

And whereas the said arbitrators took upon themselves the burden of the first reference, and heard the allegations and contentions of the parties on the matters in difference between them, which matters in difference arose not later than the 14th day of January, 1895, and are specified in the following claim of the Company, which was laid by the Company before the said arbitrators as, and was submitted by the Company and admitted by the Queen (without prejudice, however, to the Queen's right to contend as to any such matters that they were not within the scope of the arbitration clause) as comprising every matter in difference within the scope of the first reference, that is to say :—

“The Company claims as follows :—

“1. That the undertaking of the Company being work to be remunerated in part by land, as provided by clause 16 of the contract, the Queen, contrary to the provisions of the said contract, refused and prevented the exercise by the Company of its rights of selection over large areas of land within the authorised area.

“2. That if any lands were properly reserved under subclause (c) of clause 16, then the Company was hindered and prevented in the exercise of its rights under clause 18 by being refused the right to the timber on such lands.

“3. That the Queen has, in contravention of the contract, permitted and authorised the destruction and the removal of timber on lands available for selection, and thereby depreciated the value of such lands.

“4. That the Queen, in contravention of the contract, refused to give effect to the requests of the Company under clause 33 to sell or let lands within the authorised area in the Nelson and Westland Land Districts on the western side of the main range of mountains.

“5. That the remuneration of the Company being to the extent of £1,250,000 ‘B 1’ value in land (as the work of construction should proceed) the Queen (by and through the Parliament of the colony) by greatly increased and graduated taxation on land, imposed subsequent to the date of the contract and without any exception in favour of the lands over which the Company had the right of selection, materially reduced the consideration of the contract and destroyed confidence in the undertaking of the Company as a commercial enterprise.

“6. That the Queen, by withholding for an unreasonable time consent to the deviation of the railway-line from the western to the eastern side of Lake Brunner, and to the substitution of the incline for the tunnel line at Arthur's Pass, delayed and prevented the Company from proceeding with the works under the contract.

“7. That the Queen, by further withholding for an unreasonable time consideration of the application of the Company for an extension of time under clause 42 of the contract, prevented the Company from raising the capital necessary to complete the railway and to perform its other obligations, and to realise the benefits and rights conferred on it by the contract.

“8. That the Queen, in derogation of the contract, by and through the Executive of the colony, and particularly by the false and defamatory statements of the Minister for Public Works in October, 1892, before a Select Committee of the House of Representatives (which statements became a part of the public records of the colony), made it impossible for the Company to raise the capital necessary to complete the railway, and to perform its other obligations, and to realise the benefits and rights conferred on it by the contract.

“9. That the Company, being formed for the purpose of constructing a railway on the system of land-grants as provided by “The East and West Coast (Middle Island) and Nelson Railway and Railways Construction Act, 1884,” and as expressed in the contract between the parties, and being thus known to the Queen as a company which would have to raise money from time to time by share or debenture capital, or both, to enable it to carry out the contract, was by reason of the premises prejudiced, and prevented from raising the capital necessary to complete the railway and to perform its other obligations, and from realising the benefits and rights conferred on it by the contract.

“That by and in relation to the foregoing matters the credit of the company has been destroyed, and consequently it has been prevented from completing the railway, and that thereby it has lost the whole of the share capital subscribed, together with the profits reasonably to be expected thereon, and has lost the whole of the debenture capital raised and expended, with interest thereon, and also other moneys and credits, amounting to the sum of £1,584,900, which sum the Company accordingly claims to recover from the Queen.”

And whereas the said arbitrators disagreed finally respecting the matters comprised in the first reference, and on the 29th November, 1895, notified to me such disagreement, whereby the matters so comprised came before me as umpire for award and determination :

Now know ye that I, the said Edward Blake, having taken upon myself the burden of the first reference as umpire, and having been attended by the parties and their witnesses, and heard and considered the allegations and proofs of the parties, do make this my award and determination in writing of and concerning the premises in manner following, that is to say :—

(a.) I find and award that the Company has not any claim against the Crown, or any right to recover any sum of money from the Crown in respect of the premises :

(b.) I award that each of the parties shall bear and pay their own costs of the reference, and that as between themselves each of the parties shall bear and pay the fees and expenses of the arbitrator nominated by such party (which fees and expenses are included in the costs and charges of my umpirage and award) ; and that as between themselves each of the parties shall bear and pay one-half of the remaining costs and charges of my umpirage and award.

As witness my hand at Wellington, New Zealand, this 24th day of December, 1895.

Signed and published on the day and year last above mentioned }
in the presence of—

E. V. BLAKE.

EDWARD BLAKE.