

express an opinion on that subject. I shall receive evidence on that point subject to objection. We are, therefore, on this last question, which, as far as I can judge, seems to be the only question upon which there is a substantial issue of fact before me—we are on the point that you are to establish *mala fides*. I may say, in reference to the little discussion we had the other day, I have been all the more anxious to get further particulars as to the principle upon which damages are to be awarded.

*Mr. Gully* : I do not think I wish to add anything further to my former remarks upon those points already suggested, except as to the construction of subclause 3. I have only to suggest something by way of a test as to the true meaning of that subclause. There is no doubt the contention is that the Crown only had the right to make reservations where such reservations were actually required for gold-mining. In other words, to put the test, that you should read in subclause 2, instead of “shall from time to time be set apart . . .,” they would insert the words “as required.”

Hon. E. BLAKE : I have not decided that legal question at all. It is not necessary to decide it now ; but I propose to ask you on both sides, when the time arrives for the evidence to be taken, to ask for an argument on the case.

*Mr. Gully* : I was not seeking to go into any exhaustive argument on the construction of the contract.

Hon. E. BLAKE : It is not necessary to dispose of this at the present stage.

*Mr. Gully* : I may say I do not accede to Mr. Hutchison's proposition that it would be sufficient for them to prove negligence.

Hon. E. BLAKE : Mr. Hutchison said if you neglected the *bona fides* you must accede *mala fides*.

*Mr. Gully* : If it is negligence it is *mala fide*, and if it is *mala fide* it is negligence.

Hon. E. BLAKE : I have always found a great difficulty in making a distinction between *mala fide* and negligence.

*Mr. Cooper* : I propose now to go on with the evidence. We have had plans prepared, and we have delivered to the Crown the particulars of the reserves we object to in detail. We propose also to hand them to the Crown as we proceed with the particular reserves. We have had plans prepared showing, on a larger scale, and in a more accurate manner, the reserves as they were proclaimed by the Governor, and denoted by their numbers. I propose, in the first instance, to call the surveyor to prove the general accuracy of the plan of the Grey Valley reserves. Then, we have plans prepared showing the details of each particular reserve. The plans have been very carefully prepared, and I think it would be well to follow the evidence carefully. This, of course, raises one question which Mr. Gully mentioned, and I understand the evidence will be adduced subject to his objection. Taking the Blocks 80 and 81—the blocks shown on the plan, and the blocks commencing from the Buller, and going up—so we will follow with a series of plans. In every one of these reserves the evidence on behalf of the company will show there are some auriferous deposits ; but our contention will be that the reserves are so greatly in excess of ground which would possibly be required at the time, or at any future time, for mining purposes, that they are an abuse of the power contained in the contract, and are evidence of bad faith. I understand my friend reserved all his rights in regard to that evidence.

Hon. E. BLAKE : The only terms upon which I should admit it are that the rights are reserved.

HENRY WILLIAM YOUNG sworn and examined.

1. *Mr. Cooper*.] You are an authorised surveyor?—Yes. I am chief assistant-engineer to the company, and also an authorised surveyor.

2. You have prepared this map, I think, of the Grey Valley group, showing from Blocks 81 upwards to Block 51, as they are marked on this plan?—Yes.

3. Is that an accurate plan?—It is compiled, in the first place, from Government records, and supplemented by information derived from various sources—from special surveys and from local bodies, and Government maps, some of which might have topographical information, and others might not ; so that a great deal of the topography is put in as accurately and as correctly as possible.

4. You think they are approximately correct?—Yes.

5. And they are on the scale of 1 mile to the inch?—Yes.

6. The gold-mining reserves are coloured yellow, the proposed gold-mining reserves are coloured red, the reserves other than gold-mining reserves are coloured pink, the freehold lands are coloured green, and the leaseholds are bordered green. Are these all accurately prepared?—Yes ; the remarks applying to the Grey Valley group apply to every one of these other groups.

[Maps of the Maruia, the Matakītaki, the Buller River, the Cobden, and Westport groups put in. Exhibit No. 89.]

7. This is the Westland map, Mr. Young, and your evidence applies to it also. [Exhibit No. 90.] That map is also approximately correct?—That map is compiled with the aid of Government lithographs, and a little information respecting the gold reserves is added, as shown.

8. Showing the boundaries stated in the Proclamation?—Yes. [Also put in book of sections of the Grey Valley map, Exhibit No. 91.]

Hon. E. BLAKE : This book merely contains a reproduction of this map in sections.

9. *Mr. Cooper*.] With additional topographical features. We produce it for the information of the Court. Our witnesses are going to speak on the matters contained in the map. These sectional maps are properly prepared from information you have received, Mr. Young?—They are prepared on certain information received from other persons, but of which I know nothing myself.

10. *Mr. Cooper* : That is the particular series of Proclamations. I propose to call the first witness on at the present time, and, with the permission of the Court, I will ask Mr. Young to stand down.