

thing. A railway there ought to be a pioneer of progress; it cannot well be the follower of progress.

60. *The Chairman.*] Your evidence, in fact, does not apply to Ireland at all?—No; I should say that the question is a totally different one there. I should myself be only too glad to vote for the acquisition of the present Irish railways by the State, and the extension of them by the State out of money raised at 3 per cent.

Mr. JOHN CHARLES REES examined.

61. *The Chairman.*] Will you inform the Committee how long you have been connected with railways?—Since the year 1855—twenty-seven years.

62. And in various capacities?—Yes.

63. As solicitor and parliamentary agent?—Yes, as solicitor to one of the large railway companies for many years; and since that as parliamentary agent.

64. Now, Sir Edward Watkin is at a loss to understand the origin of this inquiry. Probably you can clear that matter up to the Committee?—The inquiry may be said to have originated from the history of the Hull and Barnsley case, in which I was agent in the session of 1880. That Act of 1880 contained the clause required by this Standing Order 167, prohibiting the payment of interest out of capital during construction, or at any time; and I should remark, upon that, that the undertaking authorized by that Act was partly a railway undertaking and partly a dock undertaking, the estimate for the dock undertaking being, in round numbers, £1,000,000.

65. A dock at Hull, was it not?—A dock at Hull, now proposed to be called the Alexandra Dock. The Act, nevertheless, although the Standing Order Act applies only to railway cases, covered the whole capital, the dock capital as well as the railway capital. Then you have heard from Sir Edward Watkin that a prospectus was issued by the Hull and Barnsley Company, in which it was stated that the contractors covenanted to pay interest at 5 per cent. per annum half-yearly until the 31st December, 1884, on all amounts for the time being paid up. The 1st December, 1884, was the time limited by the contract for the completion of the works. Upon that prospectus the whole capital was subscribed; but, as Sir Edward Watkin has stated, an injunction suit was afterwards instituted.

66. By whom?—It was instituted by a gentleman of the name of Fisher, who had purchased recently in the market some scrip which had been issued by the company. He was a scrip-certificate holder. He instituted a suit nominally on behalf of himself and all the shareholders of the company for an injunction prohibiting the directors from paying money out of capital, and for other purposes. The Master of the Rolls granted that injunction.

67. In granting that injunction, did the Master of the Rolls express any opinion upon the general subject?—He did to a certain extent express an opinion upon it. I have the shorthand writer's notes of the discussion before the Master of the Rolls upon the motion for the injunction, and, with the permission of the Committee, I will read a short passage from the discussion. This is the passage: *The Master of the Rolls*: "I should think this case would lead to some improvement in the wording of this clause." That, of course, is the clause prohibiting the payment of interest out of capital. Then Mr. Chitty, who was counsel for the company, said: "It would be much better that the clause should be got rid of altogether." *The Master of the Rolls*: "That I do not know." *Mr. Chitty*: "The effect of this clause is to throw undertakings of this kind into the hands of mere contractors, who manipulate the shares and debentures of the company in any way they like. You have had many instances of railways made in that way, where not one-half of the actual money has been expended on the line. It is much better to allow fair interest during construction." *The Master of the Rolls*: "To be charged as part of the cost of construction?" *Mr. Chitty*: "Yes; I consider it is an antiquated view of the matter, ill adapted to the wants of mankind, and not likely to conduce to a good result." Then the Master of the Rolls says: "If a man lays out £1,000 in building a house, at the end of that time he reckons the house costs him not only the money laid out, but fair interest on the money laid out. Why the same doctrine should not apply to railways I do not understand." *Mr. Chitty*: "There is a pertinacity in some quarters, or rather, perhaps I should say, a persistence in holding to this clause, which I do not think is for the public good." *The Master of the Rolls*: "I am not suggesting that what you do is immoral or contrary to public policy,"—and so forth.

68. Do you concur with Sir Edward Watkin in believing that this decision of the Master of the Rolls, who held that the Standing Order had been distinctly evaded, will prevent all such evasions in the future?—I do not think so; and I think the proof of it is that prospectuses have since that decision been put forward offering exactly the same thing—the payment of interest during construction by the contractor, which means out of capital.

69. Will you pursue the history of the subject?—You asked me just now what was the origin of this inquiry. After the decision of the Master of the Rolls, to which the Hull and Barnsley Company submitted, the company proceeded to present a petition last session for leave to introduce a Bill after time to put the matter right, to legalize the payment of interest out of capital. The Standing Order Committee, however, of your honourable House reported that the Standing Orders should not be dispensed with; and the Bill consequently could not be introduced. But in the present session that company—the Hull and Barnsley Company—are promoting a Bill which has the object of legalizing in their case the payment of interest out of capital. That Bill I am the agent for. Of course it occurred naturally to me, as it would to any one, that it was extremely improbable that in that exact shape, at all events, Parliament would pass such a Bill in the direct face of the Standing Order 167; and I therefore devoted myself to endeavouring, principally in the interest of the Hull and Barnsley Company no doubt, to obtain some modification of the Standing Order, so that the Order might be in such a form that, consistently with the passing of it, the Bill of the Hull and Barnsley Company for legalizing what they had actually done should be possible.