

[At this stage of the proceedings the Chairman was asked to allow Mr. Dalston to be present.]

*Mr. Chapman:* We do not make any objection. [Mr. Dalston was admitted.]

*Mr. Chapman:* It is in the company's prospectus, "Not in alternate blocks."

*Mr. T. Mackenzie:* It was stated that Sir Harry Atkinson claimed the right to reserve a certain area.

*Mr. Blow* (Under-Secretary for Public Works): We had the right to reserve 700,000 acres where required.

*Mr. Chapman:* Now the debenture-capital, £745,000, was raised. I must call your attention to these circumstances. The deed was settled by the Agent-General. He refers to it in this correspondence. The trust deed is dated 2nd August, 1889; the actual issue was of a somewhat earlier date—upon the prospectus, April, 1889. The trust deed sets out the form of debenture which has actually been issued; so that any one perusing the draft would have seen it set out in the schedule to the draft, and would have before him the actual debenture as already issued when the deed was executed. No doubt the deed, the debenture, and the prospectus were prepared at the same time. They would, no doubt, be prepared by the company's solicitor. The second schedule to the trust deed sets out the security. That is very much in the same terms as the prospectus itself. But the prospectus is what actually goes before those persons who ultimately subscribe the capital when taking up the debentures. It is put before intending subscribers when they put their money into the debentures; the security is shown—namely, the portion of the line already constructed out of the share capital, and the line to be constructed out of their capital. But that hardly conveys to the mind the whole of the transaction; taking the opinion of lawyers and financiers would show a different conclusion from that of the ordinary citizen going into the market to invest his money. He relies on the prospectus; he sees what he deems to be sufficient security; he hands in his money and takes his debenture, as he supposes, on the security of this prospectus. If the person who subscribes to the debenture capital had any cognisance of the history of the company, and had before him the prospectus of a company, he would be naturally led to the conclusion that this was a colonial work, a work in which the colonial Government is largely interested; so that it is really on the faith of the prospectus, and the circumstances, the situation, and the history of the railway, that any one taking up the debentures would rely.

*The Chairman:* What about the signatures—the names that are on the prospectus. No doubt the Committee would like to hear in respect to them how you would connect the colony with the names on the prospectus?—The Agent-General approved the trust deed in April, a trust of which he himself contemplated being one of the trustees. The petitioners do not say there is any direct connection between the colony and these four gentlemen whose names appear.

You have said that the subscribers were led to invest their money by having felt that the colony was in some way liable?—I do not make a distinct point of that. I refer back to this point only to say that if the subscribers to the debentures happened to be shareholders, and took an interest in the formation of the company, they would fall back upon their recollection of the company's prospectus and say that the colony was greatly interested in this work. But it does not follow that there was any direct connection between the debenture-holders and the shareholders; it may be that some of them were identical, and they might point to the fact of their personal identity as showing that the prospectus and trust deed had the sanction of the Agent-General. Now the debenture-holders find themselves, somewhat late in the day, disappointed, for they are told that they have not a specific security in these constructed lines, but that they have a security over what I may term the bargain between the company and the Government, and that if the bargain fails their security may be forfeited by the Government. That is not stated in the prospectus.

This last prospectus is the company's prospectus?—I am referring to the first one: the Agent-General had that prospectus before him. He himself evidently took a sanguine view of the position. And he was perfectly justified in taking a sanguine view of the position as respects the colony. I dare say that a person intimately conversant with the country through which it passes would not have adopted so sanguine a view unless he was by nature of a very sanguine temperament. But the evidence which the Agent-General had before him, and which, at that stage, the Government had before them, justified them in taking a sanguine view. They had a report on the whole subject of the railway, as projected in London; the nature of the country through which it was to pass; its timber; its mines and minerals; its prospective settlement; its prospective traffic generally; and all the matters directly and indirectly connected with the formation of this proposed railway. It was embodied in the report of Mr. Blair, then Assistant-Engineer-in-Chief, printed in 1866 (D.-1A.). As to the land, I will not refer in detail to that; but I will ask the Committee to refer to it, for I venture to say that any one who is a stranger to the district through which it was intended the railway should pass, if he took this report, he would in all probability come to the conclusion that the line was not only a justifiable line, but that it was one of those lines analogous to the railways which have been projected and carried in America through the wilderness from one group of States to another, passing through mountain-chains which had been previously regarded as impassable, and connecting one large area of country with another with a great future before it, and possessed of good markets. The whole tone of this report is suggestive of a line similar to those great works bridging immense gaps, and connecting States as yet separated by alpine ranges, whether in Europe or America—bringing together the population of one great State with that of another. From first to last, this is the report of a sanguine man, embodying a sanguine view of the prospects of the line. It is quite probable that the Agent-General would derive his knowledge of the position of matters from some such report as this. It is a report obtained by the Government for Government purposes—obtained to forward what was regarded at the time as a great colonial undertaking, to be accomplished by a private syndicate, and ultimately by an English company. It was, no doubt, on a report of this kind, with similar data, that this glowing prospectus was sent into the London market. It led on to the debenture-holder taking up and retaining his debentures three years later; the description of forests and large areas of arable land formed a contrast with the large body of evidence called by the arbitrator at a more recent date.

The circumstances had changed? In what way?—From the commencement—from the promotion of the line to the actual operation—that is, the company was in difficulties.

*Mr. Chapman:* But the territorial circumstances had not changed; the prospects of the provinces to be united by this line had not changed (D.-1A., 1886). The Agent-General knew all these circumstances, he presumably had all these things—i.e., the data supplied by the Government—at his fingers' ends. There is, at this stage, one thing that I should refer to—namely, the form of the debenture; as issued, it is not in accordance with the Act. The Act requires what all colonial Acts require in respect of local loans,—that there should appear on the face of the debenture a statement to the effect that the colony is not bound by it; stipulating that the exemption should be set out in it. It is not, in point of fact; but the promissory part of the conditions are set out in the trust deed, which was before the Agent-General, although the debentures were issued by the company.

*The Chairman:* Are you aware whether the Agent-General's attention was drawn to the form of the debenture in the trust deed?—We find that he did peruse the deed; the debenture is set out in the trust deed.

Have you any other evidence?—It is a question what the Committee requires. We have alleged the cost of construction. Does the Committee require proof as to that?

*Mr. T. Mackenzie:* Do you consider that the Government is, to a certain extent, responsible to the debenture-holders, inasmuch as the Agent-General approved of the prospectus; and he did not see the important omission provided for in the Act of 1884, was it not so?—I do not wish to say anything implying the least imputation on the Agent-General; what I pointed out was this: he approved of the trust deed; the debenture is set out in the trust deed. The trust deed refers to a specific security over the railway constructed and to be constructed. This does not say you are getting a lien on the company's bargain, but on the company's railway; there is all the difference, coupled with the circumstance that the asset is there, as you say, to profit.

You said it was rather a glowing prospectus?—I was speaking of the share prospectus.

Let us come to the debenture prospectus—to the timber, valued at £7 an acre?—I think the item "timber" has gone: I do not think it has turned out a source of profit.

To that extent the prospectus was too glowing?—I should not rely too much on a subject like that, which is local, and necessarily speculative.