan told Mr. Bevan in the first instance that it would cost 5s. to wind up, is a proof of Mr. Callan's wish to avoid misleading by giving as liberal margin as possible. The seventh clause Mr. Callan has dealt with in a manner which leaves me nothing to add. Now, we come to clause 8, in regard to directors' fees. That touches my clients somewhat nearly. When Mr. Bevan gave his evidence in chief he read this sentence in the petition: "That your petitioners discovered quite accidentally, in the year 1890, or thereabouts, that the directors had been for six and a half years illegally drawing increased fees, amounting in the aggregate to £2,000, in contravention of the articles of association." Now, gentlemen, what is the necessary meaning of that section? Is it not that for six and a half years the shareholders were kept in darkness as to the fact that these fees were being drawn? What are the facts? The facts are that Mr. Bevan, in fairness or simplicity, put in amongst his papers a document received by him immediately after the meeting at which the fees were increased, which showed plainly that this increase had taken place. Was there deception in that? Can he say they were kept in darkness after that? When pressed in examination, he altered his ground, and said he discovered the illegality of the thing. This, I submit, is a mere quibble, and he should be bound to what he says here; and what he says here is not true. The provision in the articles of association is this: "That, until the company in general meeting shall otherwise determine, the sum of £3 10s. shall be paid to the directors out of the funds of the company as remuneration for their services," and so on. Now, gentlemen, what I want to call your attention to is this: Until the company in general meeting shall determine to alter the rate, this is to be the rate. The company did in general meeting alter the rate, in March, 1884, at the first annual meeting; so that I submit that any one, even a lawyer, reading that section would say that it went to the meeting. The resolution was passed, and the rate was altered; therefore, this clause was complied with; but a slight and technical mistake was made in not sending out the notices, which made the matter irregular. If that had been done in proper form, neither Mr. Bevan nor anybody else could have said a word about the payment of the directors.

Mr. Crowther: What increased fees are you alluding to?

Dr. Findlay: The increase was this: The articles provided in the first instance that the directors were to get 5s. a week each; the new resolution entitled them to 20s. a week.

Mr. Crowther: Did they draw the twenty?

Dr. Findlay: Yes, from 1884 till 1890; and after that date they drew no fees whatever. We drew no fees whatever from that date till November, 1890.

Mr. Bevan: They ceased in February, 1891.

Dr. Findlay: When this simple technical defect was discovered notice was sent out to every shareholder that it was intended to have it validated; and, in order that they might be present, abundant time was given; and you have the assurance that this motion was passed, so that now the matter has been made perfectly legal; and, if it were to come to a Court of justice, it would be found to be so.

Mr. Crowther: Only from the time the resolution was passed.

Dr. Findlay: They took counsel's opinion, and on that the form of the resolution was made retrospective. After discussing the legal aspect, I would like to say a word about the equity of the matter. On the inception of a company it has an uncertain future, and it is the usual thing, I understand, for the directors to take a nominal fee; but when the company strengthens and gets on its feet, it is always usual to give them fair remuneration. The increase in this case was to £1 a week, and it is probable they devoted a whole afternoon every day in the week to earn this £1. I do not know that I would not rather be a member of Parliament, with late sittings and exacting constituents, than be a director of this company at £1 a week. Speaking from personal knowledge, I say that in some companies the directors get £2 or £3 per week, and the chairman of directors gets £500 a year. Seeing this, can any equitable man say that these men have drawn more than they were entitled to. Therefore, I say that, firstly, from a legal, and secondly, from an equitable stand-point, there is nothing in this clause of the petition which should appear blameworthy to any reasonable man or body of men. Then, your Chairman has suggested that I might say a word regarding the rejection of these proxies. It has been said that the chairman, Mr. Callan, rejected the proxies because they were not in proper form. I say he had no option in the matter. Here are the articles of association, which say that, before any man shall vote on a proxy, or as a shareholder, all calls shall be paid. Would it not be obviously unfair that men who had paid their calls should be outvoted by those whose calls remained unpaid? To bring such a charge against the chairman is practically to pay him a compliment, and shows how getting a thing on the brain, as Mr. Bevan has done here, may lead to fatuity. Now, I will pass on to section 9: "That your petitioners also discovered that the directors illegally departed from the prospectus of the association, in not confining the operations of the business to the Colony of New Zealand, as set forth therein." There

must be some finality about questions of law, and the final judge is the highest Court in the land; and, if the Supreme Court says that a person is justified in doing this or that, most people abide by that decision. One man, Mr. Gray, thought the company was not entitled to carry on business in Australia. He brought an action against the Equitable Insurance Company, asking that his name might be struck off the register, and asking that the company might be restrained from carrying on business on the other side. He employed counsel in support of his case—Messrs. Chapman and Travers. The Judge reserved his decision, but at the same time expressing the opinion that it was hard to see that any case in favour of restriction had been made out. Afterwards, in giving his considered judgment, he said the company was fully justified, under authority of the articles of association, in extending their business. For a full report of the decision, I refer you to the sixth number of the "New Zealand Law Reports," page 450. Well, I do not suppose I need go on to justify the decision of Justice Williams. If it is the law, it is the law, and there is the end of it; and to make it a clause of this petition is simply absurd. Then we come to clause 10. The charge made here is "That your petitioners have further discovered that the directors have violated the conditions of the memorandum of association of the said company in acquiring, without the consent or knowledge of the shareholders, the following public companies—namely, the Australian Mercantile Union Insurance Company, the Hanseatic Insurance Company, the Hamburg-Magdeburg Insurance Company, and the Accident Indemnity Company of New Zealand." Now, you will remember, gentlemen, that in one of the reports sent out in 1887 indication was given that the Australian Mercantile Union Insurance Company had been acquired, and then, later, the others were acquired. On receiving this notification, if it were wrong, why did not Mr. Bevan at the time raise his voice against it in a letter directed either to the directors or the general manager? But, although he knew all about it, he did not say a word until the so-called mischief was done. The second point is that to say that there was any violation of the conditions of the memorandum of association is an egregious blunder. I think the conditions contained here in the fourth subsection of the second clause of the memorandum of association is fully explicit. This is what it says: "To act as agent for any company or person whomsoever; to enter into any partnership, and to dissolve the same; to amalgamate with or take over the business of any company formed for carrying on business of the same or a similar nature." Now, that is the power, and section 54 of the articles of association, read with this subsection, gives full power for the directors to purchase any company that they think fit. Then, gentlemen, it may be said that it is a very arbitrary and, perhaps, violent discretion to exercise to take over the affairs of another company without consulting the shareholders; but, if you reflect, you will see that, in a great many cases, it is necessary to do things without consulting the shareholders. Take a concrete instance: The Equitable is approached by a company which says, "We will sell to you on certain terms." The books are exposed to the officers of the Equitable, and the whole conditions of the company made clear to the purchaser. If the Equitable were to call a meeting of the shareholders and lay the whole of the facts before them, would not the *exposé* of the affairs of the company be such as to, perhaps, damage it irrevocably if the Equitable finally rejected the offer? You saw an instance of this in relation to the Bank of New Zealand, in the late bank treaty between the Colonial Bank and the Bank of New Zealand. Well, gentlemen, for these reasons it is the invariable practice, where a company is offered for purchase, that the terms shall not be made public to the shareholders. This was illustrated when Mr. George McLean met the Colonial Bank shareholders in Dunedin, when the Bank of New Zealand proposals were dealt with. It is interesting to know how an eminent and acknowledged financier and business-man like Mr. George McLean dealt with a matter of this kind. Mr. Bain came up from Invercargill to Dunedin to ferret out information, much as Mr. Bevan would have come from Hokitika to Dunedin to the general meeting of this company. Mr. Bain commenced to ask for information as to the position of the bank, and received the reply, "I think it is a matter for the executive. I think it is not desirable to give information of this kind." That shows the attitude the chairman of directors feels bound to take up, even towards the largest shareholders. Now, I will pass hurriedly over the remaining sections. Section 11 I have dealt with, in conjunction with the 10th clause. Section 12 is a very general statement, which may mean pretty well anything. It speaks of the irregularity and the reckless character of the association, and asserts that the whole thing is fraught with the gravest considerations, and a scandal to commercial enterprise. This, of course, is mere mud-throwing. So we will pass on to section 13. This section states, "That from time to time your petitioners most strenuously attempted to get qualified reports and investigations effected, and have used every legal means for the purpose, but have always failed in consequence of frivolous and technical objections being raised by the directors and their legal advisers, such as setting aside proxies at meetings, holding scrutinies of votes in private, and refusing to supply a schedule of votes when results declared." Now, gentlemen, the reason why this clause is introduced here is clear. It is recognised that Parliamentary Commissions are only intended to deal with wrongs for which there is no ordinary legal redress. Since the beginning of the privilege of petitioning Parliament it has been the recognised rule that, every legal redress failing, then and then only shall the intervention of Parliament be invoked. Let me refer you to section 90 of "The Companies Act, 1882," which says: "The Supreme Court, or any Judge thereof, may appoint one or more competent inspectors to examine into the affairs of any company under this Act, and to report thereon in such manner as the Court or Judge may direct upon the applications following, that is to say—(1) In the case of a company that has a capital divided into shares, upon the application of members holding not less than one-fifth part of the whole shares of the company for the time being issued. (2.) In the case of a company not having a capital divided into shares, upon the application of members being in number not less than one-fifth of the whole number of persons for the time being entered in the register of the company as members." That means that the Judge can order close inquiry to be made if any

shareholder makes application to him and justifies the application he makes. What power could be more general than that? Mr. Bevan admits that he never attempted to put this section into force, yet he has the courage to say that he has exhausted every legal means. One of the conditions is that the applicant does not proceed on any ground of malice, and if the evidence went to show malice the application would be refused. I will only refer you to one section more—namely, section 226, which says: "Where, in the course of the winding-up of any company under this Act, it appears that any past or present director, manager, official, or other liquidator, or any officer of such company, has misapplied or retained in his own hands or become liable or accountable for any moneys of the company, or been guilty of any misfeasance or breach of trust in relation to the company, the Court may, on the application of any liquidator, or of any creditor or contributory of the company, notwithstanding that the offence is one for which the offender is criminally responsible, examine into the conduct of such director, manager, or other officer, and compel him to repay any moneys so misapplied or retained, or for which he has become liable or accountable, together with interest after such rate as the Court thinks just, or to contribute such sums of money to the assets of the company by way of compensation in respect of such misapplication, retainer, misfeasance, or breach of trust, as the Court thinks just." Now, Mr. Bevan or any one else could apply to the Court to have the provisions of these sections put into operation; but he would have to have some case before he could get the Judge to make any order. It amounts to this: if Mr. Bevan has any case he can have the order made, and the costs would be against the directors if liable. If the contrary proves the result, and the applicants cannot substantiate their case, then they have to pay the costs; and I submit that the reason why the application has not been made in the present instance to the Court is, that the present petitioners have no case, and consequently refuse to embrace the legal means open for redress, knowing full well that they would lose the day. Then, section 229 provides a further remedy—namely: "Where a company is being wound up altogether voluntarily, if it appears to the liquidators conducting such winding-up that any past or present director, manager, officer, or member of such company has been guilty of any offence in relation to the company for which he is criminally responsible, it shall be lawful for the liquidators, with the previous sanction of the Court, to prosecute such offender, and all expenses properly incurred by them in such prosecution shall be payable out of the assets of the company in priority to all other liabilities." That is another provision to meet cases where anything wrong has been done by directors and others. The liquidators prosecute, and may stop all the expenses paid out of the assets of the company. I think I could read you a dozen sections bearing on this point, but if you will bear with me I will only read further article 92 of the articles of association; it will throw further light on the subject. The suggestion made here is that a proper disclosure of the affairs of the company was not made, that the balance-sheets were not properly detailed, and that no information could be got. What provision is made for such a case if it exists? Article 92 provides for a special audit. If the shareholders are not satisfied, and believe that a special audit would unearth something, this provision is just the thing that is needed. [Dr. Findlay here read the article 92 above referred to, as follows: "The directors of the company, by resolution of a general meeting, may direct that there shall be a local auditor, or local auditors, of the accounts of the company in respect of any office or offices of the company within or beyond the colony of New Zealand, and may appoint such auditor or auditors; and, save as the resolution shall otherwise direct, the provision hereinbefore contained with respect to the auditors of the company shall apply to the auditors under any such resolution."] This is an article, as I have shown you, that gave Mr. Bevan and those who think with him ample opportunity of obtaining information if they were not satisfied with the details which the balance-sheets afforded them. They can have a resolution passed under this article giving the auditor full power to go into all these matters. I asked Mr. Bevan if he had taken that step, but he said he had not. Have you been told of one single legal step taken to get the information they are seeking here? Not one. As a matter of fact, at a meeting held in 1890, Mr. Callan tells us Mr. Russell was there, and said a committee of inquiry should be held. Two gentlemen named by the directors were decided upon, and three others, Mr. Bevan being one of them; yet not one single word has been heard of this committee from that day to this. Although a dozen doors have been open to Mr. Bevan and his friends, if they thought they had not got justice, yet they have not taken advantage of any single one of them. In clause 14, "The balance-sheets," he declares, "have always contained the most meagre information, condensed into the fewest possible lines, rendering it practically impossible for any shareholder to arrive even approximately at a true state of affairs; and, judging by present disastrous knowledge and experience, those documents were as misleading and as valueless in character as the reports that accompanied them were unreliable." I must compliment Mr. Bevan upon the English of these clauses. They run with a smoothness which renders them delightful to read. It is a pity that their truth is not correspondingly open to compliment. With regard to this clause, I asked Mr. Bevan whether he was satisfied with the balance-sheets of three other companies—the Standard, the National, and the New Zealand. They were all in the same form as the Equitable, and he declared that he was not satisfied with any one of them. The Chairman explained to him at the time that his complaint was necessarily directed against the Act itself. If detail must be given, let Parliament pass an Act to insist that it shall be done. Why should he hurl charges against the directors because these balance-sheets conform to legal requirement, but do not suit him in point of detail? This shows at once that this charge has not been properly grounded. It might be asked why these balance-sheets do not give this information; but what are general meetings for? The object of general meetings is to enable shareholders to meet directors and discuss matters of detail. As a matter of fact, in most instances the balance-sheets are in the hands of shareholders before general meetings. What is easier, then, than for Mr. Bevan either to go himself or depute a proxy to attend at such meetings and obtain the information he required. Dozens of shareholders would have done that service for him had he been in earnest

in desiring it. The very framing of this clause in the petition seems to me conclusive of the desire shown throughout to make a mountain out of a mole-hill. Clause 15 speaks of the considerable expense to which the petitioners have been put in their endeavours to seek information. We have had no details of these expenses whatever. When I tell you that for the expenditure of a few guineas the petitioners would have been able, in a legal way, to obtain all the information they required, you will recognise that if they were stupid enough to go to a lot of expense in the matter they cannot make it a ground for casting a slur upon the directors of the Equitable. It was certainly not spent in getting wrongs redressed; and to make it a further ground of grievance is to show how weak the whole web of the petition is. I will just say one word, in conclusion, to show that the secret of all this trouble is that this was a house divided against itself. Unlike other companies in the colony, when crushing losses came, those concerned here did not pull together; they ventilated the whole of their grievances and losses in the newspapers. You have heard of the case of the Standard Company, and have seen that, although it had reached the bed-rock, the shareholders in general meeting resolved to carry on, change the general manager, and employ Mr. Fisher as general manager. They resolved to pay Mr. Fisher £1,500 a year, a salary which they have paid him ever since. By loyal co-operation the shareholders have taken the company out of the wood; and if the same thing had been done in the case of the Equitable it would have been a solvent company to-day. I simply wish to say now that this petition should never have come before you. It is an insult to your intelligence, to ask you to come here to listen to charges of this character, and a shame to add to your burdens the consideration of such a rubbishing thing as this. It shows simply that the people promoting it feel that they have not the shadow of a chance before an ordinary legal tribunal. I ask that your finding shall absolve the gentlemen I represent of the serious charges made against them. These charges have given the very greatest distress to my clients. They feel it very much that they should be brought here to answer false charges of having scandalously and recklessly conducted this business, and been guilty of criminal conduct. I leave it for yourselves to say whether the gentlemen I represent do not leave this tribunal without a stain on their characters. The Chairman has reminded me that, besides sections 90 and 92, which I have quoted from the Companies Act, there are other sections bearing upon this point, which I will read. Section 91 provides, "The application shall be supported by such evidence as the Court or Judge may require for the purpose of showing that the applicants have good reason for requiring such investigation to be made, and that they are not actuated by malicious motives in instituting the same. The Court or Judge may also require the applicants to give security for payment of the costs of inquiry before appointing any inspector or inspectors." Section 93 provides for the report of the result of the examination as follows: "Upon the conclusion of the examination the inspectors shall report their opinion to the said Court or the Judge thereof. Such report shall be written or printed as the Court or Judge directs. A copy shall be forwarded by the Registrar of the said Court to the registered office of the company, and a further copy shall, at the request of the members upon whose application the inspection was made, be delivered to them, or to any one or more of them, for the use of all such members. All expenses of and incidental to any such examination as aforesaid shall be defrayed by the members upon whose application the inspectors were appointed, unless the said Court or Judge shall direct the same to be paid out of the assets of the company, which it or he is hereby authorised to do." Section 94 provides that "Any company under this Act may, by special resolution, appoint an inspector or inspectors for the purpose of examining into the affairs of the company. The inspectors so appointed shall have the same powers and perform the same duties as inspectors appointed by the said Court or any Judge thereof, with this exception: that, instead of making their report to the said Court or Judge, they shall make the same in such manner and to such persons as the company in general meeting directs; and the officers and agents of the company shall incur the same penalties in case of any refusal to produce any book or document hereby required to be produced to such inspectors, or to answer any question, as they would have incurred if such inspectors had been appointed by the said Court or any Judge thereof."

The Chairman: Do you state on behalf of your clients that you will agree to inspectors being appointed?

Dr. Findlay: Yes, as I said before, we have all along been willing.

The Chairman: Leaving it to the Judge in the case of disagreement?

Dr. Findlay: Of course; at the same time, I want to fortify myself in this way: It has been stated in the newspapers that the directors are before a Parliamentary Committee. If it goes forth to the world that the matter has been referred to the Supreme Court without any qualification, it will be thought that we have something to answer. We have long been of opinion that the petitioners have gone the wrong way about this matter, and we have long thought that if they have any case they should have taken the course laid down by the Act. I am not disposed to consent to its reference to the Court unless you first pass a verdict on the evidence before you.

Mr. O'Regan: Would you like us to say the case is one that should never have come before a Parliamentary Committee?

Dr. Findlay: Yes.

Mr. Callan: I do not object to the inquiry, but I feel very much these charges having been brought against me. The directors have been placed in a disagreeable position by this petition. The Committee have heard all the allegations brought against me, and if it is to be referred to the Court I should ask the Committee to say that, from the evidence they have heard, there is nothing in the evidence pointing to any charge against me; but that, they can add, they think it would be better settled in the law-courts. I would like them to say that, as far as the evidence has come before them, there is nothing against me as regards these charges. If you simply say, "We will have nothing more to do with this; let it come before a Court of Justice," that carries with it the feeling "there is something against Mr. Callan, and it is necessary to go to a Court." You see how

very serious this is for a professional man like myself. I would ask you to say that, having heard the petition, you think that the very serious charges of fraud laid against me have not been supported by the evidence adduced.

Mr. Bevan: Mr. Callan has spoken of the word "fraud" having been used in the petition. It is not there, and I would like him to withdraw it.

Mr. Callan: Then I withdraw it.

The Chairman then read, for the information of the Committee, the judgment of Justice Williams, contained on page 450, "New Zealand Law Reports."

Mr. Bevan: Mr. Joyce, and Gentlemen,—Let me first of all thank you for the kind and courteous manner in which you have treated me during the hearing of this inquiry, especially in face of the fact that I, an untrained layman, had to contend with two trained members of the legal profession, one of them of more than ordinary qualifications. I shall endeavour to be as brief as possible. In the first place, I desire that you shall dismiss from your minds any idea of malice being intended by myself or those I represent, or that any imputation of dishonesty is meditated, directly or indirectly, in the allegations. Our desire is merely to extricate ourselves from the position we have been placed in. I wish first to refer to paragraph 1: "That for many years your petitioners have suffered great and continuous losses arising out of the mismanagement of the affairs of the association." I speak, feeling a deep concern and regard for those who have been great sufferers throughout the length and breadth of the colony. A casual glimpse into the past is sufficient to reveal the sad fact that many of our most worthy colonists have been dragged into the Bankruptcy Court through the losses which they have sustained. Many widows who were left with ample provision found themselves reduced to penury; great sacrifices had to be made on many properties to meet the calls made on shareholders. It is sad to reflect that the deficiency of Acts of Parliament, which do not compel the production of more detail in balance-sheets, should lead to the little savings of years, the provision for old age, being swept away by an unrelenting hand, leaving no escape but insolvency, which to many honourable men is worse than death. There is such a disgrace and stigma attached to the man who has "bankrupt" added to his name, that I fancy you will feel a pang of sympathy pass through your hearts when you reflect, weigh, and consider the losses and injuries now disclosed.

The Chairman: Are these illustrations in reference to other companies?

Mr. Bevan: No; all due to the Equitable. I do not refer to other companies.

Dr. Findlay: Do you mean solely confined to the Equitable?

Mr. Bevan: I speak of the Equitable. The Equitable has become such public property, on account of all these bankruptcies, that that is the chief cause why it is brought under public notice. The losses of capital, as admitted by Mr. Callan, amounts to £79,471 7s. 6d. His own figures, again, show the profit in land to have been £10,102 6s. 11d.; or a total of £89,573 14s. 5d. Now, gentlemen, if you will bear with me for a moment or two: My friend, Mr. Callan—for I still address him in no other term—would not say what I wished you to know this afternoon. The first dividend is deducted from his balance-sheet, which is a sum of £837 14s. 2d. This is the balance-sheet ending the 31st December, 1884. The dividend is deducted; therefore, the balance is carried forward less dividend. In 1885 the same position again arises, and the dividend paid is £1,067 12s. 11d. Again, in 1886, the same process again takes place, and £1,167 12s. 11d. is again deducted, which totals the sum of £3,173. But Mr. Callan claims the privilege of deducting it over again, in one lump sum, from the amount—which places me in the position of again taking Mr. Callan's figures of £79,471, and, adding thereto profits in land, £14,221 18s. 11d., which discloses the absolute loss of £93,693 6s. 5d. I am now referring to paragraph 2.

Mr. Callan: What do you say the total should be of losses incurred?

Mr. Bevan: £93,693 6s. 5d.

Mr. Callan: You say in your petition £112,742 4s. 11d.

Mr. Bevan: Mr. Callan's figures are £89,573 14s. 5d., against mine £93,693 6s. 5d., accounting for £31,730 which he has twice deducted. The difference is made up by unpaid calls. The difference between that and the total of £112,742 4s. 11d. must of necessity be those calls which have never been paid. It was impossible for any accountant to arrive at the exact amount unless he had the books; therefore, I maintain that these figures are absolutely and incontestably true, if Mr. Callan's acknowledged amount is also correct.

The Chairman: Then, you make a suggestion that the difference between £93,000 and £112,000 are unpaid calls.

Mr. Bevan: Yes. That is the only way I can possibly arrive at the amount I have set forth in paragraph 2. And on these estimates my figures are absolutely correct. I think that would be sufficient to arouse the anxiety of any commercial man as to the dangers of the position in which he was living. He would be living in what has been called a "Fool's Paradise" did he not look into matters more intimately. It will go to show that this large amount of money has been lost in the four years from the 1st January, 1887, to 17th February, 1891, when the company ceased operations, and therefore did not make any further losses. Therefore, in a little over three years and one month this enormous amount of capital was lost; because, if the liquidator has taken three and a half years to pay up the losses, these losses must have existed prior to the period when we ceased business.

The Chairman: Not necessarily.

Mr. Bevan: The business closed on the 17th February, and no more risks arose. Then, the other risks have not run out.

Mr. Callan: The Union Insurance Company bought them, and they were transferred. We had nothing to do but pay our debts.

Mr. Bevan: Therefore, this large sum of money was lost during the periods that the business of the association was unprofitable; because the four preceding years were profitable years. Now,

I will read clause 3, in reference to the petitioners having been deceived by the directors' and manager's reports.

The Chairman: The Committee want you to meet the objections suggested by Mr. Callan and Dr. Findlay. We would like you to avoid reiterating the evidence previously given by yourself.

Mr. Bevan: I say that paragraph 3 is substantially maintained by the facts disclosed, and that whilst the shareholders were receiving assurances of improving business, the losses were multiplying. In paragraph 4: I maintain the correctness of the figures set forth therein, and that the losses disclosed in the balance-sheets also proves the fact. In regard to paragraph 5, where it discloses the surplus of assets over liabilities, and is according to Dr. Findlay's remarks on the cast-iron rule of the law, it could have no other effect on the shareholders than that of a reassuring one. That is the effect it had on my mind, and, as it was published for the benefit of the public at large and creditors, in conformance with the Act, it would, if not a true statement, be a misleading statement, and hence calculated to deceive not only the shareholders, but the public throughout the colony. Thus, being a cast-iron rule, as laid down in the Act, and they having complied with that, I cannot now see how the directors or those in charge of such important interests could shelter themselves under the subterfuge that it could be explained away; therefore, when contrasting the losses with such a reassuring statement, it proves incontestibly that the document was misleading and unreliable. I do not charge the directors with *mala fides*. With shareholders generally, they accepted the existing state of affairs. When issuing the last balance-sheet they formed an opinion of their own, and they felt that a very small amount would be required to liquidate. By a levy of 4s. 6d. a share a sum of £30,000 would be raised for this purpose. A certain proportion of this £30,000 might not have been paid; and, seeing that an interval of about twelve months or more took place after the payment of the first series of calls (2s. 6d.), which were not pressing heavily on shareholders because they were made at intervals of three months, I believe it was the wish of the directors that the calls should be as light as possible, and breathing-time given to every one of the unfortunate shareholders. However, a sudden call of 2s. a share extra was made, payable in one sum.

The Chairman: Was that contrary to the powers of the liquidator?

Mr. Bevan: No.

The Chairman: Well, you want to look back a little, and find out what Mr. Callan and Dr. Findlay have stated, and endeavour to disprove their statements.

Mr. Bevan: Mr. Callan visited the West Coast, and said it would then have taken 5s. to wind up the company. Yet I want to show that, since Mr. Callan visited the Coast, calls amounting to 11s. have been made.

The Chairman: You have got to show *mala fides* in any case.

Mr. Callan: I acknowledge having made mistakes, but that is different from *mala fides*.

Mr. Bevan: It was intended, of course, by the directors that the calls should be collected in the easiest possible manner. Yet why did the liquidator leave it for eighteen months? Why did he not collect it a little at a time? It was in the minds of shareholders that the business was being wound-up, and the liquidator would be shortly ready to appear before a Court for a final discharge.

The Chairman: The liquidator is an officer of the Court, and responsible to the Court, and upon the motion of any shareholder he could have been called to account.

Mr. Bevan: I will touch upon paragraph 8. Great stress has been laid that shareholders have all their legal remedies, and that for illegal acts committed by directors shareholders may bring them to book.

The Chairman: That refers to fees, you will remember, during Dr. Findlay's statement as to what had been done on a resolution of a retrospective character.

Mr. Bevan: But that was a mere technical objection.

The Chairman: Well, it must have been considered by the shareholders, because they passed the resolution.

Mr. Bevan: Mr. Bathgate was in the room, and did not object; therefore the shareholders could not have been aware of the illegality of the case. Their solicitor was there, and the directors should have consulted him if they were in doubt.

Mr. Callan: But they were not in doubt. If the company had done business after 1890 would this question ever have been brought up?

Mr. Bevan: I will come to that exactly. Had the directors' fees been down in the balance-sheet—[*Mr. Callan:* The Act did not require that.]—the shareholders would have known exactly what the directors were drawing, and the illegality would have been found out. Great stress is laid on the circular. I put it in as an exhibit. But it must be remembered that it was not sent to me until the taking of these fees had become a question in which the shareholders were much exercised.

The Chairman: The question is, Was the meeting properly constituted when that resolution was passed? The shareholders passed a motion which was of a retrospective character.

Mr. Bevan: Section 34 of the articles of association gives the special manner in which the resolution shall be dealt with; but clause 14 forbids the transaction of business without the authority of the shareholders. They admitted their illegal act, and my contention was, and now is, that, as a matter of fact, the shareholders at that time did not owe any money to the company and should have been given the requisite power enabling them to vote on the subject. But when the ratification is to take place, a retrospective effect is to be given to the resolution, whereby shareholders are prevented from exercising their right, which they would have enjoyed at the time when the resolution was first submitted.

Dr. Findlay: Why did not you and other shareholders go to Court and ask for a refund.

Mr. Bevan: The reason shareholders did not go to the Courts of law was that they were already so heavily taxed that they dreaded putting their hands in their pockets to pay for costly law-

suits, when the only information that could be obtained was from the balance-sheets and reports submitted to them from time to time. Therefore, they thought it the better course to apply to the directors for information to guide them, assist them, and give them confidence in the future; and, as a proof of that they readily acquiesced in a proposal emanating from the private examining committee of shareholders in Dunedin, and they entered heartily into the opportunity of assisting the business, and it was acknowledged on all sides that the share-register or proprietary was as good as any in New Zealand. The shareholders were men of substance in all the towns, and the connection was of the very best description. Mr. Callan says it is a pity we did not continue it. I have shown that the business, even when he left, was of an improving rather than of a diminishing character, and hence we were justified in our anticipations. But we were suddenly confronted with the fact that the businesses in Queensland and Victoria had been disposed of, and that the Union Insurance Company had taken the risks without a proviso for taking the buildings; whereas, in point of fact, there were English companies—notably the Sun Fire Office—who would have been only too glad of the opportunity of doing so. Had the shareholders been consulted, and taken into confidence at this time, they might have suggested means by which the whole business might have been disposed of as a going concern, seeing that the agencies within the colony were of a prosperous character.

The Chairman: Where does the criminal negligence come in?

Mr. Bevan: Well, then, I will proceed on to section 9. We were confining ourselves strictly to the memorandum and articles of association, or, a more simple definition, the deed of partnership. In carefully perusing the memorandum I found it was divided into two parts, that which may be done by the directors and that which may be done by the company. When Dr. Findlay read clause 4, he preceded the reading by saying "the directors may do this," act as agents for any person or persons whomsoever, &c. He distinctly stated in his statement that the directors had this power.

Dr. Findlay: I said, reading that section 4 with section 54 the directors had the power.

Mr. Bevan: I will now read it. "The business of the company shall be managed by the directors, who may exercise all such powers of the company as are not by the Acts of the General Assembly of the Colony of New Zealand, or by these articles, declared to be exercisable only by the company in general meeting, but no regulations made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if such regulation had not been made."

Mr. Callan: That gives the directors power to acquire these companies.

Mr. Bevan: But this is my contention: If clause 2, subsection (1) means anything, and can be understood by people who understand the English language, it can to the most indifferent reader convey only one meaning. This subsection (1) says: "as may be deemed expedient by the directors of the company." Then we come to clause 3, in the fifth line, after the word "acquired" comes the word "also"——

Dr. Findlay: This is about taking over the company, upon which Justice Williams has already given his ruling.

Mr. Bevan: "Any . . . which may be deemed by the company conducive to its interests." The directors have the power in clause 1; and the company appears to want to be consulted as to the power of directors to assume that they can act in clause 4 without the consent of the company. The company is distinguished from the directors: the memorandum of association, to my mind, clearly putting forth the assumption that nothing must be done without the sanction of the company as relates to that part of the memorandum of association.

The Chairman: That is a question for the Court, and not for us.

Mr. Bevan: The contention of Lord Cairns is that no memorandum of association can be altered even with the consent of every shareholder. We tried to confine ourselves to what we deemed to be legal, according to the memorandum of association. When we speak of "legal" we mean the construction we put on the memorandum and articles of association. Looking at it in this light, we were surprised when it was discovered that the companies had been acquired, when no reference of any kind whatever had been made to it in any report. Now, in relation to the taking over of the Australian Mercantile Union. It was said to be a very valuable business. It has been argued by Dr. Findlay that, in the acquisition of a business, shareholders should not be consulted, for fear that they would disclose the weakness or otherwise of any company wishing to sell, and he referred particularly to the bank treaty in proof of the fact that it should be left to the directors and not to the shareholders, seeing that a certain danger would arise from any company offering a sale and the negotiations falling short.

The Chairman: There are a number of questions surrounding that: for instance, were the directors legally enabled to do so?

Mr. Bevan: I have mentioned that we looked upon it as illegal.

Dr. Findlay: That was your opinion.

Mr. Bevan: And the opinion of the shareholders whom I represent. That is why I say that in any negotiations of an important character the shareholders ought to have been consulted.

The Chairman: That is reiteration, that is not argument.

Mr. Bevan: Well, I will say this: that it is not shown by Dr. Findlay's remarks in reference to the bank treaty that the amalgamation has affected the institution injuriously. In paragraph 14 we contend that we have been misled by all that there is therein set forth. Paragraph 15 is correct; and it is true that through the attitude taken up by the directors additional burdens were imposed on the shareholders, as stated therein.

The Chairman: The question is whether the liquidator was properly appointed, and you have not answered that?

Mr. Bevan: No, he was not. Great stress has been laid on the storm of fires that took place in 1887, and that other companies suffered in a like manner. Other companies suffered to the extent of 3 per cent. to 3½ per cent. on their incomes, whilst the Equitable, in that very year of 1887, suffered to the extent of 164 per cent.

The Chairman.] What were the special losses in that year? Do you know of any other losses besides Thompson and Shannon's?

Mr. Bevan: No; I do not. I inferred, from the fact that other companies suffered to the extent of 3 per cent. to 3½ per cent., while we suffered 164 per cent., that something more than ordinary fire insurance business was being done by the directors.

Mr. Crowther.] Could you let us know what would be about the rate of interest on this £10,000?

Mr. Bevan: That would be about 78 per cent. on the whole.

The Chairman: It is impossible for you to say that.

Mr. Bevan: Well, I will not press that now. I trust the Committee will dismiss from their minds any idea of personal motives on my part; I trust that a long and honourable career will exculpate me from that. I trust you will approach the matter in the same fair and equitable spirit. If I have been placed at a great disadvantage it is not my fault, it is my want of legal training; and if I have strayed from the strict legal methods of giving evidence it was not wilfully that I did so. But, gentlemen, you cannot deny that were you sufferers, as the unfortunate shareholders of the Equitable are sufferers, you would look upon it in the same manner as I have done, as not only a misfortune to the shareholders, but a blow to commercial life in New Zealand. The company commenced its career most satisfactorily, and carried with it a good name. If dissensions arose it was not among the shareholders, but among those who were in charge of affairs. They were a house divided against itself, and, like all such houses, it was only a question of time that it should necessarily fall. I am asking you to look dispassionately upon the whole case, because we have approached Parliament knowing well that we shall not be bound by legal technicalities, and that we shall receive justice pure and simple. If we are entitled to that justice, I am sure we are appealing to that tribunal which only knows one law—that of protecting the weak against the strong. It is nothing unusual that the Parliament should be approached on many and varied subjects, but where it involves ruin to many this feeling is intensified. That, at least, is my past experience during a service of four years on Committees in this House, and in this respect it may truly be said that the Parliament is a reflex of the people.

The Chairman: Are you applying that to this case?

Mr. Bevan: I trust you will, in your wisdom, arrive at such a decision as shall be favourable to the desires of the petitioners, so that the assistance now sought may be a lasting record of the honourable desire of the country.

APPENDICES.

APPENDIX A.

THE EQUITABLE INSURANCE ASSOCIATION, N.Z., Summary of Balance-sheets from 1883 to 1889, inclusive.

Net Premiums, Interest, and Tranfer Fees Received.	£ s. d.	Total Receipts.	£ s. d.	Preliminary Expenses, Office Furniture, Stationery, Bad Debts.	£ s. d.	Totals.	£ s. d.
1883—Premiums	8,964 10 6			1883	306 13 1		
Interest	550 19 4						
Transfer fees	7 7 6						
		9,522 17 4					306 13 1
1884—Premiums	19,516 4 7			1884	421 8 3		
Interest	994 19 10			Bad debts ..	45 0 0		
Forfeited shares ..	119 12 0						
Transfer fees	10 2 6						
		20,640 18 11					466 8 3
1885—Premiums	24,323 6 0			1885	555 3 7		
Interest	926 9 6			Bad debts ..	152 6 7		
Transfer fees	9 5 0						
		25,259 0 6					707 10 2
1886—Premiums	30,733 7 0			1886	647 9 4		
Interest	857 18 6			Bad debts ..	60 7 0		
Transfer fees	7 5 0						
		31,598 10 6					707 16 4
1887—Premiums	24,817 6 9			1887	974 13 3		
Interest and rents ..	462 19 9			Bad debts ..	166 14 4		
Transfer fees	4 10 0						
		25,284 16 6					1,141 7 7
1888—Premiums	20,623 4 2			1888, and bad debts ..			3,567 4 7
Transfer fees	1 2 6						
		20,624 6 8					
1889—Premiums	16,072 16 2			1889, and bad debts ..			2,014 11 5
		16,072 16 2					
							8,911 11 5
Less dividends paid—		149,003 6 7					
1884	837 14 2						
1885	1,167 12 11						
1886	1,167 12 11						
		3,173 0 0					
		145,830 6 7					
1890—Premiums	17,993 16 4			1890			471 11 10
Transfer fees	0 15 0						
		17,994 11 4					
Total receipts		163,824 17 11		Total expenses, &c. ..			9,383 3 3

	£ s. d.
Losses paid	122,147 6 4
Cost of management	61,200 13 4
	183,347 19 8
Less total receipts	145,830 6 7
Loss	£37,517 3 1

Year.	Charges, Salaries, Licenses, Taxes, Rent, Agency, and other Expenses.	Total Cost of Management.	Losses Paid.	Profit on Year's Business.	Total Loss.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d
1883	2,957 8 11	3,264 2 0	2,868 2 2	3,390 13 2	..
1884	3,769 4 7	4,235 12 10	8,890 12 5	7,514 13 8	..
1885	6,474 11 6	7,182 1 8	14,067 7 4	4,009 11 6	..
1886	7,538 1 5	8,245 17 9	20,872 12 2	2,480 0 7	..
1887	8,157 12 5	9,299 0 0	32,047 6 0	..	16,061 9 6
1888	13,469 10 10	17,036 15 5	22,410 10 7	..	18,822 19 4
1889	9,922 12 3	11,937 3 8	20,990 15 8	..	16,855 3 2
	52,289 1 11	61,200 13 4	122,147 6 4	17,394 18 11	51,739 12 0
			[Deduct dividends ..	3,173 0 0	
					14,221 18 11
					37,517 13 1
1890	9,242 15 10	9,714 7 8	{11,254 18 10* 2,201 9 10*}	..	5,176 5 0
Totl's	61,531 17 9	70,915 1 0	135,603 15 0	..	42,693 18 1

*Appropriation for losses on business.

	£ s. d.	£ s. d.
Loss brought forward	37,517 13 1	
Appropriation for unadjusted and probable losses, as per 1889 balance-sheet	669 16 5	
Balance, as per 1889 balance-sheet		38,187 9 6
Interest received, 1883 to 1886 (or £157 7s. 2d. more than dividends paid) ..		£3,330 7 2

APPENDIX B.

Equitable Insurance Association.

To the Editor.

Sir,— November 10th, 1890.

We cannot allow the Board of Directors and the general manager, through the Press Agency, to impugn our statements regarding the position of affairs in such a cavalierly manner without protest. On the question of the illegality of raising directors' fees, Mr. Maxwell professed many doubts. This drew forth a resolution, which was unanimously carried, that the opinion of Sir Robert Stout should be taken, shareholders offering to pay the cost. Mr. Maxwell urged as an objection that possibly some of the directors were clients of Sir Robert's. This idea, that such a fact would influence an opinion, was indignantly resented, and all Mr. Maxwell's efforts to leave the matter an open question, as to who should be consulted, met with an emphatic negative. Mr. Maxwell thereupon pledged the meeting, in view of such a strong expression of opinion, that effect should be given to the wishes of the shareholders.

With regard to the directors, their unqualified denials, and their past management, a critical analysis of their balance-sheets and reports is sufficient to prove to shareholders the gravity of their position, apart from other serious conditions involved in the whole question. Doubtless shareholders will avail themselves of the opportunity of reviewing facts and figures at the proper time, and decide the future of these vital matters, despite the subterfuge of directors, and Mr. Maxwell's latest circular.

We are, &c.,

J. Bevan (Chairman of meeting). H. Hyams.
J. Holmes. J. Mandl.
L. Raphael. J. O. Malfroy.
Pet. Cran. John Marks.
C. F. G. Robeck. John R. Hudson.

—*West Coast Times*, 10th November, 1890.

APPENDIX C.

The Equitable Insurance Association of New Zealand.—Head Office: Dunedin.

(Statement according to the Joint Stock Companies Act.)

The capital of the company is £1,000,000, divided into 500,000 shares at £2 each.

The number of shares issued is 145,956. Calls to the amount of 9s. per share have been made, under which the sum of £42,048 9s. 5d. has been received.

The liabilities of the company on the 1st day of January, 1890, were:—

Debts owing to sundry persons by the company—	£ s. d.
On Judgment	Nil
" Specialty	"
" Notes or bills	"
" Simple contracts	"
" Estimated liabilities	23,522 8 11
	£23,522 8 11

The assets of the company on that day were:—

	£ s. d.
Government securities	Nil
Bills of exchange and promissory notes	"
Cash at the bankers	19 11 6
Other securities	27,477 17 4
	£27,497 8 10

Andrew Maxwell,
General Manager.

Dunedin, 1st January, 1890.

APPENDIX D.

To the Shareholders of the Equitable Insurance Association of New Zealand.

Gentlemen,— Dunedin, 26th November, 1888.

As you are aware, an Extraordinary General Meeting of the shareholders in the above-named company was held on the 14th day of September, 1888, at which it was resolved that the directors should endeavour to sell the business of the company for cash. We desire to bring under your notice what has transpired since.

1. The directors have not succeeded in selling the company's business.

2. A meeting of the Dunedin shareholders was convened by the directors, and held on the 15th day of October, 1888, to consider what in their opinion was the most advisable course for the company to pursue under the circumstances.

3. After a long discussion extending over two evenings, we, the undersigned, were appointed as a committee from the Dunedin shareholders to examine into the affairs of the company and to report thereon.

4. Having investigated the affairs of the company, we found that there were three things essentially necessary to be done before we could recommend that the company should be carried on with any chance of success, and without all of which it was clear to us the wisest course would be to wind it up, namely—

(1.) That a thorough insurance expert, possessing the confidence and respect of the community, should be appointed as general manager of the company.
(2.) That satisfactory financial arrangements should at once be made for meeting all claims upon the company, and for carrying it on to a successful issue.
(3.) That another call of 2s. 6d. per share (in addition to the call of 2s. 6d. now in course of collection) would have to be made, extending, of course, over the same length of time as the present call, but not to commence to take effect until the time for paying the present call had expired.

5. With regard to these three essential requisites for the successful working of the company, we have to say:—
(1.) That the directors have furnished us with the name of a gentleman occupying a high position in one of our leading local insurance companies who, having personally investigated the company's affairs, expresses his conviction that the company can be made a success, and that the shareholders can get back their money, and he is prepared to back this opinion by giving up his present assured position to take the management of our company.
(2.) The directors have confidently assured us that the most complete and satisfactory financial arrangements, not only for meeting all present claims, but for carrying on the company's business to a successful issue, can be made, provided a substantial majority of the shareholders express an opinion that the company should be carried on.
(3.) Should a majority express an opinion in favour of carrying on, then it will remain with the shareholders to do their part by promptly paying their calls, and thus placing the company in a position of financial independence.

6. In making our investigations, we came to the conclusion that if the company is wound up the capital already subscribed is likely to be lost, and that an additional amount of capital will be required to meet the losses and expenses incurred in liquidating.

7. A further meeting of the Dunedin shareholders was held on Friday, the 23rd instant, when the committee put the result of their investigations before them, and it was enthusiastically resolved that the company should be carried on.

8. In view of all the above circumstances, we are of opinion—
(1.) That the company should be carried on.
(2.) That under the peculiar circumstances in which the company finds itself, and as it is of the utmost importance in the interests of the company that a final conclusion, whether to wind up or to carry on, should be arrived at as speedily as possible, no time should be lost in inviting an expression of opinion from the shareholders in other parts of the colony.
(3.) With this object, we advise that two delegates (one representing the directors and the other selected from the committee) should visit the different centres and put the result of the committee's investigations before the shareholders of these places, so that they may be in complete possession of the position of affairs, and thus be the better enabled to come to a decision.
(4.) That the suggestion made by the directors themselves—namely, that they should resign in a body at the annual meeting in March next, leaving themselves open for re-election if so disposed—should be carried into effect. The committee would have preferred to have seen an immediate resignation. It was pointed out, however, that an immediate resignation would, perhaps, render it difficult to make arrangements with the bank, on the ground that the bank would like to know the names of the directors with whom they were dealing.
(5.) That a copy of this report should be forthwith forwarded to each shareholder.

We are, &c.,

J. B. Callan.	Stewart Frazer.
W. S. Angus.	Alex. Sligo.
P. S. Browning.	D. Russell.
R. A. Lawson.	Jno. Maitland Jones.

APPENDIX E.

Extract from Memorandum of Association of the Equitable Insurance Association of New Zealand.

1. The name of the company is "The Equitable Insurance Association of New Zealand."
2. The objects for which the company is established are—
(1.) To carry on in all or any of its departments the business of insurance against fire or marine losses, on such terms as shall be deemed expedient by the directors of the company.
(2.) To carry on the business of a fidelity guarantee company, and also of a life assurance company in all its branches (including the issue of endowment and tontine policies and the granting of annuities, but so that all the profits of the life assurance department, after a deduction of a fair proportion for the working expenses of the company, and a proportion for interest if need be, or other charges, shall be divisible among the holders of the life assurance policies of the company.
(3.) To acquire by purchase, lease, or otherwise, and hold whatever real or personal property may be needed or desirable for carrying out the objects of the company, and to sell, exchange, lease, mortgage, or otherwise deal with the property thus

acquired. Also, in so far as may be deemed by the company conducive to its interests, to acquire and sell the stocks and shares of any other company, or the securities or debentures of the New Zealand Government, or of the Government of any Australian colony, or of any corporation or public body authorised by the General Assembly of New Zealand to issue debentures or other securities for money, to make loans on the mortgage of freehold or leasehold property in New Zealand, and to lend on the security of personal property within the said colony, and otherwise to invest the moneys of the company in securities of any description, and to vary the nature of such investments, or to sell and realise on them from time to time as may be deemed desirable.

(4.) To act as agent for any company or person whomsoever, to enter into any partnership and to dissolve the same, to amalgamate with or take over the business of any company formed for carrying on business of the same or a similar nature.

APPENDIX F.

Narrative of the Equitable Insurance Association of New Zealand.

The Association was projected in the latter end of the year 1882, and commenced business in 1883, with a paid-up capital of £14,000.

I took part in its promotion, on the invitation of Mr. Kirkcaldy, and became chairman of directors, and I continued in that position till the end of 1888, when my connection with it (except as a shareholder) ceased.

I occupied the chair at the first annual meeting of shareholders on 3rd March, 1884, and again held on 2nd March, 1885, and was then enabled to congratulate the shareholders on the position the asssociation had attained. In the early part of 1886 I was absent in Europe, and at the meeting held on the 1st March of that year, the chair was occupied by Mr. Hazlett, who was again able to congratulate shareholders on the satisfactory progress of the business. I returned to the colony in the latter part of 1886, and was again in the chair at the meeting of 7th March, 1887, which was held in the new building, then recently erected at a cost of £6,000. The paid-up capital was then £14,596, and there was a reserve-fund of £7,500, making together £22,096. It was then found that the large amount locked up in the building, and in the deposits with Government for the life business, reduced the available funds within too narrow a margin, and the directors, therefore, called up a further 2s. per share, equal to £14,596, payable in four calls of 6d. each, thus bringing up the funds to £36,692, which appeared amply sufficient to place the association in a very strong and comfortable position. This brings the history down to the latter part of 1887. Up till the beginning of 1887 the fire losses, though showing some increase, had not been to an extent to cause serious alarm; but, in the course of that year, there set in what may be called a storm of fire throughout this and the neighbouring colonies, and by the end of the year the losses of the association exceeded the net revenue for the year by more than the whole amount of the calls made. A further deficiency of several thousand pounds occurred between the end of the year and the date of the annual meeting, 5th March, 1888; so that the funds were then reduced by a large amount—probably £5,000—below what they stood at in the previous April, when it was found necessary to make the calls.

The state of the accounts on 31st December, 1887, appears plainly set forth in the report presented to shareholders on 5th March. A balance-sheet, prepared on 30th June following, shows a further deficiency between 31st December and 30th June of £10,677. These losses were probably not greater in proportion than those suffered in the same period by other neighbouring companies; but it was evident, from the published accounts, that further calls of capital were immediately and urgently necessary. I was not present at the meeting of March, 1888, but I learned that it was then announced to shareholders that, following upon the change of management, on the retirement of Mr. Kirkcaldy, a great change for the better had taken place in the character of the business and position of the company. On my return to Dunedin, after the meeting, I found that a circular to shareholders to that effect had been prepared and printed by the acting-manager, in which it was also stated that no further calls of capital would be required.

I at once pointed out that these statements were contradicted by the published accounts, and that it was imperative to make further calls immediately. The circular was suppressed, and five calls of 6d. each, in all 2s. 6d. per share, were made, representing £18,244 of additional capital, which was all needed. I must now try back a little. After my return from Europe, in the latter part of 1886, the relations of Mr. Kirkcaldy and some of the directors became very strained. I am not prepared to enter upon the merits of what were the causes of this—whatever may have been the faults of Mr. Kirkcaldy, or whatever errors he may have committed, I personally, for good reasons, had great confidence in him. I had known him for many years. In fact, I brought him out, more than thirty years ago, and he held a confidential position in the employment of my firm, to my perfect satisfaction, for about nine years. It was at his invitation that I became one of the promoters of the Equitable, and I recognised the great ability and thorough knowledge of insurance business, in all its branches, which he showed in getting up and organizing the association, and in his subsequent management of it, and his unremitting zeal for its interests.

But, as I have stated, his relations with some of the directors became very strained, so much so that, in the month of November, 1887, he tendered his resignation, which was accepted, with the condition that he should retain his position of general manager until he had effected a settlement of the disputed account with the Fire, Marine, and Accident Indemnity Company, in Melbourne.

In accordance with that arrangement he accompanied me to Melbourne, where, in the face of much difficulty and vexatious delay I succeeded, with the aid of his tact and perseverance, in

obtaining an agreement to the correctness of our claim, signed by the chairman and general manager of the Fire and Marine Company. He, at the same time, rendered very effective service in a thorough inspection and revision of the business of the Melbourne agency, by which some serious losses were avoided.

The Melbourne agents took umbrage, and suddenly resigned the agency, rendering it necessary to rent an office, and appoint a staff to carry on the business.

In those circumstances Mr. Kirkcaldy devoted himself to the company's interests, and rendered good service, for which he received scant acknowledgment. The claim on the Fire, Marine, and Accident Indemnity Company arose in this way: The Equitable Association, in the first instance, acted as agents in New Zealand of the Accident Indemnity Company of Melbourne, and, the business showing very favourably, agreed to take it over altogether. But, although it was doing well in New Zealand, the directors found it difficult of proper control on the Australian side, and therefore accepted an offer of some of those who formed the original company to take it back with all its liabilities as it then stood. This was in the end of 1886. Among the liabilities so taken over were certain fire risks standing against the Accident Indemnity business, and under a treaty, made at the same time with the new Melbourne company, fire risks continued to be underwritten on their account. But, by singular misfortune, these transferred risks brought participation in the series of heavy losses which then set in, and the Melbourne company objected to their liability on some of them. After some correspondence, they sent their manager, Mr. Keate Hall, accompanied by their accountant, to Dunedin, and he, after thorough investigation, practically acknowledged the correctness of the account, and promised a settlement on his return to Melbourne. This was in October, 1887. But they did not settle; on the contrary, they raised further objections, and, in consequence, I proceeded by request of the Board, in the month of December, accompanied by Mr. Kirkcaldy, to Melbourne, when, as already stated, I succeeded in getting an agreement to the account in its full amount, which was then, I think, about £6,000.

At this time, the end of 1887, and beginning of 1888, heavy losses continued to come in. In the end of October, 1887, during the visit of Mr. Keate Hall, the suggestion was made to me that a new company might be formed in Melbourne, under limited liability, to take over the business of the Equitable, giving the shareholders of the association the option of selling out at market value of the shares, or taking the equivalent in shares in the new limited liability company, and bringing in new capital with a powerful connection on the Australian side.

I thought very well of the proposal, which appeared to me to offer a fine prospect of relieving our shareholders from their heavy liability. I mentioned it to Mr. Hazlett, deputy chairman, who took an equally favourable view of it; but wisely suggested that, before saying anything further, we should bring it before the entire Board, which we did at the first meeting, with the result that they unanimously concurred in our view. In consequence, when I went to Melbourne, in December, I carried with me the understanding that I should do what I could to promote the scheme; but without committing the association until it came before the shareholders. I according had several meetings with the promoters in Melbourne, when I afforded them the necessary information about the business. Before I left Melbourne the project was put fully into shape, with the aid of a very strong body of promoters in Melbourne and Sydney, who formed themselves into a syndicate to carry it out. The method of proceeding was to send money to New Zealand to buy up at the market price (assumed to be 2s., with calls made in April, 1887, paid) such shares as were offering; but leaving it with the shareholders who decided not to sell to convert their shares into the equivalent in shares in the new company. Instructions were sent to Mr. A. Bathgate, solicitor, to purchase shares, and a credit of £5,000, to begin with, was placed at his disposal for the purpose; and instructions were also sent to Messrs. Pollock and Bevan, Hokitika, to communicate with Mr. Bathgate, and arrange with him the price at which they should purchase shares on the West Coast. When I left Melbourne on my return, I looked upon the thing as done, and was very happy in the belief that the troubles of the shareholders were practically ended. A very strong company, with ample capital, would have been formed, and the business, with all assets and liabilities, taken over, including the Accident Indemnity claim, and the shares would have at once gone to a large premium. The new company was to be called "The Equitable of Australasia." Memorandum and articles of association were drawn and approved, and on the point of being registered, and it was agreed with Mr. Kirkcaldy that he should be general manager. This was telegraphed to Dunedin after my arrival; but I found on arrival, just after the annual meeting, a changed aspect of affairs. The alleged improvement in the business seemed to have caused an unwillingness to see the thing proceed, and there was a strong agitation against Mr. Kirkcaldy's appointment to the management, which I was assured was a cause of some prominent shareholders setting their face against it going further. And then representations seemed to have been sent to Melbourne which led to the withdrawal of the chief promoters, and cancelment of instructions to Mr. Bathgate, and so the whole thing fell to the ground and came to an end, and the company was never registered. Mr. Keate Hall then got up another company, with himself as manager, and which was registered in Melbourne under the name of "The British and Colonial," of which we shall hear more further on. Some time after this I heard from Mr. Kirkcaldy that he, with the aid of some influential friends, had got up another company in Melbourne, under the name of "The Australian Caledonian." He had no thought of opening negotiations with our company, and did not hint at any idea of doing so. But, as our Board became increasingly anxious about our financial position, and the certainty of having to make further calls, I, with their concurrence, suggested to Mr. Kirkcaldy that his company might make an offer for our business. As already stated, he never hinted at such a thing; but the proposal came wholly from us. Several telegrams passed, but nothing definite came of it until I visited Melbourne (I think in June, 1888) when I went with Mr. Kirkcaldy, and discussed the matter very fully with his chairman, the Hon. Mr. Bell. The upshot was that a letter was written to me, as Chairman of the Equitable, offering to take over the busi-

ness upon terms which appeared to me very favourable, and which I undertook to submit to my Board, by whom, I stated my belief, it would be accepted. The main points of it were :—

Fire and marine risks to be taken over at reinsuring value, subject to optional rejection of any risks on investigation. (As we had power under our policies to cancel fire risks at any time, this proviso did not affect us in the way of difficulty.)

Goodwill : An amount to be allowed proportionate to volume of business, to be agreed upon (which would have gone far towards meeting the reinsurance).

Life business to be taken over.

Building to be taken at cost.

Outstanding accounts to be collected for us.

This was submitted to the Board on my return, and Mr. Kirkcaldy was sent down from Melbourne by his Board with power to carry it out.

But now captious objections and difficulties were raised, which took the shape chiefly that the Melbourne company was not strong enough. At the back of all, however, there was an apparent determination to keep out Mr. Kirkcaldy. I heard of private meetings of shareholders in Dunedin, and had evidence of correspondence being carried on between Mr. Voller, the association's accountant, and shareholders on the West Coast. There was a good deal of intrigue going on at this time. While the offer of Mr. Kirkcaldy's company was under consideration, a copy of it was sent, without my knowledge, to Melbourne, and a counter-offer was then received from the company formed by Mr. Keate Hall, already referred to—the British and Colonial—which professed to meet certain objections raised against Mr. Kirkcaldy's offer, but was so ambiguous (I believe by design) on most important points as to be practically valueless. In the end Mr. Kirkcaldy, after being kept dangling about for a time, was dropped, and his company withdrew, very indignant with him for having, as they conceived, led them astray; and, in consequence, he lost his appointment, and his company was wound up. There now remained the offer of Mr. Hall's company—the British and Colonial—which was open to a day named in it. I had written to Mr. Lloyd, at Melbourne, instructing him very particularly to obtain from Mr. Hall a clear explanation on the points in his offer which were ambiguous and unsatisfactory; but, although there had been plenty of time, I had not got any reply. The time limited in the offer being about to expire, the directors telegraphed to Mr. Lloyd to close with Mr. Hall, making the best terms he could on the doubtful points. The telegram was delivered in Melbourne after business hours on the last day that the offer was open, and so did not reach Mr. Hall till the next morning; when, on the pretext that the time was past, he would have nothing to say to it; the truth, as I believe, being that the offer had never been *bonâ fide*, but was merely sent over for the purpose of "bluffing" Mr. Kirkcaldy, which it successfully accomplished. This offer was referred to in the instruction to directors, by resolution of shareholders at the meeting of 14th September.

Subsequent proceedings are set forth in the circular to the shareholders, of date 26th November, 1888. My opinion, which I strongly pressed upon the directors, was that the association should be forthwith wound up. I have before me a memorandum drawn up by Mr. Voller, by my instruction, showing what it would have cost to do so, putting everything at what he considered the worst, showing an ultimate probable deficiency of £17,200—about 2s. 6d. per share. My own calculation made it less.

But I found myself in a minority of one. I urged that to carry on would necessitate a very heavy call upon the shareholders, with the result, if successful, of having a concern still very weak in capital, in presence of the very wealthy and powerful competing companies; while, on the other hand, if not successful, the consequences would be deplorable. However, it was a matter of opinion and judgment. The shareholders met, and appointed a strong committee, who, after investigation, and having all the facts of the association fully before them, made their report of 26th November, which was adopted unanimously by shareholders and acted upon. The committee never asked my opinion or advice; in fact, I felt myself to be the object of suspicion, as one hostile to the interests of shareholders, and somehow in league with Mr. Kirkcaldy to steal away the business. It may, perhaps, be asked, Why did I acquiesce in subsequent proceedings? But, again, I have to say it was a matter of judgment and opinion. As Chairman, I deemed it my duty to support loyally the unanimous resolutions of the directors and shareholders, and I did so to the best of my ability so long as I occupied the chair.

In the beginning of 1889 I had again to visit Melbourne on the business of the association, and immediately on my return I was laid up with a serious illness, and, being unable to meet the calls upon the 2,000 shares which I held, I resigned my chairmanship and directorship, and have since taken no part in the affairs of the association.

I attach committee's report of 26th November, 1888. [*Vide* Appendix D., page 42.]

Dunedin, 22nd September, 1894. E. B. CARGILL.

APPENDIX G.

	£	s.	d.
Business received from Mr. H. Guthrie	1,645	6	10
Losses paid	5,541	7	2
Dr. Difference	£3,896	0	4

To 30th November, 1886.	Premiums. £	s.	d.	Losses. £	s.	d.
Equitable	461	6	11	1,717	19	0
Other companies	1,183	19	11	3,823	8	2
	£1,645	6	10	£5,541	7	2

APPENDIX H.

MEMORANDUM FROM THE EQUITABLE INSURANCE ASSOCIATION OF NEW ZEALAND.

DEAR SIR,— Dunedin, 5th January, 1889.

I hand you, as requested, statement of all business done by you with the Association from the beginning. The exact figures are as follows:—

	£	s.	d.
Gross amount of premiums—			
Marine	2,591	18	11
Fire	114	8	4
	2,706	7	3
Less discount, commission, and R/I. premium...	607	8	3
	£2,098	19	0

The total gross losses paid amount to £6,331 8s. 11d.

Yours faithfully,

To Henry Guthrie, Esq., Dunedin. E. B. CARGILL, Chairman.

APPENDIX I.

EQUITABLE INSURANCE COMPANY.

[To the Editor.]

SIR,—

After a "Shareholder's" letter in Monday last's issue, I was hopeful of receiving a statement of accounts "to put shareholders in complete possession of affairs." As no statement has yet reached me, I write to suggest that the management should immediately comply with so reasonable a request. Shareholders are surely entitled to know the true position.

Mr. Shrimski offers his shares with calls paid to date. I am prepared to do better than that. I will give mine free, with the next two calls paid. I know of a shareholder, who, thinking that the committee, from their report, had confidence in the future of the company, offered two of the leading members of the committee 1s. a share to take his shares, with calls paid to date; but both these gentlemen refused, one saying "he wished he would take his."

I understand that if the company were wound-up voluntarily just now, the call due this month would about clear us. May I ask the management to give us some information on the subject.

I am, &c.,

Dunedin, 12th December, 1888. COMMON SENSE.

APPENDIX J.

THE EQUITABLE INSURANCE COMPANY.

[To the Editor.]

SIR,—

The delegates of the Equitable Insurance Association, now visiting different districts to meet the shareholders, appear, from reports published, to be successful in obtaining their assent to the proposals for carrying on the company's business. It is so far well that shareholders should be induced to decide with something like unanimity, but the way matters are drifting at present must cause anxiety to those interested. Since it is intended to have a new Board, there is not much use in looking at past management; but in the meantime the present directors have control, and, even with the assistance of the committee of shareholders, further mistakes may be made. That the directors have shown a want of ordinary prudence in the management of the company's business, I am sure there can be no question. I do not speak of their responsibility for losses sustained (which I suppose were, for the most part, legitimate risks), but of what is especially the directors' business —namely, to call up sufficient capital to provide for all possible losses in the risks undertaken Instead of this essential precaution, which ought to have kept the shares transferable, the business was extended outside the colony, beyond the original scope of the association, trusting "with luck," (as one of the directors said in speaking of the future) to come out right. Nor have they been frank with the shareholders. At the annual meeting in March the acting chairman said that a favourable turn had occurred, and profits were being made; whereas more disasters happened. It is known, too, that cross purposes have been at work within the Board, and these considerations should make us careful as to what is now proposed. A new manager is to be appointed, and the name of a gentleman has been mentioned, of whom all that can be said is that he has not proved himself specially successful hitherto. Now, I think it would be a mistake to commit the company to an engagement for a term of years; if a paying business did not result there would be an additional heavy burden on the association. Why should not a manager be advertised for, with the chance of getting a suitable man either in New Zealand or Australia?

With regard to the question of winding-up, if the shareholders are really prepared to furnish fresh capital, that disposes of it; but an investigation and report by an independent actuary as the precise position of affairs, would have been more satisfactory than that of the committee

It was suggested at one of the meetings that the directors should forego their fees, which may probably amount to as much as the calls on their shares. It seems ungracious to ask them to give their time for nothing, but it would not be unfair that they should look at the results as calling for this sacrifice.

I am, &c.,

18th December, 1888. NO CONFIDENCE.

APPENDIX K.

THE EQUITABLE INSURANCE ASSOCIATION OF NEW ZEALAND.

(Circular.) *To the Shareholders.*

GENTLEMEN,—

As you are doubtless aware, it has been decided to carry on the association.

The directors freely admit that mistakes have been committed in the past; experience has been dearly purchased, but the directors are determined and confidently assure you that there will be no repetition of past errors.

The directors are making a vigorous effort to render the association a success, but in order to do so they must have the hearty co-operation and support of the shareholders. It is the shareholders who can best aid in bringing back to the association what we all desire—prosperity.

It is not sufficient for the shareholders simply to meet and pass resolutions to carry on; they must rally round the association and bring to it all the business they possibly can. They represent a large and influential body, and are well distributed over the colony. Each shareholder can do something; he has an interest in the association, and in working for it he is working for himself.

The associatfon requires all the assistance it can get. If we unite together and work—each in his own sphere—by influencing business to the association, then we shall succeed; but, if we are divided or indifferent in the matter, it must not be wondered at if the task prove greater than the directors have any right to anticipate. Let the shareholders, then, put their shoulders to the wheel, and at the next annual meeting we may have cause to congratulate ourselves upon the result.

Your attention is specially drawn to a leading article in the *New Zealand Insurance and Finance Journal*, mailed to you this day, which will give you the opinion of the Insurance press upon the position of affairs, and should go a long way towards restoring confidence in the minds of the shareholders. The same paper contains a full report of the proceediugs at the adjourned general meeting, which should be of interest to you. J. B. CALLAN, Chairman.

Dunedin, 4th May, 1889.

APPENDIX L.

[Extract from the *Otago Daily Times* of 25th November, 1890.]

THE EQUITABLE INSURANCE ASSOCIATION OF NEW ZEALAND.

AN extraordinary general meeting of the Equitable Insurance Association of New Zealand was held at the registered office of the company at 4 o'clock yesterday afternoon, for the purpose of considering and, if thought advisable, passing, with or without amendment or modification, the subjoined resolution: "That the association ratify, validate, and confirm the payments of remuneration made and received by the directors since the 3rd day of March, 1884, doubts having arisen as to the validity of those payments; and that the directors who have received such payments be released by the association from all claims and demands on account thereof."

The chair was occupied by Mr. J. B. Callan, Chairman of Directors, and there was a large attendance of shareholders.

Mr. Maxwell, General Manager of the Association, having read the notice calling the meeting,

The Chairman spoke as follows: Gentlemen, as you are aware, this extraordinary general meeting has been called for the purpose of submitting to you a resolution, the object of which is to validate certain past payments made to the directors in the shape of fees. I am one of those directors, but, as you likewise know, I only joined the Board in March of last year, when the scale of fees which you will be asked presently to validate had been in operation for five years. I mention this fact for two reasons: First, because I have been twitted outside, How could I, a lawyer, have been a party to an invalid act? But, as I have just told you, the act of which complaint is made was committed five years before I was called to the Board. The second reason is because, as the matter touches me so lightly, I can remark upon it with the greater freedom. However, I do not intend to take up your time by making many remarks. Indeed, if I were addressing a meeting of Dunedin shareholders only, I think I would content myself with merely submitting the resolution, because I know the Dunedin shareholders are seized of the whole affair. They know its entire history, and they all, with very few exceptions, if any, have come to the conclusion that the directors all through this matter have acted with perfect good faith, and under the impression that there was nothing invalid about the matter. Telegrams have, however, appeared in the newspapers which might lead shareholders at a distance, and those of the public who interest themselves in the matter, to imagine that the directors have been acting in regard to this matter in a very crooked manner. With the hope of removing any erroneous impression which may exist, I will shortly state the history of the affair, and to disabuse the minds of the public I would ask the press to publish my remarks in full on this point. And, first, I would draw your attention to section 55, subsection 7, of the articles of association, which is as follows: "Until the company in general meeting shall otherwise determine, a sum of £3 10s. shall be paid to the directors out of the funds of the company as remuneration for their services at such meeting, to be distributed amongst those directors actually present within twenty minutes of the advertised time of meeting, and such meetings for attendance at which remuneration is hereby provided shall not be held more frequently than once a fortnight." Now, at the first annual meeting of the shareholders, which was held on the 3rd March, 1884, Messrs. R. A. Lawson and Mark Sinclair moved and seconded the following resolution, which was passed: "To amend clause 7 of section 55 of the articles of association, so as to provide that the directors present at each meeting shall receive among them the sum of £7 as remuneration for their services." The directors acted upon it, believing it was

valid and binding. Notice of the intention to move this resolution had not, however, previously been given to the shareholders, which ought to have been done, and it is from this oversight that all the trouble has arisen. Now, I shall first call your attention to this fact: that it is not at all an unusual thing in the history of companies for irregularities of this kind to occur. I hold in my hand a standard work on companies—Palmer. He says: "The regulations of a company are very rarely observed with exactness. Thus it sometimes happens that a director acts who has not been duly elected, or that a general meeting passes a resolution which is acted on, though proper notice was not given of the intention to propose the same": The very thing which has been done by this company, and of which so much is attempted to be made. I call the attention of any shareholder who may think that the directors have been guilty of some tremendous and unheard-of things to these words of Palmer. He will see that the error committed is one very often fallen into. Again, let me remind you of this: that the resolution was proposed by two gentlemen who were not directors—Mr. R. A. Lawson, and Mr. Mark Sinclair. Mr. Sinclair was not then a director, and did not become one for some years afterwards. Well, if the omission to send out the notice was purposely done, then these two gentlemen must have conspired with the directors; they must also have been "in the swim." But leaving all the other gentlemen concerned out of the question, I have only to mention the name of Mr. R. A. Lawson, and Dunedin residents will know that that gentleman's character was such as to exclude the idea of his lending himself to such a trick. The explanation of the matter is, of course, that he, like the others, did not think of the necessity of sending out a notice. Again, let me remind you of this: that the meeting at which the resolution was passed was the first annual meeting. The directors were so successful in their first year's operations as to be able to pay a dividend of 8 per cent. to the shareholders. Do you think that the directors, under such circumstances, would have been afraid to send out a notice to the shareholders of a resolution to raise their fees, when you remember that the fees they were then getting were 10s. a fortnight per man, if they had known that a notice was necessary? Again, let me remind you of this: the resolution raising the fees was inserted in the annual report. That report was printed, and a copy of it sent to every shareholder in the company, so that every shareholder became seized of the fact, and yet no objection was ever raised; and let me tell you that amongst our shareholders are lawyers, and bankers, and commercial men, and men of all callings almost. Again, the minutes of the meeting at which the resolution was passed (and which contains this resolution) was read and confirmed at the next annual meeting, in March, 1885, and no objection was taken, which all goes to show, gentlemen, that everybody concerned overlooked the necessity of sending out this notice, and that the failure to do so was a mere oversight. I have nothing more to say to you upon the matter, only that when our attention was called to it four or five months ago, upon taking our solicitor's opinion on the point, we went back at once to the old scale of fees —viz., £3 10s. a fortnight. The resolution which I have to move merely validates past payments. It does not ask the shareholders to increase the fees for the future. Although this resolution is passed, the directors go on at the old rate—viz., £3 10s. a fortnight.

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