between the Government and the company in the future; and as the company propose to invest the trustees for the debenture-holders with rights, powers, and duties which, in the course of time, it may be necessary for the trustees in the interest of the debenture-holders to exercise and insist upon as against the company it may be (as has been the case under other contracts), that the trustees may be placed in a position in which their interests and duties may conflict with the powers and rights reserved to the Government under the contract with the company. In case it should become necessary for the Government to take any action in this country adverse to the company, or the interest of the debenture-holders, we presume that such action would be taken by the Agent-General; and in this view also, it seems to us, and we understood at our interview that you concurred in our opinion, inexpedient, to say the least, that the Agent-General should act as one of the trustees, unless indeed, after full consideration of the whole matter, the Government should desire that he should do so. You will, of course, not fail to remark that if the Agent-General accepted the office of trustee he would personally be bound to act to the best of his judgment, in concert with his colleagues, to protect the interest of the debenture-holders either as against the company (which the Government might wish to support) or against the Government if the company fell into difficulties, and the trustees were compelled to accept the responsibility of either carrying out the contract or making terms with the Government, which would secure as much as possible for the debenture-holders. Moreover, with an official representative as one of the trustees, the Government would be affected with notice of all that the trustees do or omit to do, and they might thereby, in time of difficulty, be far less free to act independently under the contract than if they had no voice, even indirectly, in directing or assenting to the course of action or inaction adopted by the trustees. On these grounds, therefore, we would recommend that you authorise us to reply to Messrs. Paine, Son, and Pollock's letter in the terms of the draft letter which we send herewith for your approval, subject to such alterations as you may suggest.
We have, &c.,
MACKRELL, MATON, AND GODLEE.

This correspondence shows that there had been a careful perusal of the form of debenture and of the trust deed, for it was then proposed that Sir F. Dillon Bell should be one of the trustees for the debenture-holders. I call your special attention to this clause in Messrs. Mackrell, Maton, and Godlee's letter: "In case it should become necessary for the Government to take any action in this country adverse to the company, or the interest of the debenture-holders, we presume that such action would be taken by the Agent-General; and in this view also, it seems to us, and we understood at our interview that you concurred in our opinion, inexpedient, to say the least, that the Agent-General should act as one of the trustees, unless, indeed, after full consideration of the whole matter, the Government should desire that he should do so." I pause here to observe how close was the relationship between the company and the Crown when it was proposed that the Agent-General should take the office of trustee. But this letter shows that the trust deed and debenture form were carefully examined, and the objections which I have read were specifically stated. Surely (1) If there had been any want of good faith on the part of the company in the way in which the debenture and trust deed were drawn they would never have been thus submitted to the examination of the Crown's solicitors in London; and (2) remember that the debentures expressly charge part of the railway. There is this further letter from Messrs. Mackrell and Co., dated 26th July, 1889:—

New Zealand Midland Railway.—We beg to acknowledge the receipt of your letter of the 22nd instant, upon which we have conferred with the Agent-General for New Zealand. After full consideration of the matter with us, the Agent-General instructs us to say that as at present advised, and in the absence of express instructions from his Government, he does not consider that he can properly and consistently with his position as the representative of the Government act as one of the trustees under the proposed deed. It will, we think, be evident to you, as it is to ourselves, that if the Agent General were to act as a trustee he might in certain events be placed in a position in which his duty as trustee and as Agent-General would conflict. Under these circumstances we shall not, of course, attend the proposed meeting; but the fact of our not doing so must not be regarded as an approval by the Agent-General or ourselves of the draft trust deed or any of its provisions, upon which we should have had something to say if we had been instructed to deal with the draft on behalf of the Government or the Agent-General. The Agent-General desires us also to say that, even if he had felt able to accept the duties of a trustee of the deed, he would not in his position have accepted any remuneration, as proposed in the draft.
We have, &c.

And yet although we are told now that this was so obviously wrong that no intelligent person could have believed it possible, still the lawyers for the Crown in London to whom these documents were submitted never say a word about this. They knew, and the Agent-General knew, upon that form of debenture and trust deed it was proposed to raise some millions of money. And yet we must assume, I suppose, that they deliberately allowed these documents to pass without objection, although they contained the palpable deception of purporting to charge a part of the railway. I add this as a cogent proof that at the very commencement the Crown shared the view of the other parties that a valid charge of a part of the line could be given. Now, you will find, if you have traced the history of this matter as carefully as I have done, that every step from that date—1889—when the money was lent, speaks a genuine conviction in the company debenture-holders that this colony had by its statute of 1884 given them a real tangible security. But I appeal to a still higher authority. I appeal to the Premier and to Mr. Bell himself for convincing evidence that reasonable men—nay, that keenly legal minds—could believe, and did believe, as the debenture-holders did. You will remember that in 1892 a most elaborate inquiry was made by this Committee into the Midland Railway contract and into the provisions and the effect of the Acts of 1881 and 1884. The legal position of the debenture-holders was fully discussed and examined, and Mr. Seddon gave evidence before this Committee. I propose to show from his evidence that he undoubtedly believed that the debenture-holders had an absolute and indefeasible first mortgage on the parts of the railway referred to in the debentures. Let me read a few of the questions and answers showing this. Sir John Hall put the following questions to Mr. Seddon, then giving evidence:—

Can you tell me what would be the position of the debenture-holders at the end of the contract time and the railway not completed?—If we take the case put by Mr. Wilson that they are mortgaged, the mortgagees being secured to the extent of the debentures, then I take it they would foreclose.

Secured—secured on what?—On the railway.

The railway would become their property?—But still the Government might take it if they wanted it.

By paying for it?—Yes.