

comes before the Court for consideration for the first time. There is also a summons by the Receiver for leave to proceed upon the order.

On the undisputed facts it appears (omitting antecedent matters, which have become immaterial) that the Company entered into a contract, dated 3rd August, 1888, with the Crown for the construction (clause 2) of a line of railway to connect at Springfield, in Canterbury, and at Brunnerton, in Westland, with existing Government railways, and also of a further line of railway from a point on the first-mentioned line of railway at or near Brunnerton, by way of Reefton, to a point at or near Belgrove, in the Provincial District of Nelson, to connect with an existing Government line there. This contract was entered into under the authority of "The Midland Railway Contract Act, 1887," and the questions to be determined in these proceedings arise upon the construction of that Act and contract, and of "The Railways Construction and Land Act, 1881," and "The East and West Coast (Middle Island) and Nelson Railway and Railways Construction Act, 1884."

Clause 2 of the contract refers to "a line of railway" and "a further line of railway." Both lines are referred to in the subsequent clauses of the contract as "the said railway"; but the interpretation clause (1) of the contract provides that that expression shall mean "the two several lines of railway from Springfield to Brunnerton and from Brunnerton to Belgrove mentioned in these presents, and to be constructed, maintained, and worked in accordance therewith, with all necessary buildings, works, and appliances requisite for working the same." It appears, therefore, that the contract is to be treated as a contract for two separate lines. It is, however, an indivisible contract for the construction of both lines.

Annexed to the contract is a plan, on which, treating both lines as a whole, the railway is shown as being divided into sections numbered from 1 to 35 consecutively, beginning at Springfield and ending at Belgrove. These sections are referred to in several clauses of the contract, such as clause 10, referring to the working of completed sections; clause 13, enabling the Crown under certain conditions to require the Company to construct first any particular section; clause 14, enabling the Company to decline to work any section while the railway remains uncompleted.

The main purpose of the division into sections is, however, that shown by clause 25, which entitles the Company to grants from the Crown from time to time of lands in respect of each completed section of the railway. Clause 24 provides for the ascertainment of the relative estimated cost of the construction of each section to the total estimated cost of £2,500,000 for the construction of the whole railway; and under this clause the Company became entitled to grants of land to a value equal to 50 per cent. of the estimated cost of each such constructed section.

There is nothing in any of these provisions to justify the contention that any single section of the railway, or any number of such sections less than the whole, can be treated as being complete in itself or themselves, apart from the whole work. On the contrary, the provisions of clauses 10 and 14, and, in fact, the whole tenor of the contract, are quite inconsistent with that view.

Under this contract the Company contracted with the Crown (clause 2) to construct and completely finish both lines of railway within ten years from the 17th January, 1885. The contract contains a provision (clause 42) enabling the Governor in Council to extend the period for the construction of the railway in certain events, but no such extension has been granted.

The Company began the work of construction in the year 1887, and in the year 1894 had constructed portions of both lines—from Brunnerton to Reefton, on the Brunnerton-Belgrove line, and from Brunnerton to Jackson's, on the Brunnerton-Springfield line—these constructed portions forming a continuous railway from Reefton to Jackson's. The total length of line constructed was seventy-five miles out of the 235 miles provided for by the contract, and was by far the easiest and least expensive portion of the work contracted for. The cost of the constructed portion, estimated as provided by the contract, was £470,300, and the Company had in the year 1894 received from the Crown grants of land to the extent of 50 per cent. of this sum, as provided by the contract.