

in the auditor's hands on or before that date." No balance-sheet has ever reached Mr. Marsh, who was again in Gisborne from the 14th to the 22nd October, 1916, and visited the station with Mr. Jackson. He got no accounts or balance-sheet, but he heard about matters affecting the trust from Mr. Jackson at the office. Amongst others he heard that the *Wi Pere tangi* had cost the trust £2,000. He did not think so much of that, but it had the effect of first raising doubts in his mind as to the interpretation of the trust deeds and the powers of the trustees thereunder.

Mr. Marsh next came to Gisborne in December, 1916, and attended a meeting of owners with Mr. Jackson. The question of distribution to the owners was discussed between Mr. Marsh and Mr. Jackson, the former holding that moneys could only be paid to the owners out of profits and on shares being defined, and that, as there was no balance-sheet, no distribution could be made. Mr. Jackson's view was that, the trust being in a flourishing condition, stock unencumbered, no mortgage on the Waitangirua Station, and especially as in a few years the rentals would be increased to £12,000 or £15,000 per annum, it would be equitable to give the owners something at once.

Mr. Marsh's reply to this was that the trustees were bound by the terms of the trust deed, and if a distribution was to be made otherwise than in accordance with those terms, steps must first be taken to alter the deed. Mr. Jackson in his evidence readily admitted that Mr. Marsh made strong representations to him as to the non-production of the balance-sheet, and that there were many differences of opinion between them—one of which was over the spending of sums of more than £250 without the sanction of the committee. It is clear also that at this time Mr. Marsh plainly expressed his opinion that no payments to owners could be made until the balance-sheet showed them to be justified.

Mr. Jackson maintained before the Commission that Mr. Marsh was quite willing at the time of his visit to Waitangirua in October, 1916, that a distribution should be made, but Mr. Marsh claimed that he stated that any such payments must be out of the proceeds of the station. He remembered that the committee agreed to a distribution, but that he himself then knew nothing of any proposal to raise money for this purpose, but understood that the station showed a profit of £2,300, and that the Natives would receive their money direct from the trustees' office. He stated positively he would not have consented to money being borrowed for such a purpose.

At any rate, the facts are that after this visit of Mr. Marsh's to the station it was arranged by the committee and Mr. Jackson that a distribution of £1,020 or thereabouts should be made, and that on the 17th November, 1916, an advance was obtained from Messrs. Bennett and Sherratt, merchants, Gisborne, of £1,100 as on account of the Waihirere Block. The cheque for this advance was paid to Messrs. Williams and Kettle (Limited), merchants, with whom the Waitangirua Station had an account current, and by them placed to the credit of a special account. Messrs. Williams and Kettle paid out of this account the distributions made by Mr. Jackson's orders, and the balance, £76 8s. 11d., was handed over to Mr. Jackson and placed to the credit of the current account.

On making this advance Messrs. Bennett and Sherratt received from Mr. Jackson a promissory note for £1,100, dated the 17th November, 1917, at three months, made payable at the office of Mangatu No. 1, Gisborne. It was signed as follows: "Mangatu No. 1 Account.—H. C. Jackson." This note was paid on the 21st March, 1917, by a cheque given on the Mangatu No. 1 Account at the Bank of Australasia for £1,106 2s. 4d., which covers interest for the twenty-nine days overdue at 7 per cent.

It will be noted that this promissory note was made by H. C. Jackson alone; all cheques on the Mangatu No. 1 Account required two signatures. Mr. Jackson claims that he acted in this matter in accordance with the wishes of the committee, and that his co-trustees had approved of a distribution. Mr. Marsh in his evidence states that he had no idea that such a distribution had been made until informed of the fact by Mr. Coleman, sen., a week before the sitting of the Commission, and that if he had known of the proposed loan he would have objected to it.