

rectangular blocks; and that the company, by alternate choice, should obtain land having one-half the frontage to its line. By section 8 it was provided that, should there not be sufficient Crown land adjoining the line, then other land should be set aside in places which would be specially benefited by the construction of the railway; and by the same section, subsection (5), it was provided that the company should be entitled to any coal found upon the land comprised in its grants. By subsections (8) and (9) of section 8, lands described in the Schedule to "The Westland and Nelson Coalfields Administration Act, 1877," and lands then used for mining purposes, on which were known gold-workings, were excepted, and declared not to be Crown lands for the purposes of that Act.

2. A contract under the Act of 1884 was, on the 17th day of January, 1885, entered into between Her Majesty, of the one part, and several gentlemen therein named of the other part, and was laid before the General Assembly in the session of 1885.

3. On the 30th day of April, 1886, this original contract was, with the consent of the Governor of the colony, assigned to the claimant Company.

4. The Amendment Act of 1886 was then passed, authorising the Governor to enter into a new contract with the claimant Company. In the third section of the Act of 1886, maps were referred to as defining the part of the colony within which the claimant Company was entitled to select lands to be granted to it.

5. In the year 1887 "The Midland Railway Contract Act, 1887," was passed, authorising the Governor to enter into a contract with the claimant Company, and providing by statute for the provisions of such contract, and declaring that such contract should operate as a substitute for the original contract. Pursuant to this Act a contract was duly executed, bearing date the 3rd day of August, 1888, between the claimant Company and Her Majesty.

6. Under the said contract the claimant Company was, as therein appears, under an obligation to Her Majesty to construct the works therein specified "with all convenient speed and within the term of ten years computed from the 17th day of January, 1885, or within such further time after the expiration of that period as might be allowed in that behalf under the said contract."

7. No such further time has been allowed by Her Majesty or the Governor under the said contract.

8. The said term of ten years expired on the 17th day of January, 1895, and at that time the claimant Company had refused, neglected, or failed to perform its obligations to Her said Majesty as set out in the said contract: And in particular the respondent says that under the said contract the claimant Company was bound within the period aforesaid to construct the whole of the work specified in clause 2 thereof; whereas, in fact, the claimant Company has refused, failed, and neglected to construct the greater part of such works, as appears in the succeeding paragraphs hereof.

9. The mileage of the railway actually constructed by the claimant Company, as compared with the mileage which it was the duty of the claimant Company to construct under the said contract, shows that the claimant Company had on the said 17th day of January, 1895, actually constructed and completed 75 miles of the railway, as against its obligation to construct 235 miles or thereabouts.

10. The sections of the said line of railway which have been left unconstructed would be proportionately much more expensive in construction than the parts already completed.

11. It is a fact that the estimated total of the expenditure of the claimant Company under the whole of the works is the sum of £2,500,000 as shown in the contract, and it is probable that the actual cost of construction would exceed that sum. Nevertheless the sections of the said railway constructed and completed at the date of the expiration of the contract time only represent, upon the basis of the estimate provided for by the contract, a sum of £470,300.

12. The respondent therefore avers that by virtue of the matters hereinbefore alleged the claimant Company has failed to perform at least four-fifths of the works which under the said contract it undertook to construct.

13. The plan hereunto annexed, marked "A," shows by way of comparison the works contracted to be done with the works actually constructed at the time of the expiration of the contract.

14. The respondent further avers that the claimant Company not only failed to perform its contract, but has notified an intention to abandon a substantial part of the said works, to wit, that portion of the said railway-line which extends from Reefton to Motueka, a distance of over ninety-four miles; and, further, that in pursuance of such intention the claimant Company in the year 1892 petitioned Parliament, alleging certain grievances against the colony; and, upon inquiry before a Parliamentary Committee in that behalf, appointed counsel for the claimant Company made the following explicit statement: "The Company is at the end of its finance. To say that the contract is in existence for two years and a half is, in the sense Mr. Seddon says it, correct. But it is not so in the sense that I should use the words. The Company is without funds to complete its contract: the Company cannot raise the funds to complete its contract without some modification of the contract. It is true that the Company has said that it could not raise the funds without the determination of the question of the incline, and of the question of extension of time; but the Company has not said that the settlement of those two questions alone would enable it to raise the necessary funds. The real question which we have brought, and desire to bring before Parliament through this Committee, is this: Will you make a modification in the contract? because if not, it is impossible for us to carry it out. We have not the funds, and without some modification we cannot procure the funds. Therefore, if the railway is to be carried out by this Company, give us some modification. We have made some suggestions: we are prepared to consider any others that may be offered. But we desire to find a ground where we may meet the Government, and ascertain what modifications the Government are willing to consent to, if any.