

REPORT OF COMMISSION.

To His Excellency the Most Hon. the Marquis of NORMANBY, Governor of New Zealand, &c., &c.

MY LORD,—

We have the honor to report that, in pursuance of the Commission addressed to us, and issued under your Excellency's hand and the public Seal of the Colony on the fifteenth day of May last, we proceeded to inquire into and take evidence upon the claims to compensation put forward by the owners of the lines of tramway mentioned in the schedule to the Commission.

At the outset of our inquiry we were met by the question of how far the promoters of any private undertaking could substantiate a claim to compensation for any loss of profits they might sustain from the construction of roads or other works which the exigencies of the Public Service required to be constructed for public purposes; and, under ordinary circumstances, we should have been led to the conclusion that the owners of these tramways could not reasonably expect to be compensated for a loss of profits arising from a diversion of traffic from their lines occasioned by the construction of public roads between the same termini.

But a careful examination of the papers placed at our disposal, and of the oral evidence adduced before us, has proved that the circumstances of the county, and the position of the local Government at the time when these works were undertaken, were of such a nature to entitle the promoters of the tramways to extraordinary consideration.

The county was being occupied rapidly by a large population of miners who were penetrating in every direction into the interior of a densely wooded and broken country in their search for gold, and the Government were not in a position to open up communication with sufficient rapidity to keep the diggers supplied with the necessary means of subsistence. The offers of persons who proposed to construct tramways to tap the most populous districts were, therefore, gladly entertained, and promises of protection, under the 13th section of "The Gold Fields Act, 1866," were made to them. In 1869, a set of regulations, based upon resolutions of the County Council, were issued by the County Chairman, having for their object the better to define the mode in which protection should be applied for by, and granted to, the owners of tramways; and the 7th of these regulations provides that, "in the event of a Government road being opened which shall compete with any tramway to its detriment, such compensation as the Council may deem fit shall be given to the owners of the tramway so injured."

Having arrived at the opinion that the owners of tramways brought under the regulations of 1869 had been promised compensation for any loss of traffic that might be entailed upon them by the competition of public roads, it remained for us to ascertain in each case how far the falling off in traffic that was proved to have occurred was due to that cause, or how much of it might be attributable to the changing circumstances of a mining community.

With this view we obtained a return, carefully prepared from official sources, of the population of the various mining districts, from the date at which the construction of tramways was first undertaken to the year 1875 inclusive. This return clearly establishes the point that the decrease in the population of the various mining centres was not of such an extent as to have caused the closing of the tramways, excepting in the case of the Hokitika and Houhou Tramway, to which more particular allusion is hereafter made.

There appearing to us to be no other causes which could operate to diminish the traffic on the tramway lines than those above-mentioned, we proceeded to consider on what principle compensation could be justly awarded to the owners of the lines; and after having taken evidence in respect of them all, and carefully weighed and considered every circumstance attending their construction and subsequent maintenance, the question appeared to us to be of a nature so entirely arbitrary and novel, that we came to the conclusion that a fair and just solution of it could only be arrived at by ascertaining, from the best skilled evidence that was obtainable, and keeping in view the nature of the country traversed, the capital value of each line at the date of cessation of its operations, and by awarding to its proprietors a sum equal to half that value as compensation for the detriment to their enterprise; thus, in fact, dividing the loss between the proprietors of the line and the public.