

WEDNESDAY, 6TH FEBRUARY, 1901.

The Commission met at 10 a.m.

*Present* : Mr. A. Morrison (Chairman), Mr. F. Back, Mr. W. Fraser, Mr. C. Hudson, and Mr. R. McKenzie.

The minutes of the previous meeting were read and confirmed.

Mr. H. D. Bell (solicitor for the Crown), Mr. J. H. B. Coates (Receiver for the debenture-holders), Mr. N. H. M. Dalston (attorney and general manager for the company), Dr. Findlay (solicitor for the Receiver), and Mr. H. J. H. Blow (Under-Secretary for Public Works) were in attendance.

Dr. Findlay asked the permission of the Commission to present for entry on the records of the Commission's proceedings a written protest from the Receiver against the limitations and restrictions imposed by the terms of the Commission.

The Commission considered the request *in camera*.

Mr. Back moved, That Dr. Findlay be informed that the Commission decides to record the protest of the Receiver *pro forma*, but at the same time informs Dr. Findlay that the scope of the Commission does not permit the Commission to discuss or entertain such protest.

Mr. McKenzie moved, as an amendment, That Dr. Findlay be informed that the Commission cannot record his written protest, as such record of protest is dealing with a subject beyond the scope of the Commission.

And the question being put on the amendment, the Commission divided, and the names were taken down as follows :—

*Aye*, 1.—Mr. McKenzie.

*Noes*, 4.—Mr. Back, Mr. Fraser, Mr. Hudson, Mr. Morrison.

So it passed in the negative. Amendment lost.

And the question being then put on the motion, the Commission divided, and the names were taken down as follows :—

*Ayes*, 4.—Mr. Back, Mr. Fraser, Mr. Hudson, Mr. Morrison.

*No*, 1.—Mr. McKenzie.

So it passed in the affirmative. Motion carried.

*Resolved*, on the motion of Mr. Fraser, That, if the solicitor for the Crown asks permission to present a written reply to the protest of the Receiver, such reply be entered on the records of the proceedings.

Dr. Findlay was then informed of the decision of the Commission, and he presented the following protest :—

To the Chairman of the New Zealand Midland Railway Commission.

JAMES HUGH BUCHANAN COATES, the Receiver for the debenture-holders of the New Zealand Midland Railway Company, hereby desires to record his respectful protest against the limitations and restrictions imposed by the terms of your Commission upon the scope and method of your inquiry.

No opportunity was given to the Receiver or his solicitor to peruse or consider the terms of the Commission until an hour before your Commission's first sitting, and it is respectfully submitted to you that, seeing the co-operation of the Receiver is essential to the inquiry upon which you have entered, it would have been in accordance with customary practice and helpful to such a full and fair inquiry as the recommendation made by the Public Accounts Committee of last session contemplated if some opportunity had been given to the Receiver or his solicitor to peruse the terms of the Commission, and make such reasonable suggestions as to the amplification or modification of these terms as the Receiver was advised. It is recognised that the Receiver had no right to dictate or require alterations in the terms of the Commission, but, from the nature of the recommendation referred to and the avowed purpose of your present inquiry, it would have been not only expedient, but in the best interests of equity, had the Receiver or his solicitor been afforded the opportunity just mentioned.

The Receiver protests that an undue restriction is placed upon the scope of your inquiry to the prejudice of the debenture-holders, and, in particular, he respectfully submits that the limitations as to the calculation or estimate of the value of the railway set out in clause 8 of the Commission must necessarily preclude that fair and equitable estimate of the value of the railway which debenture-holders are entitled to ask should be made, and which, it is submitted, the recommendation of the Public Accounts Committee of last session contemplated and desired.

It is submitted that to limit the admission of evidence as it appears to be limited by clause 8 of the Commission will result in a method of valuing the railway-line unprecedented in practice and wholly unfair to the debenture-holders.

It is felt by the Receiver that it is his duty to record this protest, since he proposes to heartily co-operate with the Commission in carrying out the duties of the Commission, for were he not to enter this protest it might be hereafter contended that he impliedly or tacitly consented to or approved of the terms of the Commission which controls your inquiry.

Dated at Wellington, this 6th day of February, 1901.

J. H. B. COATES,

Receiver, New Zealand Midland Railway Company.

*Resolved*, To notify the parties to the proceedings at as early a date as possible as to the approximate dates when the Commission would sit at the various towns on the Midland Railway route.

The Commission and counsel for the Crown and Receiver then discussed the course of business to be followed, and, at their request, counsel were given time until Monday, the 11th February, in which to prepare the evidence and witnesses they proposed to call before the Commission.

At 12.30 p.m. the Commission adjourned until 10.30 a.m. to-morrow.

THURSDAY, 7TH FEBRUARY, 1901.

The Commission met at 10.30 a.m.

*Present* : Mr. Morrison (Chairman), Mr. Back, Mr. Fraser, Mr. Hutton, and Mr. McKenzie.

The minutes of the previous meeting were read and confirmed.

The Commission considered the question of itinerary, and decided upon a provisional programme, which the secretary was instructed to communicate to the three parties to the proceedings, with the request that the Commission should be informed by 2.30 p.m. to-morrow if such programme would suit their convenience.

At 12.30 p.m. the Commission adjourned till 2.30 p.m. to-morrow.