

1891.
NEW ZEALAND.

CONTRACT BETWEEN THE HOKONUI RAILWAY AND COAL COMPANY, LIMITED, AND THE NEW ZEALAND RAILWAY COMMISSIONERS

(COPY OF).

Presented to both Houses of the General Assembly by Command of His Excellency.

BOND.

Know all men by these presents that we, the Hokonui Railway and Coal Company (Limited) (hereinafter called "the said company"), George Roxby Waddel, of Campbelltown, in the County of Southland, in the Colony of New Zealand, merchant, and Charles Bradshaw, of Campbelltown, aforesaid, hotelkeeper, are held and firmly bound unto the New Zealand Railway Commissioners, incorporated under "The Government Railways Act, 1887," in the sum of one thousand pounds, to be paid to the said the New Zealand Railway Commissioners, their successors or assigns, for which payment, to be well and truly made, we bind ourselves and every of us, and any two of us, the successors of us, the said company, and the heirs, executors, and administrators of us, the said George Roxby Waddel and Charles Bradshaw, or of either of us, the said George Roxby Waddel or Charles Bradshaw, and every of them, jointly and severally, firmly by these presents, sealed with our respective seals, dated this twenty-fourth day of November, one thousand eight hundred and ninety.

Whereas Joseph George Ward, of Invercargill, in the said colony, grain merchant, recently agreed with the said the New Zealand Railway Commissioners for the repair of the Forest Hill Tramway for goods traffic by horse-power, as set forth in the contract hereinafter mentioned: And whereas it has since been agreed between the said Joseph George Ward and the said company that the said company should be substituted in such contract for and in the place of the said Joseph George Ward, as therein expressed: And whereas the said the New Zealand Railway Commissioners have agreed with the said Joseph George Ward and the said company to accept the said company in the room and stead of and as the substitute for the said Joseph George Ward in such contract accordingly: And whereas the contract made between the said company, the said Joseph George Ward, and the said the New Zealand Railway Commissioners is hereunto annexed, and marked with the letter B, and the said George Roxby Waddel and Charles Bradshaw have been proposed as sureties for the due fulfilment of the said contract: And whereas the said the New Zealand Railway Commissioners have accepted the said George Roxby Waddel and Charles Bradshaw as such sureties as aforesaid: Now the condition of the above-written bond is such that if the said company, their successors or assigns, shall and will well and faithfully perform and fulfil the aforesaid contract, and shall and will well and faithfully do, perform, and execute the several matters and things, and well and truly perform and keep the several conditions, stipulations, and provisions specified or referred to in the said contract according to the terms of the same, then the above-written bond shall be void, otherwise the same shall be and remain in full force and virtue.

The common seal of the Hokonui Railway and Coal Company (Limited) was hereunto affixed at a meeting and by order of the Board of Directors of the said company, the twenty-fourth day of November, one thousand eight hundred and ninety, in the presence of—

J. G. WARD,
(L.S.) A. S. HANAN,
FRED. W. THOMPSON,
Directors.

THOS. M. MACDONALD,
Solicitor, Invercargill.

JOHN CORBET,
Clerk to T. M. Macdonald, Solicitor, Invercargill.

Signed, sealed, and delivered by the said George Roxby Waddel (L.S.) GEO. R. WADDEL.
and Charles Bradshaw in presence of— (L.S.) CHAS. BRADSHAW.

THOS. M. MACDONALD,
Solicitor, Invercargill.

JOHN CORBET,
Clerk to T. M. Macdonald, Solicitor, Invercargill.

(A.)—CORRESPONDENCE.

The Hon. Minister for Public Works.

In accordance with your request we have the honour to report on the Forest Hill Tramway.

This line was made by the Government, being completed during 1882–83. At first it seems to have been thought that the Southland County Council would have worked it permanently, but it was found after a trial that this course was financially disadvantageous to the Council, and for some time the tramway lay unused. It was so constructed that the ordinary railway-trucks and engines could not run upon it, as it was not strong enough to carry them. It was undesirable to expend money on it to convert it into a railway proper, as there was no prospect of traffic to justify this course. It was subsequently suggested to let a contract for working it by horse-power. This proposal seemed to be the only reasonable plan of making the line of some use to the district. The tram-line was accordingly leased provisionally at £35 a year for three years to the Hokonui Coal-mining Company, as set forth in the terms attached by a deed dated the 9th May, 1887, and by *Gazette* notice No. 51, of the 4th August, 1887, was declared open for traffic, and the rates, &c., were fixed.

The Minister for Public Works having no legal powers to make this contract, it was a condition of the specification that the contract might be cancelled on a month's notice if Parliament disapproved of it. (See last clause of specification.) The conditions of contract were presented to Parliament by the Minister for Public Works (see Journals House of Representatives, Session I., 1887, Schedule of Papers laid on the table, page xxxii.), and no objection being made, the contract remained in operation. It expires in August, 1890. The Contractors, the Hokonui Coal-mining Company, are now in liquidation.

It is suggested that the right to work the tramway might be let in connection with the Hokonui coal-mining property if the lease were extended for seven years—say until August, 1897. The tram-line is of no use as a part of the railways.

It may be of some use as an adjunct to the Hokonui Coal-mine, if that is worked, but it is not a line which the Railway Commissioners can conveniently or satisfactorily deal with. The tram-line, by "The Railways Authorization Act, 1885," was constituted a railway under "The Public Works Act, 1882." No previous authority seems to have existed for working it as a public tramway. It has become vested in the Railway Commissioners along with other Government railways, but they have no power to deal with it as suggested.

As, however, the Government in 1887 followed the course of letting the working of the line, subject to the approval of Parliament, the Railway Commissioners think that, should the Government approve, a similar course might now be followed, and that after the assent of Parliament has been obtained, in such manner as the Government thinks fit, the contract should be extended. The Commissioners think that if the tram-line is not utilized in this way, it would be better for the Government to take power to close it.

JAMES MCKERROW,

J. P. MAXWELL,

W. M. HANNAY,

The New Zealand Railway Commissioners.

Railway Department, Head Office, Wellington,
13th July, 1889.

EXTENSION OF CONTRACT OF FOREST HILL TRAMWAY.

The Hon. the Minister for Public Works, Wellington.

7th August, 1890.

THE contract of the Forest Hill Tramway expires on 15th instant. During the currency of the contract it has passed through several hands, and the working of the line has been unsatisfactory to all concerned. There is not sufficient traffic offered by the settlers to keep open a regular service. The only hope of securing that is in connection with the traffic of the coal-mine. The Railway Commissioners would therefore draw your attention to the report of the 13th July, 1889, and would suggest that the course indicated therein be followed—viz., that the agreement to work the line be extended for seven (7) years, as from the expiry of existing agreement on 15th August, 1890.

JAMES MCKERROW,

Chief Commissioner.

(B.)

THIS DEED made the twenty-fourth day of November, in the year one thousand eight hundred and ninety, between the HOKONUI RAILWAY AND COAL COMPANY (LIMITED), hereinafter called "The Contractor," which expression shall include its successors and assigns, where the context so requires or admits, of the first part; JOSEPH GEORGE WARD, of Invercargill, in the colony of New Zealand, grain merchant, of the second part; and the NEW ZEALAND RAILWAY COMMISSIONERS incorporated under "The Government Railways Act, 1887" (hereinafter called "the Commissioners," which expression shall include their successors and assigns, where the context so requires or admits), of the third part: Whereas by articles of agreement made and entered into on or about the ninth day of May, one thousand eight hundred and eighty-seven, between the Hokonui Coal-mining Company (Limited), therein named, of the one part, and Her Majesty the Queen of the other part, the said The Hokonui Coal-mining Company (Limited) covenanted to repair and put in working-order the whole of the Forest Hill Tramway, as mentioned in the specifications annexed to the said articles of agreement, and to supply the trucks mentioned in the said specification, and for the period therein mentioned to provide certain rolling-stock, matters, and things for the purposes mentioned in the said specification; and to perform, observe, and fulfil certain conditions, stipulations, and requisitions, and pay a certain annual sum, as more fully expressed in the said articles of agreement, in consideration whereof Her Majesty the Queen covenanted that certain moneys should be paid to the said Hokonui Coal-mining Company (Limited), and that the said The Hokonui Coal-

mining Company (Limited) should be allowed to receive from the public certain rates and charges therein specified, as in the said articles of agreement more fully appears: And whereas the said The Hokonui Coal-mining Company (Limited) made default in repairing the said Forest Hill Tramway in terms of the covenant in that behalf in the said articles of agreement: And whereas the Commissioners, by letter dated the seventh day of August, one thousand eight hundred and ninety, intimated to the Honourable the Minister for Public Works the desirability of having a new agreement extending the time for repairing and working the said Forest Hill Tramway for seven years from the fifteenth day of August, one thousand eight hundred and ninety: And whereas the said articles of agreement terminated on the fifteenth day of August, one thousand eight hundred and ninety, in accordance with the provisions in that behalf therein contained: And whereas the Honourable the Minister for Public Works duly presented the correspondence relating to the said articles of agreement to the Honourable the Speaker and the members of the House of Representatives of the said colony on the twenty-first day of August, one thousand eight hundred and ninety (a copy of which correspondence is hereto annexed, and marked "A"): And whereas the said Joseph George Ward recently agreed with the Commissioners to enter into the respective covenants hereinafter contained, and on the part of the Contractor to be observed and performed, to repair the said Forest Hill Tramway in accordance with the specification set forth in the First Schedule hereto, and to work the said tramway and carry on the goods traffic thereon, and to keep the said tramway and the appurtenances thereto in good order and repair, as hereinafter provided, in consideration of the Commissioners entering into the covenant hereinafter contained that he shall be allowed to receive from the public and retain for his own use the rates and charges set out in the Second Schedule hereto, subject to the provisions hereinafter contained: And whereas it has since been agreed between the said Joseph George Ward and the Contractor that the Contractor shall be substituted in this contract for and in the place of the said Joseph George Ward for the observance by the Contractor of all the said covenants and conditions on the part of the Contractor hereinafter contained, and for the receiving by the Contractor of all the benefit of the said covenants on the part of the Commissioners hereinafter contained: And whereas the said Commissioners have agreed with the said Joseph George Ward and the Contractor to accept the Contractor in the room and stead of, and as the substitute for, the said Joseph George Ward in this contract accordingly:

Now, this deed witnesseth that, in pursuance of the said agreement, and in consideration of the said covenants hereinafter contained on the part of the Commissioners, the Contractor hereby covenants with the Commissioners,—

I. That the Contractor will, on or before the twenty-fourth day of March, one thousand eight hundred and ninety-one, repair and put into good and efficient working-order, and render fit for the safe conduct of traffic by horse-power thereon, the said Forest Hill Tramway, together with all the rolling-stock and the appurtenances thereto belonging, with proper and sufficient rails, sleepers, ballast, earthworks, and other works and appliances, to the satisfaction of such person as the Commissioners shall appoint to inspect the same, in accordance with the said specification set forth in the First Schedule hereto, and will supply all the labour, sleepers, rails, fastenings, ballast, materials, means, matters, and things necessary for so repairing the said tramway, as mentioned in the said specification.

II. And, for the consideration aforesaid, the Contractor doth hereby further covenant with the Commissioners that the Contractor will, for the period of seven years from the fifteenth day of August, one thousand eight hundred and ninety, for and on behalf of the Commissioners, work the said tramway by horse-power, and carry on goods-traffic thereon, subject to and in accordance with the terms and conditions in that behalf hereinafter set forth, at or for the considerations mentioned in the scale of rates and charges specified in the said Second Schedule hereto; and will pay annually to the Commissioners, on the fifteenth day of August in each year, the sum of thirty-five pounds by way of profits due to the Commissioners for working the said Forest Hill Tramway, and will at all times during the said period observe and perform the following conditions and provisions, that is to say:—

(1.) The Contractor will receive and take all goods for transmission on the said Forest Hill Tramway from the consignors at any convenient point thereon, or out of the trucks at the railway-station at Winton, and will load same on the trucks on, and convey such goods along, the said tramway, and unload and deliver such goods at any convenient point on such tramway, or into the trucks at the railway-station at Winton aforesaid, or otherwise as the consignors of such goods may direct, and to such consignees as such goods may be addressed to, and will keep all such goods in safe and proper custody until delivery, and will provide all labour, horse-power, and necessary appliances and means for such receipt, loading, conveyance, unloading, delivery, and safe custody of such goods.

(2.) The Contractor will be held responsible for making the entire tramway in every respect suitable for the purposes of carrying out this contract.

(3.) The Contractor will, as from the fifteenth day of August, one thousand eight hundred and ninety, be deemed to be in charge of the said tramway on behalf of the Commissioners for the purposes of fulfilling this contract, and it will, as from that date and until the expiration or cancellation of the same, be held responsible for the safe and proper custody of all Government premises and property of every kind comprising and situated on and about the said tramway, and for all rolling-stock or other property handed to the Contractor during the currency of this contract, and the Contractor will be held responsible for handing the same over to the Commissioners in good order and condition upon the expiration of the contract.

(4.) The Contractor shall attend to and comply with the directions of any consignor with regard to the performance of any of the services for conveyance of goods herein specified, and the acknowledgement of the Contractor of receipt of goods duly consigned shall be held to imply an undertaking on the part of the Contractor to duly fulfil all the necessary services for conveying and despatching such goods to their proper destination upon the tramway in good order on behalf of the Commissioners.

(5.) The Contractor shall demand and obtain consignment-notes, and give receipts for all goods brought to it for conveyance on the tramway upon receiving same, and shall take receipts for all goods delivered up by it, and all such consignment-notes and receipts shall be taken and given on the forms in use on the New Zealand railways, proper supplies of which the Contractor shall obtain on application to the railway Stationmaster at Winton aforesaid. The Contractor shall pay the Commissioners for all supplies of forms furnished to it. For each and every breach of this provision the Contractor shall be liable to forfeit to the Commissioners the sum of £1 sterling if demanded.

(6.) The Contractor shall collect from the consignors or owners of goods all rates and charges set forth in the scale in the Second Schedule hereto, or which may be collectable under any proper regulation made by the Commissioners and applicable to the said tramway.

(7.) The Commissioners shall allow the Contractor to retain such charges by way of consideration for services rendered by the Contractor for the Commissioners, and the Contractor shall have no other claim against the Commissioners for any services whatsoever rendered on or about the said tramway or for any services performed for the public, or for damages or compensation for or on account of any bodily injuries suffered by any person, or for or in respect of any damages or injuries to or loss of goods arising out of carrying on the traffic on the said tramway, or from other operations connected with maintaining and working the same.

(8.) The Contractor shall pay all claims for damage or injuries which may have occurred to any goods, or for the loss of any goods while in the Contractor's custody, and all claims for damages by reason of bodily injuries to any person, and all expenses arising out of any action against the Commissioners for or on account of any such claims or in connection with working the traffic on and maintaining the said tramway by the Contractor which may be incurred by the Commissioners.

(9.) The Contractor and its employes will be subject to the by-laws, rules, and regulations, for the time being of the New Zealand railways.

(10.) The Contractor will be allowed the use and occupation of the said tramway only for the purposes of this contract.

(11.) Should the Contractor fail or neglect to run convenient and suitable conveyances for traffic throughout the whole length of the said tramway-line once in each direction for two clear days, the Commissioners may cancel this contract by giving one month's notice to the Contractor in writing.

(12.) The Contractor shall maintain legible printed schedules of the rates and charges specified in the said Second Schedule hereto posted at the various stopping-places along the said tramway-line open for the convenient examination of the public.

(13.) The Contractor's way-bills, receipts, and consignment-notes and other traffic accounts shall at all times be open to the inspection, audit, and use of any officer whom the Commissioners may appoint, and the said tramway and all premises and offices and appliances thereon shall at all times be open to the inspection and examination of such officer as the Commissioners appoint.

(14.) Should the Contractor fail or neglect to fulfil any of the provisions of this contract the Commissioners may cancel this contract by giving one month's notice in writing to the Contractor, and thereupon this contract shall be absolutely void, but without releasing the Contractor from any liability in respect of the breach of any covenant herein expressed.

(15.) Disputes about the interpretation or execution of the contract shall be referred to James McKerrow, Joseph Prime Maxwell, and William Mowat Hannay, all of Wellington, the Commissioners appointed under "The Government Railways Act, 1887," or other the Commissioners for the time being appointed under the said Act, or the majority of them, and their decision shall be final and binding.

III. And for the consideration aforesaid the Contractor doth hereby further covenant with the Commissioners that the Contractor will at all times during the said period of seven years keep the said Forest Hill Tramway, and the whole of the rolling-stock, rails, sleepers, and works appurtenant thereto, and all the appliances of every sort and description comprising the said tramway, or used in connection therewith, in good working-order and repair, to the satisfaction of the Commissioners.

And it is hereby declared and agreed that it shall be lawful for the Commissioners or any officer appointed by them at any time and from time to time during the said period of seven years, but after the first day of December, one thousand eight hundred and ninety, to enter upon or inspect, view, and examine the said tramway and all rolling-stock, rails, sleepers, and matters appurtenant thereto, and all the appliances of every sort comprising the said tramway, or used in connection therewith, in order to ascertain the state of repair and condition of the same; and of all defects and wants of reparation in respect of the said tramway and premises then and there found, to give and leave notice in writing to the Contractor (such notice being sufficient if signed by any such officer on behalf of the Commissioners) requiring the Contractor immediately to repair and make good the same in compliance with the covenant on the part of the Contractor in that behalf hereinbefore contained. And in the event of the Contractor failing to so repair and make good the said tramway and premises, or any part thereof, as required by such notice, for the space of time stated in such notice, it shall be lawful for the Commissioners (but without prejudice to their right to cancel this contract as hereinbefore provided) to enter upon the said premises and repair the same at the costs and expense of the Contractor, and to remain in possession of the said tramway and premises for such time as may, in the opinion of the Commissioners, be necessary or requisite for such purpose, and to recover from the Contractor the expense of such reparation, in case the same shall not be prepaid by the Contractor within twenty-one days after notice in that behalf given to it, or left for it on the said premises, by an action at law or otherwise.

And this deed further witnesseth that, in pursuance of the said agreement and in consideration of the said covenants hereinbefore contained on the part of the Contractor, the Commissioners hereby covenant with the Contractor, that the Contractor shall be allowed at all times during the

period of seven years aforesaid as it shall carry on the goods-traffic on the said tramway, in accordance with its covenant in that behalf hereinbefore contained, to receive from the public and to retain for its own use the said rates and charges set forth in the scale to the said Second Schedule hereto.

Provided always, and it is hereby declared and agreed, that the Contractor shall only be entitled to receive and retain such rates and charges as it duly observes and performs the covenant and conditions, terms and stipulations hereinbefore contained, and until it shall have received from the Commissioners, or any officer or agent of theirs, notice in writing of any breach, nonobservance, or nonperformance of any such covenant, condition, term, or stipulation; and in particular, on condition that the Contractor shall have no other claim against the Commissioners in respect of any of the services to be rendered for the Commissioners by it as aforesaid, or any services rendered to the public or any other services, or for any compensation, or for any damages, or loss, or any other matter having relation to the subject-matter of this contract, or arising hereunder, or under any of the covenants or stipulations herein in any manner whatsoever.

It witness whereof this deed has been executed by or on behalf of the said parties hereto.

THE FIRST SCHEDULE REFERRED TO.

N.Z.R.

REPAIRS TO FOREST HILL TRAMWAY.—SPECIFICATION.

THIS specification comprises repairing and putting in good and efficient working order the whole of the ten miles of Forest Hill Tramway, its appurtenances and appliances, fit for the safe conduct of horse-traffic on the same. The work to be carried out to the satisfaction of such person as the New Zealand Railway Commissioners may appoint to inspect it.

Permanent way.—The necessary repairs under this head will include,—

1. The removal of unsound timbers estimated at 2,000 cross-ties and 1,500 longitudinals, and reinstating with new of the same kind of timbers and same dimensions, or substituting in their places transverse sleepers 6ft. long by 7in. by 5in., spaced not more than 2ft. 9in. apart from centre to centre, and the whole to be spiked in a proper and workmanlike manner with four good spikes to each sleeper. Transverse sleepers may be of black-pine, totara, or kamai, all heartwood, free from shakes and other imperfections, and shall pass inspection. Where transverse sleepers are substituted they must be laid in lengths of not less than 5 chains. Any sound old timbers which may be taken up for this purpose may be used in repairing other parts of the track.

2. The line throughout to be straightened up to the lines of original pegs, and to be lifted wherever there are slacks to an even running top, and regauged wherever it is $\frac{1}{4}$ in. in excess of regulation gauge.

3. The rails and fastenings that have been removed from their original position on the running line and sidings to be replaced, also sixty rails unfit for traffic to be removed and replaced by new or old rails in good condition, free of defects or damages. All open joints of over $\frac{1}{2}$ in. to be filled with short pieces of rail fitted in and fish-plated, and supported in a thoroughly workmanlike manner.

Points and crossings are all to be repaired and placed in complete working order and condition.

Road-bed and Ballasting: The water-tables in all the cuttings to be thoroughly cleaned out, so that the water may run clear, and all loose earth on cutting slopes removed.

The banks are to be made up with the best available clay before ballasting operations start wherever the formation is less than 10ft. wide on top or more than 16in. below the true rail-level.

The ballast to be used must be true shingle of approved quality, and equal to that found in the immediate vicinity of Winton Township. The quantity required—about 1,500 cubic yards—to be placed on the line in such places and at such times during the performance of the contract as shall be directed.

Level crossings throughout the line shall be relaid as directed, and the guard-timbers or rails firmly spiked down so as to remain flush with rail-level.

Bridges and culverts shall all be thoroughly overhauled, packed to a proper bearing, and level and repaired where considered necessary.

Gorse, wherever found growing—(1) On district road lines within 7ft. of centre line of tramway; (2) anywhere on the Tramway Reserves, to be slashed down to the level of the ground.

Boundary-fences, other than those belonging to private landowners, to be put into an efficient state of repair.

Rolling-stock.—The rolling-stock belonging to the New Zealand Railway Commissioners and used in connection with working the tramway, consisting of twelve trucks, are to be put in good running order, and all necessary repairs to be done as may be directed, and any missing or damaged beyond repair are to be replaced.

THE SECOND SCHEDULE REFERRED TO.

SCALE OF RATES AND CHARGES.

Merchandise (consisting of all goods enumerated under Classes A, B, C, D, in the scale of fares, rates, and charges on the New Zealand Railways, published in the supplement to the <i>New Zealand Gazette</i> of the 16th September, 1886), at per ton, per mile					
...	£0	0	6		
Minimum rate per ton ...	...	0	2	6	
Minimum charge ...	...	0	0	6	
Timber at per 100 superficial feet, per mile	...	0	0	1	
Minimum charge ...	...	0	2	6	

Wool, per bale, per mile	...	...	...	...	...	£0	0	11 $\frac{1}{4}$
Minimum charge	...	...	...	...	...	0	1	0
Agricultural produce, minerals, and all other goods, at per ton, per mile	...	...	...	...	...	0	0	3
Minimum rate, per ton...	...	...	...	...	...	0	2	0
Minimum charge	...	...	...	...	...	0	0	6
For each loading or unloading—								
Merchandise, per ton	...	...	...	...	...	0	0	6
Grain, per ton	...	...	...	...	...	0	0	6
Wool, per bale	...	...	...	...	...	0	0	3
Other goods, per ton	...	...	...	...	...	0	0	6

The common seal of the Hokonui Railway and Coal Company (Limited) was hereunto affixed at a meeting, and by order of the Board of Directors of the said company, the twenty-fourth day of November, one thousand eight hundred and ninety, in the presence of—

THOS. M. MACDONALD,
Solicitor, Invercargill.

JOHN CORBET,
Clerk to T. M. Macdonald, Solicitor, Invercargill.

Signed, sealed, and delivered by the said Joseph George Ward, in the presence of—

JOHN CORBET,
Clerk to T. M. Macdonald, Solicitor, Invercargill.

The common seal of the New Zealand Railway Commissioners was hereto affixed in the presence of—

E. G. PILCHER,
Secretary, Wellington.

J. G. WARD,
(L.S.) A. S. HANAN,
FRED. W. THOMPSON,
Directors

(L.S.) J. G. WARD.

JAMES MCKERROW.
(L.S.) J. P. MAXWELL.
W. M. HANNAY.

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