

APPENDIX E.
Railways.

therein such allowance as aforesaid, with a profit for the Contractors of five per cent. upon such probable prime cost (but not upon such allowance) added thereto is hereinafter referred to as "the agreed cost," and "the agreed cost," with such additions thereto or diminutions therefrom as are hereinafter mentioned, with "the cost of the plant" hereinafter mentioned added to "the agreed cost," is hereinafter referred to as "the total cost," and when "the total cost of a railway" is hereinafter referred to the total cost of all the several sections of such railway is meant.

6. The Minister and the Contractors will, before the Contractors enter upon the making of any railway agree upon a schedule of prices, according to which the Contractors shall be paid in respect of or allowed for, as the case may be, any deviations from the original plans and sections thereof, or any alteration, diminution, or additions in, from, or to the works thereof, or any substitutions of one kind for another kind of work or materials.

7. The Governor will provide all the land required for any such railway, and will give possession of the same to the Contractors in due time to enable them to complete each section within the time fixed for its completion. Any delay in so providing or giving possession of the land shall not invalidate or affect this contract, but shall entitle the Contractors to have the time for completion extended in proportion to the delay.

8. The Minister shall be at liberty from time to time to authorize or direct by writing under his hand any deviations, alterations, diminutions, additions, or substitutions to be made in, from, or to such railway, and the Contractors will comply with such directions, and the same are not in any manner to affect this contract, except that an addition to, or a deduction from "the agreed cost" shall be made according to the said schedule of prices, so far as the same will apply or otherwise, as may be agreed upon between the Governor and the Contractors, and in case any difference shall arise between the Governor and the Contractors, as to such addition or deduction, the amount thereof as regards the value thereof shall be settled by arbitration as hereinafter mentioned, but there shall be no reference to arbitration as to what are, or are not, such deviations alterations, diminutions, additions, or substitutions as aforesaid, upon which points the decision of the Minister shall be conclusive.

9. The Contractors will not, without such authority or direction as last aforesaid, and then only so far as thereby expressly authorized, deviate from the said plans and specifications, and if any alteration, addition, or substitution whatever which shall be so authorized will involve an increased expenditure upon the said railway exceeding the sum of £500, the Contractors will not act upon such authority unless and until the consent of the Governor in Council to their doing so shall first be obtained, and unless such consent shall have been so obtained, no addition shall be made to "the agreed cost" in respect of any deviation not duly authorized. If by reason of any such deviation, alteration, diminution, addition, or substitution as aforesaid having been directed as aforesaid, the Contractors shall be delayed in the completion of any section or sections within the time within which the same ought to have been completed, the Contractors shall be allowed an extended time to complete the same proportioned to such delay.

10. The Engineer shall, as soon as the Contractors shall have been placed in a position to commence the making of any section or sections, and at the end of each calendar month thereafter, estimate and deliver a certificate in writing to the Colonial Treasurer, and also to the Contractors, stating the probable amounts of "the agreed cost" which will have to be expended in New Zealand in making so much of such section or sections as in his opinion they ought to make during the then next three calendar months, distinguishing the outlay in respect of each section, if more than one, and the Contractors will, before they commence to make such section or sections, and thereafter on the giving of each successive certificate, deposit with the Colonial Treasurer such a sum or sums as with the unexpended balances (if any) of any sums previously deposited with him in accordance with this clause, will be equal to the amounts which the Engineer shall have so certified as aforesaid, and when and so often as the Contractors shall require any payment to be made to them on account of any such expenditure as aforesaid the Engineer shall certify in writing the value of the work executed and material supplied since the date of his last certificate (distinguishing the payment to be made in respect of each section) and thereupon the Colonial Treasurer, out of the sum or sums so deposited with him as aforesaid, shall pay the Contractors such amounts as the Engineer shall so certify: Provided that if the Contractors are dissatisfied with any such certificate of the Engineer, they may require the question whether it is sufficient to be, and such question shall thereupon be referred to the said Minister, and his decision shall be deemed to be the certificate of the Engineer for the purposes of this clause: Provided also, that notwithstanding such reference the amount stated in the certificate shall be paid to the Contractors as if no such reference had been made, and be considered as a part payment on account, in case the Minister shall decide that the amount stated in the certificate of the Engineer was not sufficient.

11. Notwithstanding the last preceding clause hereof, the Engineer or the Colonial Treasurer may pay the wages of any labourers or other persons employed by the Contractors upon any railway which may be due and unpaid, and any amount so paid may be deducted by the Colonial Treasurer from the sum or sums so deposited with him as aforesaid, and shall for the purposes of these presents be taken to be a payment made by the Colonial Treasurer to the Contractors.

12. The sum or sums so deposited with the Colonial Treasurer shall not bear any interest.

13. Subject to the other provisions of these presents, the Contractors will make every section of a railway in strict accordance with the said plans and specifications, and with such further instructions and detailed plans and drawings as the Engineer shall give or provide, and subject to such deviations, alterations, additions, omissions, or substitutions as aforesaid, and to the satisfaction in all respects of the Engineer, and within the time determined and agreed upon for such completion and such railway, or if the Minister shall so direct any section thereof, shall be opened for public traffic when and so soon as the Engineer shall certify the due completion of the same and not earlier. If the Contractors shall be dissatisfied with any decision of the Engineer, or with his withholding a certificate of his satisfaction or of due completion under this clause or under clauses No. 35 or 36, they are to be entitled to have the matter referred to the decision of the Minister, and his decision shall be equivalent to a decision or certificate of the Engineer.