

1883.

NEW ZEALAND.

WAICOLA, LINTON, AND WAIAM VALLEY RAILWAY CONTRACT

(COPY OF).

Laid before Parliament in Compliance with the 18th section of "The Railways Construction and Land Act, 1881."

CONTRACT.

This Deed, made the ninth day of August, one thousand eight hundred and eighty-three, between Her Majesty the Queen (who, with her heirs and successors, is and are hereinafter included in the expression "the Queen"), of the one part, and the Waicola, Linton, and Waiau Valley Railway Company, Limited (which, with its successors and assigns, except where the context otherwise requires, is and are hereinafter included in the expression "the Company"), of the other part. Whereas the Company has been established for the purposes, amongst other things, of constructing and maintaining a line of railway from a point in the Government railway between Otautau and Wairio, situate on Section 23, Aparima Hundred, to a point in the Waiau Township Reserve, each of which points is to be approved of as hereinafter mentioned, with all buildings, railway works, and other appliances necessary for the same, and of working the said railway, and especially of carrying thereon passengers, animals, and goods, for hire, and generally, in other respects, of carrying on the business of a railway company in all its branches, with power to contract with any other railway company or authority with respect to running powers, interchange of traffic, or otherwise: And whereas the said railway is intended to be constructed as nearly as may be along the lines shown in red upon the plan, marked A, hereunto annexed, and is estimated to be of the length of eighteen miles or thereabouts: And whereas the Governor of New Zealand, acting therein with the advice of the Executive Council of the colony, and in pursuance of the provisions of "The Railways Construction and Land Act, 1881" (hereinafter in these presents termed "the said Act"), has agreed with the Company for the construction and working of the said proposed line of railway upon the terms and conditions hereinafter set forth: And whereas the said line of railway has for the purposes of construction been divided into two sections, as shown respectively from A to C, that is, from Waicola Junction to Orawea River, and from C to E, that is, from Orawea River to Waiau River, upon the said plan, marked A, hereunto annexed:

Now this deed witnesseth that, in consideration of the covenants hereinafter contained on the part of the Queen, the Company doth hereby covenant with the Queen in manner following, that is to say:—

1. The Company shall and will, with all convenient speed and within the term of five years computed from the date of these presents, at its own expense in all things, construct and thereafter maintain and work a line of railway from a point in the Government railway between Otautau and Wairio, situate on Section twenty-three, Aparima Hundred, to a point in the Waiau Township

Reserve, such points to be approved of by an engineer appointed by the Governor for the purposes of this contract (hereinafter throughout these presents referred to as "the Engineer"), and will construct such line of railway along the lines shown in red upon the said plan, marked A, hereunto annexed, or as near thereto as practicable. Such railway to be constructed and, when completed, to be worked by the Company or their assigns, in all respects under and subject to the provisions of the said Act.

2. The railway to be constructed, maintained, and worked under the provisions of this contract, and all other works in connection with the same which are provided for in this contract, shall be well and faithfully constructed of sound materials, and of sufficient strength and durability, having regard to the nature of such works, upon plans, both general and detail, to be from time to time approved of by the Engineer, and so that the details shall, as nearly as may be, conform to the approved standard drawings in use on the New Zealand Government railways, and that the specifications shall accord as nearly as may be to the standard specifications of the Government of New Zealand for the time being used in respect of the construction of railways having single lines of permanent-way, or as may be necessary for any particular work included in this contract; and such construction shall in all things be to the satisfaction of the Engineer, it being the intent and meaning of this provision that all such plans and specifications when approved and signed by the Engineer, or as the same may be altered or modified subject to his approval, shall form part of this contract as effectually as if the same had respectively been attached hereto at the date of the execution hereof.

3. All rolling-stock and plant to be from time to time used or employed upon the said railway or in connection therewith shall be of the like character and strength in all respects as the rolling-stock and plant in use upon railways constructed by the Government of New Zealand.

4. The Company will, within twelve months from the date of this contract, expend a sum of not less than twenty-five thousand pounds in the construction and execution of permanent works under its provisions, such works to be of a character which, in the opinion of the Engineer, will enable the section from A to C of the said railway to be fit for traffic within twelve months from the date of this contract, and the Company will thereafter proceed with the construction of the residue of the said railway, so that the same shall be completed within the time mentioned in clause one of this contract.

5. The power conferred by the forty-eighth section of the said Act shall be deemed to extend to and include all works of every kind executed by or on behalf of the Company under this contract, and all plant, rolling-stock, materials, and things which are or may be used, or are intended to be used, in or upon the said works. And if at any time the Governor shall be advised that some addition, alteration, or repair is necessary or requisite to or upon the said railway, or to or upon all or any of the works aforesaid, or to the rolling-stock, plant, and materials used or intended to be used thereon, then, for the purpose of more effectually carrying out this contract, he may, on behalf of the Queen, direct the Engineer to take such steps as may be necessary to have such addition or alteration made or repair effected; and, upon delivery to the Company, at its registered office in Invercargill, of a notice in writing from the Engineer specifying the nature and extent of the addition, alteration, or repair required, or the class and character of the rolling-stock, plant, or material to be supplied, the Company shall cause the same to be made, executed, or supplied within the period specified in such notice, as the case may require.

6. The Company shall not assign, charge, or dispose of this contract, or any benefit or advantage thereof or thereunder, either at law or in equity, without the written consent of the Governor on behalf of the Queen; but this provision shall not be deemed to prevent the Company from raising money by debentures, under the memorandum and articles of association of the Company, without the necessity for such consent.

And this deed further witnesseth that, subject to the provisions of the said Act and in consideration of the premises, the Queen doth hereby covenant with the Company in manner following, that is to say,—

7. The Queen will, with all convenient speed after the date of these presents, and free of all expense to the Company, put the Company in possession of such parts of any Crown land then in possession of the Governor (if any) through which the said railway and branch railway respectively will pass, and of any Crown lands adjacent thereto, which may respectively be required for the construction of the said railway, or for side-cuttings, ballasting, spoil-banks, road approaches, and road diversions: *Provided* that all lands of which possession shall be so given to the Company shall be subject to the terms and conditions of any contract, agreement, deed, or instrument that has been or may hereafter be made between the Queen or the Minister for Public Works, or any person on her or his behalf, and any other person or persons. For the purpose of giving or securing to such last-mentioned person or persons any right or easement of any kind whatsoever in, upon, through, over, or in respect of any such land or lands, the Queen will, upon the completion of the said railway and the works connected therewith, at the request of the Company, grant to the Company the land actually used under the authority aforesaid and any land adjacent thereto which may be requisite for the purposes of the said railways.

And whereas, there not being sufficient land adjoining the proposed line of railway available under the provisions of the said Act, the land set apart for selection as hereinafter mentioned is so set apart under the provisions of section one hundred and one of the said Act, and is to be appropriated to the said railway in the proportions, so far as the areas coloured pink on plan and brown on plan for the respective sections A to C and C to E will permit, of one thousand three hundred and fifty pounds' worth of such land, according to the value thereof, to be ascertained in the manner prescribed by section one hundred and two of the said Act, for every mile of railway completed and open for traffic, with the requisite rolling-stock and appliances:

Now it is further agreed between the Queen and the Company—

8. That, so soon as conveniently may be after the execution of this contract, all Crown land shown by the colours brown and pink on the said plan, marked A, hereunto annexed, shall be withdrawn from sale, and the same shall be set apart to be selected by and granted to the Company under the powers and to be dealt with in manner respectively provided by Parts I. and V. of the said Act, and that the selection of such land for the purposes of the said Act and of this contract shall, after the construction of the said railway or of any completed section of the same, be conducted and carried out as follows,—

- (a.) For the purposes of such selection, the estimated cost of constructing the said line of railway (and of all rolling-stock and appliances necessary for working the same) shall be the sum of four thousand five hundred pounds per mile throughout its whole length, estimated at eighteen miles.
- (b.) For the purposes of such selection the value of the lands shown in the said plan marked A by the colours brown and pink shall be ascertained in the manner prescribed by section one hundred and two of the said Act.
- (c.) When and so soon as the Minister for Public Works for the time being shall be satisfied that each section of the said line of railway has been completed in accordance with the terms of this contract, and can be worked for public traffic, and is in all respects fit for such traffic, and is supplied with all necessary rolling-stock and appliances for that purpose in accordance with the said Act and this contract, the Company shall be at liberty to select and shall receive a grant or grants for so much of the said lands the value whereof shall have been computed in the manner and after the rate aforesaid as they may be entitled to select in respect of the number of miles of the said railway comprised in such completed section; and, if there shall be any difference or dispute as to the area the Company is entitled to select, the decision of the Governor shall be binding and conclusive on the Company, and every such selection shall be subject to the approval of the Governor.

9. Every grant made under the last-preceding clause shall be subject to the provisions of "The Railways Construction and Land Act, 1881," respecting the terms and conditions upon which grants of Crown lands may be made to a company thereunder.

10. In dealing by way of sale or otherwise with any land which shall become vested in the Company pursuant to any such selection as aforesaid, the Company shall conform to the rules and regulations set forth in Schedule C hereto.

11. *Provided*, however, that nothing herein contained in relation to the allocation of any lands for the purposes of this contract shall have any force or operation so as to give the Company any right, title, interest, or claim to or in the land proposed to be withdrawn from sale as aforesaid unless and until the allocation of land so set aside and intended to be granted to the Company shall have been approved by the General Assembly of New Zealand in the manner prescribed by sections thirteen and fourteen of the said Act.

And it is hereby further agreed between the Queen and the Company,—

12. That the maximum fares, tolls, rates, and rents to be charged by the Company for the carriage upon the said railway of passengers, produce, animals, goods, merchandise, articles, matters, and things, and for the storage of goods in any of the Company's sheds or warehouses, shall not exceed the scale for the time being in force upon the Southland Government Railways, and shall, until such last-mentioned scale shall have been altered by the Minister pursuant to the powers vested in him in that behalf, not exceed the scale set forth in the Schedule B hereunto annexed :

Provided that the Company shall be at liberty at any time in the manner prescribed by the said Act to reduce the said tolls, fares, rates, and rents, or any of them :

Provided, further, that, if at any time the Minister for Public Works for the time being shall be satisfied that the said fares, tolls, rates, and rents, or any of them, are excessive or ought to be increased, he may, by giving one calendar month's notice in writing to the Company, require the tolls, fares, and rents to be reduced or increased as stated in such notice, and at the expiration of such month's notice the Company shall make the reduction or increase accordingly.

13. And it is hereby further agreed that the power of purchase conferred upon the Governor by the said Act may be exercised at any time after the expiration of six months from the completion of the said railway.

14. And it is hereby lastly agreed that, in case this contract, or any provision thereof, shall be avoided or modified wholly or in part by a resolution or resolutions to be passed by the General Assembly of New Zealand at the present session thereof in the manner prescribed by the said Act, the Company shall not have any claim or demand upon or against the Queen or the Governor of New Zealand for any loss or damage by reason of such avoidance or modification, or in consequence of the operation of any such resolution; and any property, estate, right, or interest acquired by the Company from the Queen or the said Governor under or by virtue of the said contract or provision shall, to the extent and in the manner specified in any such resolution, be and be deemed to have again become the property or estate of the Queen or the Governor, or to revest in the Queen, as the nature of the case may require :

And, further, that nothing contained in this contract shall be deemed in any way to abridge, control, modify, or supersede any power, remedy, or authority which under the said Act is vested in or may be exercised by the Governor in Council, or the Governor, or the Minister for Public Works, or which may be conferred upon or given to the said Company by the said Act.

15. The word "Governor" in this contract has the like meaning as is attached thereto by "The Interpretation Act, 1878."

In witness whereof these presents have been executed by the parties hereto on the day and year first above written.

The seal of the Company was hereunto affixed this ninth day of August, one thousand eight hundred and eighty-three, by two Directors of the Company, in the presence of—

JAMES HARVEY,
Of Invercargill, Gentleman,
Solicitor of the said Company.

Signed by Sir William Francis Drummond Jervois, G.C.M.G., C.B., the Governor of the Colony of New Zealand, with the advice of the Executive Council thereof, on behalf of Her Majesty the Queen, and sealed with the Public Seal of the said Colony, in the presence of—

FORSTER GORING,
Clerk of the Executive Council.

20th August, 1883.

ROBERT F. CUTHBERTSON,
W. McPHERSON,
Directors.

(L.S.) Seal of the Waiohina, Linton, and Waiau Valley Railway Company (Limited).

WM. F. DRUMMOND JERVOIS,
Governor.

(L.S.) Seal of the Colony.

SCHEDULE A.

Survey District.	Section.	Block.	Area.	Remarks.
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LANDS TO BE SET APART FOR PORTIONS BETWEEN A TO C. (Coloured Pink on Plan.)

Survey District	Section	Block	Area.			Remarks.
			A.	R.	P.	
Waiau Survey District	...	45	199	0	30	Deferred-payment block near Eastern Bush.
"	"	46	202	0	0	
"	"	47	198	0	11	
"	"	48	198	0	24	
"	"	49	200	3	0	
"	"	50	201	0	19	
"	"	51	179	2	32	
"	"	52	165	2	0	
"	"	56	199	3	35	
"	"	57	200	0	0	
"	"	58	177	1	4	
"	"	59	113	1	6	
"	"	60	197	3	27	
"	"	61	196	2	17	
"	"	62	194	2	0	
"	"	63	183	0	17	
"	"	64	200	0	14	
"	"	65	192	0	36	
"	"	98	215	2	39	
"	"	99	266	3	31	
"	"	100	296	0	0	Deferred-payment block in the Marshburn.
"	"	101	309	3	21	
"	"	102	256	3	36	
"	"	103	253	2	23	
"	"	104	239	2	33	
"	"	67	215	0	0	
"	"	71	200	0	0	
"	"	72	200	0	0	
"	"	73	195	0	0	
"	"	74	59	0	0	
"	"	75	200	0	0	
"	"	76	198	0	0	
"	"	77	200	0	0	
"	"	78	166	1	0	
"	"	86	200	0	0	
"	"	87	200	0	0	
"	"	...	166	0	0	
Total	7,437	2	15	

LANDS TO BE SET APART FOR PORTIONS BETWEEN C TO E. (Coloured Brown on Plan.)

Part of Run 172A and Crown lands adjacent thereto, viz. :—						
On Lillburn	...	...	9,715	0	0	
" Waiau	...	...	6,256	0	0	
" Run 165, East of Waiau River	...	...	1,453	0	0	
Total	...	...	17,424	0	0	

—be all the aforesaid areas more or less; as the same are more particularly delineated upon the plan marked P.W.D. 10113, deposited in the office of the Minister for Public Works at Wellington.

SCHEDULE B.

SCALE OF FARES AND CHARGES.—Vide *New Zealand Gazette* No. 96, of 13th November, 1882, pp. 1669–1706.

SCHEDULE C.

1. ALL agricultural and pastoral lands, and not less than one-fourth the area set apart for town, village, and suburban lands, to be offered for sale not later than twelve months after the railway-line has been opened for traffic to the locality of such lands.

2. The price of agricultural and pastoral lands shall not be less per acre than the valuation already made in terms of section 102 of “The Railways Construction and Land Act, 1881.”

The price of town and village lands shall not be less than twenty pounds (£20) per acre, and of suburban lands not less than three pounds (£3) per acre.

3. All lands to be surveyed, mapped, and lithograph plans of sections published before being advertised for sale.

4. No sale of land shall be held until after thirty days’ public notice of the time and place thereof shall be given in at least one Invercargill and one Dunedin newspaper.

5. Sales of land may either be by auction or by applications receivable on a given day. In the event of more than one application for the same section of land on the same day, between the hours of 10 a.m. and 4 p.m., the land applied for shall be put up to auction, and the bidding at such auction shall be limited to the applicants.

6. Agricultural land to be surveyed in sections not exceeding three hundred and twenty acres each, with a practicable line of road marked off on the ground to each section. Bush to be felled on road-lines one chain wide, and cleared sixteen feet in the centre, before the land is offered for sale.

7. Pastoral land—that is, the higher slopes of the hills—to be surveyed generally, so far as the natural features will permit, in sections at least twice the depth to the breadth, the depth running back with the slope of the hills.

8. A site for a town to be set apart at Orawia Bridge.

9. The Governor to have the right of selecting, free of cost, in each town and village, whether on land acquired by the Company as public grant, or by purchase from the Natives, an area not exceeding three acres for post and telegraph offices, courthouse, police station, and other public buildings; also an area not exceeding five acres for a school site.

At cross-roads, or other suitable places in rural districts, Governor to have the right of selecting, free of cost, five acres for a school site, at distances four or five miles apart.

10. The surveys of lands to be conducted on the New Zealand system of surveys, so that the plans, traverse reductions, and field-books may be conformable with the public survey records of the colony, from which the descriptions of title are taken.

11. All record surveys and classification of agricultural and pastoral land to be subject to the approval of the Surveyor-General or officer nominated by him.

ROBERT F. CUTHBERTSON, } Directors.
W. McPHERSON,

Witness—James Harvey, of Invercargill, Gentleman, Solicitor of the said Company.

FORSTER GORING,
Clerk of the Executive Council.
20th August, 1883.

WM. F. DRUMMOND JERVOIS,
Governor.



