

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 second 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 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.

“ 3. That the Company being entitled to select under the provisions of the contract land to the amount of £19,304, and having given notice in that behalf, the Queen by the Minister for Public Works, on or about the 20th day of April, 1895, refused to allow the Company to exercise its rights.

“ 4. That the Company being entitled to select lands, the Queen under agreement with the Company having sold certain such lands, being those described in the B 1 map as ‘ Nelson Towns: Reefton ’ (196 sections in number), and having received the proceeds thereof (the particulars of which have been refused to the Company) has in contravention of the contract refused to pay over the same to the Company.

“ 5. That the Queen, on the 25th day of May, 1895, in contravention of the contract and without any due or proper cause, took possession and assumed the management of the railway then in the possession of the Company, and wrongfully converted the same to her own use.

“ That by and in relation to the foregoing matters the Company has lost the entire benefit of the contract and all the expenditure thereunder. Wherefore the Company claims to recover from the Queen the sum of £1,817,900, together with interest at 5 per cent. per annum upon £845,000 debenture capital, from the 14th day of January, 1895, till the date of award.”

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

And whereas I did on the second day of December, 1895, by writing signed by me, duly enlarge the time for making my award under the second reference until the 30th day of January, 1896 :

Now know ye that I, the said Edward Blake, having taken upon myself the burden of the second reference as umpire, and having been attended by the parties and their witnesses, and having 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.) As to the claims numbered 1 and 2, 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 said claims :
- (b.) As to the claims numbered 3 and 4, I certify that the parties have consented and agreed before me, and I find and award that the Company is entitled to exercise the right of selecting under the provisions of the contract blocks of land up to the B 1 value of £21,066, and is entitled in *pro tanto* satisfaction of the exercise of such right of selection to take the proceeds of the sales which have been made by the Queen of “ Nelson Towns, Reefton ” lands now in suspense account ; the lands sold being charged to the Company at the B 1 value thereof :
- (c.) As to the claim numbered 5, I certify that it was declared and agreed by the Company during the second reference that my powers under the arbitration clause were limited to and were in fact those which would have been vested in a Judge of the Supreme Court on an application under the 124th section of the Act of New Zealand, 45 Victoria, numbered 37 (1881), and that no claim for damages could be maintained in the premises ; and I find and award that there was such unreasonable and inexcusable delay by the Company in the prosecution of the works connected with the railways, and also that there was on the part of the Company such a wilful breach of the contract between the Company and the Queen, as on either ground to justify the exercise of the power of the Governor to take possession and assume the management of the railways ; and that, in my opinion, the power conferred by the 123rd section of the said Act was rightly exercised ; and I find 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 said claim numbered five :
- (d.) And I certify that each of my findings hereinbefore stated and lettered (a), (b), and (c) is a separate and distinct finding upon the matters therein comprised, and is in no way dependent on any other of such findings :
- (e.) 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 awards) ; 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 awards.

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.

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