

inquiry before a Parliamentary Committee is or may be entirely different from the material properly to be introduced before a Court of Arbitration. I presume, therefore, you will indicate whether any of the claims pressed before the Committee will be eliminated upon the present proceedings. You will agree that it is undesirable that expense should be incurred in collecting evidence either in support of or defence to causes of action which the arbitrators have no power to try.

After obtaining a specific statement of your claims, I should require a reasonable time to prepare the defence, although of course this time will be materially lessened by the knowledge derived from the parliamentary proceedings. You may rely upon matters being pushed on with all promptitude consistent with the defence being properly placed before the arbitrators.

With reference to arranging the procedure so as to involve a minimum of delay and inconvenience, would it not be advisable to have a personal conference between your solicitors and myself?

As indicated in my letter of yesterday's date, all proceedings in reference to the arbitration must be taken to be without prejudice to the contention that the Company are barred by their own breaches and non-performance of its provisions.

I have, &c.,

HUGH GULLY,
Crown Solicitor.

R. Wilson, Esq., General Manager,
New Zealand Midland Railway Company (Limited.)

Crown Solicitor's Office, Wellington, 11th April, 1895.

SIR,—

Midland Railway Company.

It seems very evident that proceedings upon the reference to arbitration will be hung up for a long and indefinite period. The result will be, if this is permitted, that a large area of the public estate will continue to be locked up. The damages chargeable against the Company, if it turns out to be liable, will go on increasing, and in any event the colony must suffer by the delay. For this reason, and also because the Government are advised that the Company has substantially failed to perform its obligation to the colony under the contract, I am instructed to notify you that an action will be commenced at once against the Company, claiming damages for breach of contract. The statement of claim is being prepared, and the writ will be issued and served immediately after the Easter vacation. May I ask you whether you will instruct your Wellington solicitor. Further, I have to request that I may be supplied with particulars of your counterclaim against the Crown. It is manifestly absurd to suggest that the matter of complaint urged before a Parliamentary Committee can form any guide to the formulation of a legal cause of action. The formulated claim handed to me by your solicitor in answer to my request in the arbitration proceedings can hardly be taken seriously, as you will see from the copy which I append. I suggest that, without waiting for the expiration of the time for pleading, you should furnish specific particulars for the reasons above stated, and also because it will be necessary that steps should be taken at once, and, in point of fact, to collect evidence upon the possible points involved. I am without information as to any specific charges intended to be relied on by your Company. For instance, I do not know what reserves under clause 16 you intend to attack, although I can hardly suppose it possible that you will propose to attack all. Neither do I know whether you seriously intend to urge all matters which were put as grievances before the Public Accounts Committee. It is surely perfectly plain that some, at least, cannot in law be supported. Why not indicate the actual points upon which you now rely, so as to minimise the inconvenience and expense of preparing for trial. I trust this will commend itself to you as being reasonable. If you can see your way to give further particulars without our waiting for the formal defence, I should be obliged if you would let me have them at once. Meantime, I think you must take the responsibility of imposing on the Government the necessity of going to great expense in getting evidence, of which a part, at least, will turn out to be useless.

I have, &c.,

HUGH GULLY,
Crown Solicitor.

R. Wilson, Esq., General Manager,
New Zealand Midland Railway Company, Wellington.

Wellington, 13th April, 1895.

SIR,—

Re Midland Railway.

I cannot but express my astonishment at your letter of the 11th instant. It displays such a disregard for the interests of all concerned that I cannot too strongly protest against the course proposed to be taken.

If the proceedings you threaten are designed to force a disclosure of the Company's case on the matters in dispute between the Crown and the Company, I cannot recognise the right of the Crown to endeavour to anticipate the proceedings of the Arbitration Court.

That more precise particulars of the Company's claim will be necessary I readily admit. The Company has had prepared ready to file such particulars as the Arbitration Court would probably consider should be furnished to the Crown, and that these are not already in your hands is a matter of regret to the Company; but the delay in the arbitration proceedings has not been due to any action on the part of the Company. It awaits the direction of the Arbitration Court as to the procedure to be followed, and I am advised that the Supreme Court will probably not seek to anticipate the jurisdiction of that tribunal.

At the same time I beg to assure you that (apart from any proceedings such as you threaten) I am prepared to give you any such information with regard to the claims of the Company under the headings (1), (2), (3), and (4) of the summary you acknowledge to have received, in sufficient time to enable you to collect all the evidence available before the date when the Arbitration Court is expected to sit.