

Mr. Montgomery.
28th Nov. 1877.

217. Then why was it not settled by arbitration?—There was a demand for £22,000 or £24,000 sent in.

218. Supposing it was £50,000, surely it was all the same?—For one, I objected to going to arbitration on indefinite amounts, because very frequently, in the process of "splitting the difference," Governments have to pay more than should be paid.

219. In fact, did not the Provincial Government break their earlier arrangement?—I did not consider so.

220. *Mr. Shrimski.*] You state you were in office from 1868 to 1869 when the claim was before the Executive, and in accordance with the duty you owed to the Council and the country, you refused to recognise the same?—Yes.

221. *Mr. Dignan.*] As to the £5,000: You acknowledged a liability of £5,000?—Yes.

222. Was that £5,000 received by the contractors in the whole, or in part?—The whole of it was paid to them in cash.

223. *Hon. Mr. Reynolds.*] Supposing it had been your own private case, and you admitted a liability of £5,000 when £10,000 was claimed, would you have paid the £5,000 and have gone to arbitration on the other £5,000?—Certainly not; It was upon that ground that I objected.

224. *Hon. Mr. Richardson.*] With regard to the arrangement about the £5,000 for additional work at the tunnel mouth, you said just now that part of the arrangement was, that the reclamation was necessary to be carried out, and was included in the £5,000 agreed to be paid?—I did not say anything about the reclamation. I said that it was necessary that there should be a ten chains radius.

225. Were you aware that before that arrangement was made, a suggestion had been made, and was almost agreed to, to run out a straight jetty from the tunnel, and that that was the object of straightening the the tunnel?—I was aware that a suggestion of that sort had been made.

226. If that had been agreed to, and that work had been gone on with, would there have been any necessity for additional reclamation at Lyttelton at that time?—I think there would have been.

227. Were you aware in 1868, when you resisted this claim, that a detailed statement had been made out of all work necessary to be done in connection with the alterations in the tunnel mouth, and submitted before the offer was made or accepted by the Executive?—I do not remember having seen it.

228. Supposing there was such a statement made out, and it contained no mention of any further reclamation, would you still consider that the reclamation was included in the original contract?—Of course I would require to see that statement and look at it before I gave an answer. I do not know of any change made, unless expressed in writing, providing that the same curve mentioned in the original contract should not be kept, viz., that of a ten chains radius. That should have been adhered to, unless there was something to the contrary expressed in writing.

229. You said just now that we had an opportunity of being heard, that you went down and gave us an opportunity of being heard, but we refused to give any information. Were you not aware that just before you went down, at any rate, two members of the Executive had publicly and privately expressed their belief that we were robbers and jobbers, and that the Executive would take care we got nothing?—I do not know what was stated privately. I believe something of the kind was said by a gentleman who came into the Executive, but who was in the opposition when he spoke in that manner. I did not say such a thing myself.

230. Do you remember the reason given by myself at that interview, why we were not desirous of entering into details till it was decided by the Government and ourselves to refer the matter to some independent tribunal?—I do not. If you mention what is in your mind, I may be able to tell you.

231. You know that Executives change and Provincial solicitors change very often. The gentleman whom we had engaged to conduct our case suddenly became Provincial solicitor, and the consequence was that our positions were immediately changed, and we were left in the position of having nobody to act for us, at least, nobody whose advice we chose to have confidence in, because pretty well all the solicitors had been mixed up with the case on behalf of the Government. We therefore felt that any evidence we produced would be used against us, and it was not fair to call upon us to submit such evidence. I further stated this most distinctly that we were prepared at once that the whole matter should go to arbitration, in which case we would give our evidence, but not otherwise?—What I remember is this. We went down and met you, and I was preparing to write down Mr. Holmes's statement, but you got up and came over to the table and said, "No; I cannot agree to this; we must carry the matter further than this." Mr. Holmes then said, "Very well, as my partner does not agree I cannot go on." You well remember there were threats then of carrying the matter to the Privy Council.

232. Oh, Yes; we fully intended to take the case there if we could have got past the Court of Appeal. You alluded to a letter just now in which we said we should take time to institute proceedings?—Yes.

233. I wish to remove any misapprehension that might have been created in the minds of members of the Committee, by that remark, as to any length of time having elapsed before we took action. Did not our action commence in January, 1869, some four months after that letter was written; there having been some additional correspondence in the interval?—I do not know what time the action commenced; I do not think it commenced while I was in the Executive.

234. The writ was served on 21st July, 1869?—I understood that was in the action on the debentures.

235. It has been said that we had an opportunity and did not avail ourselves of it, of appearing before the Commission, and also before Mr. Patterson, who was appointed to report?—I always understood that Mr. Patterson had just arrived in Canterbury, and we expressed willingness to refer the whole matter to him and to abide by his settlement?—I do not remember that.

236. Could you tax your memory as to whether any instructions were given to Mr. Patterson that he was not to hear us?—No instructions were given to him except by letter. Although I was head of the Executive Council, I never spoke a word to him on the subject; I carefully avoided doing so.

237. I understand you to say that the first you heard of this claim was in 1868?—Yes.

238. Are you aware that the claim was first made by us in 1865, and that it was reported upon by Mr