

If there has been no breach on the part of the Company, then there is no difference, as you assert, between the position of the Company and the position of the debenture-holders. If there has been breach, then I am unable to concur with your view that the debenture-holders are in any better position than the Company.

I am, &c.,

Aeneas R. McDonnell, Esq.,

Secretary, Midland Railway Company of New Zealand (Limited),
61 and 62, Gracechurch Street, London, E.C.

HUGH GULLY,
Crown Solicitor.

FURTHER AFFIDAVIT OF HUGH GULLY, ESQ., IN SUPPORT OF NOTICE OF MOTION
RE PARTICULARS.

COLONY OF NEW ZEALAND.

In the Matter of an Arbitration between THE NEW ZEALAND MIDLAND RAILWAY COMPANY (LIMITED), Claimant, and HER MAJESTY THE QUEEN, Respondent.

I, HUGH GULLY, of the City of Wellington, and Colony of New Zealand, Solicitor, make oath and say:—

1. That I am Crown Solicitor for the District of Wellington, and am acting as Solicitor for the respondent in these proceedings.

2. That notice of its desire to refer all disputes, differences, and questions herein to arbitration was served by the claimant upon the respondent's representative in the colony on the 14th day of January, 1895.

3. That thereafter application was made on behalf of the respondent, requesting the claimant to furnish the respondent with particulars of the matter and questions alleged to be in dispute, and of the claimant's claim against the respondent.

4. That the only particulars so furnished by the claimant up to the 22nd day of November, 1895, are contained in the memorandum of which the following is a true copy:—

"The claim of the Company will be in respect of the breaches of contract and grievances,—

"(1.) Under subclause (c) of clause 16.

"(2.) Under clause 18.

"(3.) Under clause 33.

"(4.) Under clause 42.

"(5.) In respect of the misrepresentation of the Minister and of his officials before the Committee of 1893 (*sic*) having made it impossible for the Company to raise the necessary capital to complete the railway.

"(6.) In respect of the oppressive taxation imposed since the contract was entered into."

The said memorandum was served upon me in the month of April, 1895.

5. The nature of the aforesaid application for particulars, and the reasons upon which such application was grounded, appear by the correspondence, copies whereof are hereunto annexed marked "A."

6. That, as appears from the said correspondence, the claimant has failed to supply any reasonable particulars, either of its claim or of the alleged grievances upon which such claim is founded.

7. By reason of the failure of the claimant to give notice of its claim with reasonable particularity the respondent has been greatly embarrassed in preparing the case for hearing.

8. It is not true, as stated in Mr. Wilson's letter hereunto attached, dated the 29th day of October, 1895, that any difficulties have been raised by the Government in the way of giving access to sources of information which is or may be required by the claimant Company in the preparation of its case. On the contrary, I am informed and believe that every reasonable application for information made by or on behalf of the Company has been complied with. No application whatsoever has been made to me for information, or for production or inspection of documents or papers or otherwise.

HUGH GULLY.

Sworn at Wellington, this 23rd day of November, 1895,
before me—

T. F. MARTIN,
A Solicitor of the Supreme Court of New Zealand.

(A.)

[This and the following *three* pages comprises the copies of correspondence marked "A," referred to in the annexed affidavit of Hugh Gully, sworn before me, this 23rd day of November, 1895.—T. F. MARTIN, a Solicitor of the Supreme Court of New Zealand.]

Crown Solicitor's Office, Wellington, 28th March, 1895.

SIR,—

Midland Railway Arbitration.

I have the honour to inform you that the Crown has appointed Sir Charles Lilley (recently Chief Justice of Queensland) to be arbitrator in the proceedings instituted by you.

I presume your solicitor will prepare and forward a draft deed of reference, and that your claims against the colony will be specifically formulated therein, or in particulars appended thereto.

Up to the present time I am only apprised of the general nature of the claims, and that mainly by reference to the parliamentary proceedings. It must be obvious that the subject-matter of