

*Mr. Chapman*: I do not propose to go at length into anything like an exhaustive answer to Mr. Blow's observations. I shall point out that one or two portions of Mr. Blow's address are necessarily speculative, and he has not supported them by evidence. But that is a matter I shall come to presently. What I wish to draw the attention of the Committee to is the central fact with which I opened, and that is the substantial value of the assets, which is there in the shape of a railway. In that view I do not consider it necessary to go into those questions which are railway questions between the company and the colony. I wish, however, at the outset, before discussing what Mr. Blow has put before the Committee, to refer to the subject with which I opened—the Agent-General's supposed approval of the prospectus and trust deed. I was not aware of the existence of the correspondence which Mr. Blow has produced. I relied upon Mr. Salt's statement that such was the case. Moreover, to show that that was not a mere reliance upon a passing piece of evidence, not very material to the issue then before the arbitrator, I wish to say this: That the receiver cabled to London to ascertain more definitely what supported that evidence, but only received a reply that the Agent-General did approve of the prospectus, carrying the matter no further than Mr. Salt's evidence. But in face of the correspondence produced by Mr. Blow, it would not be right on our part to attempt to sustain the contention that the Agent-General did approve of the prospectus, and I wish now entirely to withdraw that contention, pointing out, however, that it was not made hastily; that we thought we had reason for making it, and reason for supporting it. That portion of the case I admit must go. That, however, I put forward as leading up to the contention that the debenture-holders in subscribing their money relied on having the security of that railway-line. Undoubtedly, they did rely on having the security of the railway-line already constructed, and to be constructed out of their money; and we contend that under all the circumstances ours is not a legal claim which we can enforce in the Courts of Law of the colony; but, as a claim which Government and Parliament ought to consider a valid claim against the colony, we claim it ought to be allowed. That inasmuch as their money can be traced substantially in this asset which the colony now has, that circumstance ought to receive recognition.

*The Chairman*: I might remind you, Mr. Chapman, that you referred to the colony as being responsible in a great measure in inducing the debenture-holders to lend their money. But I think you omitted to mention anything about the inducements held out to money-lenders in that prospectus.

*Mr. Chapman*: All I say about that prospectus is this: The first thing I did was to withdraw the suggestion that that prospectus had been officially approved by the Agent-General; I cannot carry that any further. The letters put in by Mr. Blow speak for themselves on that subject, and they displace the evidence given by Mr. Salt before the arbitrator. That the prospectus was sent to the Agent-General's Office is very probable, and that the prospectus was circulated, and that in some sense or other, I presume, it came to the knowledge of the Government of this country is, no doubt, matter of conjecture; but it is exceedingly probable that it did come to the knowledge of the Government. But I suppose the Government considered at the time that it was not their duty to go to London and repudiate an instrument with which they were not directly connected.

*(b.) Summary of Claims of the First Class, as above divided.*

I summarise the claims founded on want of good faith on the part of the colony thus: The debenture-holders allege—1. That the "so-called first charge" is "illusory." 2. That the debenture-holders believed, when lending their money to the Midland Railway Company, that, in respect of this public undertaking, their debentures conferred on them a right to sell any part of the railway as and when such part was constructed, and to deal with and disintegrate a railway as if it were a petty private concern, their own property, without regard to the rights of Parliament, which granted the concession and provided more than 50 per cent. of the cost, of the Government which was one of the parties to the contract for construction, or of the mercantile and travelling public. 3. That their belief was founded on the view adopted by the English Courts and English business-men of similar securities issued by English railway companies. 4. That such belief of the debenture-holders was fortified by the alleged fact that their subscription was for debentures issued under "The East and West Coast Railway Act, 1884," and that they then had before them and relied on the words "first charge," used in section 13 of that Act, and that the Act, to use their London solicitor's expression, has been a trap set for them. 5. That they had no knowledge of, and no reason to believe in, the existence of the provisions for the protection of the Government and the public which are contained in the principal Act of 1881, and therefore believed that provisions for the protection of the contractee of a nature such as are contained in every building contract had been wholly omitted by Parliament and the Government from this. 6. That the exercise by the Government of the statutory powers conferred by the Act of 1881 left them wholly without remedy or opportunity to retrieve their position, and deprived them of their security. 7. That they were induced to subscribe for debentures by speeches made by public men in the colony, expressing a confident belief in the prospects of the company. I now propose to meet these charges as specifically as I have defined them.

*Refutation of Allegations 1, 2, and 3.*

1, 2, and 3. The statements in the petition that the first charge provided by the statute is "so-called" and "illusory," and that it has proved something different to that which the debenture-holders ought reasonably to have understood it to be, are easily met. That contention means that if the same words were used in an English Act the debenture-holders could have obtained in an English Court the rights and powers they claimed in the Courts of New Zealand. Mr. Coates, in his statement to the Committee, emphasizes this. He says:—

"In England debenture stock is looked upon both by the Courts and the public as one of the safest possible investments. Debenture-holders are by law given special rights, which are considered sacred above all others, and railway-debenture stock stands in the front rank in the estimation of the English people as a safe investment. It was somewhat natural, therefore, that English investors should conclude that debenture stock over railways in any British colony would be similarly safeguarded and protected as a security, and this is the reason."

He goes on to refer to "the technical and somewhat intricate reasons from which the Privy Council decided that the security was in effect worthless." I propose to demonstrate that this is wholly erroneous, that the debenture-holders of Midland Railway stock have actually rights exceeding, and not less than, the rights which the holders of debenture stock in an English railway have, and that it has long been established in England that the statutory mortgagee of a public undertaking authorised by Parliament cannot interfere with the undertaking or assert a right to disintegrate it; further, that in no case can such a mortgagee assert a right higher than that of the mortgagor company; and, lastly, that the public interest is held in England, as here, to be paramount. This rule of English law is, I believe, perfectly understood by business-men and investors in England. It was first laid down in the year 1867, and has been consistently followed in numerous cases ever since. Many illustrations could be given of its application. For instance, if a Municipal Corporation borrows money for the construction of waterworks or tramways