

APPENDIX G.

REPRINTS OF PARLIAMENTARY AND OTHER PAPERS REFERRED
TO IN APPENDIX A.

PRELIMINARY CORRESPONDENCE.

Extract from Appendix to the Journals of the House of Representatives, D.-6, 1871, pages 3 to 7 inclusive.

Mr. MORRISON to the Hon. W. GISBORNE.

Office of the New Zealand Government Agency,
3, Adelaide Place, King William Street, London, 22nd November, 1870.

SIR,—

I have the honour to transmit herewith a proposition from Mr. Brogden, M.P., seeking to be put into the position of making the surveys for the proposed railways in New Zealand, with the view to furnish the Government with the information as to the sums at which he will be prepared to construct them, or the conditions necessary to establish them as railways held by an independent company.

Regarding it important that without delay the matter should be brought under the notice of the Government, I beg to enclose copy of the telegram I forwarded to the Hon. Dr. Featherston at Suez, in order that he might do this immediately on his arrival.

I also enclose copy of my letter to Mr. Brogden in reply to his of the 10th instant, requesting more definite information; and the attention of the Government is invited to his answer of the 20th, enclosing letter from Mr. Brunlees, dated the 18th instant.

I am led to expect a communication to the effect that whether Mr. Brogden's proposition be entertained or no, Mr. Brunlees has arranged with Messrs. Sir Charles Fox and Sons (who have already submitted proposals) to co-operate with them on the terms they have submitted to the Government, to which Mr. Brogden refers in his letter of the 20th instant; but, up to the hour of writing, it has not reached me. I hope to forward it by the despatch of this mail, leaving on the 24th instant.

Mr. Brunlees is so well known as the Engineer of the Mont Cenis Railway and other important railway undertakings, that it is superfluous on my part to refer to his standing. It therefore only remains for me to enclose the proposals of Mr. Brogden, and to express a hope that, whether or no the Government see fit to enter into negotiations with him, the Government will at any rate secure for the colony the united services of Mr. Brunlees and the Messrs. Fox.

The Commissioners being well acquainted with the standing and influence of Mr. Brogden, it is unnecessary for me to say anything thereupon.

The Hon. the Colonial Secretary, Wellington.

I have, &c.,

JOHN MORRISON.

P.S.—Since writing the above, the expected communication has been received, and copy is herewith enclosed. It confirms Mr. Brogden's statement on the 20th instant as to the co-operation of Mr. Brunlees and the Messrs. Fox.

Enclosures.

Mr. BROGDEN, M.P., to Mr. MORRISON.

SIR,—

4, Queen Square, Westminster, 10th November, 1870.

As you are aware, the war on the Continent so alarmed myself and my friends, that, although at that moment the negotiations for the arrangements for the inquiry into, and, if approved, the construction of, the Nelson and Cobden Railway were on the point of completion, yet, under the circumstances, we did not feel that the time was suitable for entering into any new engagements. I perceive now that the Government in New Zealand are proposing to have the railways constructed under guarantees to a certain amount per mile of railway by them. I am not fully informed as to the question whether the railways so constructed are to be the property of the Government, or whether these sums are a contribution *pro tanto* towards their construction; but the object of my present communication to you is to request you to inform the New Zealand Government that, having gone already fully into the question of the railway communications about to be established in the colony, I should be glad to be put into the position of making the surveys for the lines they determine to have constructed, and upon those surveys to furnish to the Government the information as to the sums at which I will be prepared to construct them, or the conditions necessary to establish them as railways held by an independent company, aided more or less by the amount which the Government are willing to guarantee.

If this arrangement is agreeable to the Government, I will instruct Mr. Brunlees, C.E., to send out an efficient staff for this purpose.

J. Morrison, Esq., London.

I remain, &c.,

ALEX. BROGDEN.

Mr. MORRISON to Mr. BROGDEN, M.P.

SIR,—

London, 12th November, 1870.

In order that the proposal made by you in your letter to myself on the 10th instant should reach by the earliest means the Commissioners, now on their return to the colony, and through them the Government of New Zealand, I beg to state that I telegraphed an abstract of your letter to Dr. Featherston, that it may be received by him before leaving Suez. It is also my intention to transmit a copy of it to the Government by the mail *via* San Francisco on the 16th instant.

I regret being unable to give you detailed particulars of the proposed railway scheme; the subject was under discussion in the Assembly when the last mail left New Zealand. But whenever they reach me, I will with much pleasure lay them before you.

I am obliged to observe, after maturely considering your letter, that I doubt if the Government will be able to deal with your proposal, unless it is more definite. To have to apply to you for additional information would be fatal to it, as the Government will doubtless be desirous of deciding forthwith, and bringing the service into immediate operation. I therefore invite you to be good enough to consider whether you cannot submit the proposal in such a form that the Government may at once see to what expenses it may be committed by intrusting you with the surveys.

In the absence of information regarding the advantages the Government is prepared to offer, I am aware you cannot set forth the terms on which you will be prepared to construct the lines or form an influential company to do so, inasmuch as such proposal must be regulated by the terms and conditions which the Government may be in a position to offer; but as I confine my remarks only to the surveys, this may not be difficult to you, and if before the 15th instant you can favour me with your views, I will bring them under the notice of the Government.

Alex. Brogden, Esq., M.P.

I am, &c.,
JOHN MORRISON.

Mr. BROGDEN, M.P., to Mr. MORRISON.

SIR,—

Coyhahene, near Bridgend, 20th November, 1870.

I enclose you herewith a letter I have received from Mr. Brunlees embodying his proposals respecting the New Zealand railways. Taking this letter and my previous communication, and reading them together, you will have the proposal I make to the New Zealand Government. If no arrangement is made with them for the construction, I shall not have any claim upon the Government for the work done by Mr. Brunlees beyond that contained in his letter.

I believe that Mr. Brunlees and Mr. Fox have arrived at an understanding, and that Mr. Brunlees has made his offer in conjunction with Mr. Fox. If therefore there is anything in which the terms offered by Mr. Fox are more favourable, you can accept them as my proposal.

J. Morrison, Esq., London.

I have, &c.,
ALEX. BROGDEN.

[Sub-Enclosures.]

Mr. BRUNLEES to Mr. BROGDEN, M.P.

SIR,—

5, Victoria Steet, Westminster, 18th November, 1870.

I am willing to undertake the necessary surveys for a system of railways in New Zealand on the following terms:—

I will send out to represent me an engineer competent in every respect to advise with the Government authorities as to the system which may be best adapted to the commercial wants of the country and to its physical conformation,—the Government, immediately on the arrival of my representative, to enter upon the consideration of these questions, and to determine, without loss of time, the direction of the lines of railway.

The survey of such lines to be at once commenced and carried on at the rate of not less than 200 miles a year, and the completed plans, sections, and reports to be deposited with the Government on or before the expiration of such time from the date of the commencement of the survey.

In consideration of this, the Government to pay to me the sum of £65 per mile, such payments to be made on the completion of each fifty miles of survey.

It is understood that this price shall include all trial surveys, &c., requisite to determine the best route for one line between the same places; but, should the Government desire the plans and sections of alternative routes between the same places, they should be paid for separately.

In case of the surveys being stopped by the Government, from any cause, the expenses of my staff shall be paid by the Government during such stoppage; and, in case the surveys shall not be resumed, their salaries for six months, and the cost of their passage home, shall be defrayed by the Government.

Should the Government cause any delay beyond one month after the arrival of my representative in the country before the direction of any line is determined upon, the salaries and expenses of the staff shall be paid until such decision is arrived at.

It is understood that the total number of miles to be surveyed, at the rate of £65 per mile, shall be not fewer than 250, and that the Government provides for their prosecution at a not less rate than 200 miles per annum.

I shall also be willing, at the proper time, to engage to perform the engineering necessary for their construction, including all expenses, at 5 per cent. on the cost of the works.

Alex. Brogden, Esq., M.P.

I have, &c.,
JAMES BRUNLEES.

Mr. BRUNLEES to Mr. FOX.

SIR,—

5, Victoria Street, Westminster, 18th November, 1870.

In reference to the conversation we had the other day with regard to the surveying of lines in New Zealand, I am quite willing to join Mr. Chas. Douglas Fox (your brother) and yourself in any

surveys the Government of that country may intrust to either of us, on equal terms—that is, you take one-half the responsibility and I take the other half.

Francis Fox, Esq.

I have, &c.,

JAMES BRUNLEES.

I hereby accept the above for myself and brother, Mr. Charles Douglas Fox.

FRANCIS FOX, 6, Delahay Street.

Mr. MORRISON to the Hon. W. GISBORNE.

Office of the New Zealand Government Agency,

SIR,— 3, Adelaide Place, King William Street, London, 30th December, 1870.

Referring to my letter No. 783, of 22nd November, 1870, transmitting copy of correspondence which passed between Mr. Brogden, M.P., and myself relative to the proposal made by him with regard to the surveys for the proposed railways in New Zealand, I have the honour, in continuation thereof, to enclose herewith copies of further letters received from Mr. Brogden.

From these letters you will perceive that Mr. Brogden has resolved upon sending out a gentleman to represent him to the Government, and for this purpose has selected Mr. Henderson, who is expected to be ready to proceed to the colony by the mail of next month.

I beg to point out to the Government that Mr. Brogden undertakes this step entirely at his own risk and responsibility, being doubtless influenced by his proposals of the 10th ultimo having met with the approval of the Hon. F. Dillon Bell.

I likewise enclose copy of a telegram I addressed to Mr. Bell, at Galle, on the 23rd instant, acquainting him with Mr. Brogden's resolution.

I have, &c.,

The Hon. the Colonial Secretary, Wellington.

JOHN MORRISON.

Enclosures.

Mr. BROGDEN, M.P., to Mr. MORRISON.

SIR,—

4, Queen Square, Westminster.

I have to thank you for your letter and the accompanying extract. I will try to send you to-morrow something of a definite character, to forward by telegraph to Mr. Bell.

I have, &c.,

J. Morrison, Esq.

ALEX. BROGDEN.

Mr. BROGDEN, M.P., to Mr. MORRISON.

SIR,—

4, Queen Square, 8th December, 1870.

I had expected to have sent you this day the name of the person whom I propose to send out to New Zealand to represent me there. I have been endeavouring to find him all day, and have called at his office for that purpose, but have not been successful. If I hear anything in the morning I will telegraph you before 12 o'clock.

I have, &c.,

J. Morrison, Esq.

ALEX. BROGDEN.

Mr. BROGDEN, M.P., to Mr. MORRISON.

SIR,—

Ulverstone, 22nd December, 1870.

I have selected a gentleman to go out and represent us to the New Zealand Government. It is Mr. Henderson, who has been a long time with us and Mr. Brunlees, and is a civil engineer of great experience, and has also carried out very considerable works on his own account. At the present moment he is engaged in making a railway in Germany. His family is over there, and he required a month, at least, to enable him to adjust his affairs; and I think it will take him fully that time before he can go. About the middle of January I hope he will be prepared to go to New Zealand.

I have, &c.,

John Morrison, Esq.

ALEX. BROGDEN.

Mr. MORRISON to the Hon. F. D. BELL, Point de Galle.

(Telegram.)

London, 23rd December, 1870.

MR. BROGDEN has selected representative to proceed to colony. He cannot leave before January.

Mr. MORRISON to the Hon. W. GISBORNE.

Office of the New Zealand Government Agency,

SIR,— 3, Adelaide Place, King William Street, London, 27th January, 1871.

I have the honour to transmit herewith copy of a letter which I have just received from Mr. Brogden, M.P., stating that Mr. Henderson, who was expected to proceed to the colony by this mail as Mr. Brogden's representative, as advised in my letter No. 845, of the 30th ultimo, is unable to do so through illness.

I have, &c.,

The Hon. the Colonial Secretary, Wellington.

JOHN MORRISON.

Enclosure.

Mr. BROGDEN, M.P., to Mr. MORRISON.

SIR,—

4, Queen Square, Westminster, 27th January, 1871.

Mr. Henderson, the gentleman I had selected to go out to New Zealand, returned from Germany ten days since, but has ever since been confined to his house by a severe attack of illness. I have seen him to-day; he is better, and if sufficiently well, as there is little doubt he will be, he will be prepared to leave by the next mail, if it is at the end of the month.

I have, &c.,

J. Morrison, Esq., London.

ALEX. BROGDEN.

Mr. MORRISON to the Hon. W. GISBORNE.

Office of the New Zealand Government Agency,
3, Adelaide Place, King William Street, London, 23rd February, 1871.

SIR,— Referring to my letter No. 43, of 27th January, 1871, I have the honour to transmit herewith copy of a letter received this day from Mr. Brogden, M.P., by which it will be seen that his representative, Mr. Henderson, will proceed to New Zealand by the mail of next month *via* New York and San Francisco.

The Hon. the Colonial Secretary, Wellington.

I have, &c.,

JOHN MORRISON.

Enclosure.

Mr. BROGDEN, M.P., to Mr. MORRISON.

SIR,— 4, Queen Square, Westminster, 23rd February, 1871.

I regret to say that Mr. Henderson was compelled to go over to Germany to close some of his old engagements, but promises me distinctly that he will go by next mail, and will go by New York so as to save time.

J. Morrison, Esq., London, E.C.

I have, &c.,

ALEX. BROGDEN.

Mr. MORRISON to the Hon. W. GISBORNE.

Office of the New Zealand Government Agency,
3, Adelaide Place, King William Street, London, 17th March, 1871.

SIR,— Referring to my letter No. 76, of the 23rd ultimo, I have the honour to transmit herewith copy of correspondence which has passed between Mr. Brogden, M.P., and myself, relative to the departure of his representative, Mr. Henderson, for New Zealand.

The Hon. the Colonial Secretary, Wellington, N.Z.

I have, &c.,

JOHN MORRISON.

Enclosures.

Mr. MORRISON to Mr. BROGDEN, M.P.

SIR,— 3, Adelaide Place, London, E.C., 10th March, 1871.

Although no official instructions have been received from the Government, yet I have reason to believe that the Colonial Treasurer, who is in America adjusting the arrangements of the postal service to New Zealand *via* San Francisco, will be soon in England.

His visit may have reference to finance and to the general scheme of public works, but, as already said, I have no information on the subject; therefore, all I can do is to bring it under your notice, so that you may consider under the circumstances what is best to be done with reference to Mr. Henderson's departure.

You shall have immediate notice of Mr. Vogel's arrival: I will also use my best endeavours to get him to meet you.

Alex. Brogden, Esq., M.P.

I have, &c.,

JOHN MORRISON.

Mr. BROGDEN, M.P., to Mr. MORRISON, M.P.

SIR,— House of Commons, 10th March, 1871.

Thanks for your letter. I should like to see Mr. Vogel before Mr. Henderson goes out, if possible. I see that there has been a change in the departure of the boats from San Francisco, which makes it doubtful if Mr. Henderson goes on the 25th instant, and he cannot be prepared to go out on the 18th instant.

J. Morrison, Esq., London.

I have, &c.,

ALEX. BROGDEN

Mr. BROGDEN, M.P., to Mr. MORRISON.

SIR,— 4, Queen Square, Westminster, S.W., 16th March, 1871.

Mr. Henderson has just arrived from the Continent. Will you please let me know if Mr. Vogel has returned, and, if so, when we can see him.

I go out of town to-day and shall not return till Monday, but I will arrange my time so as to suit his convenience.

J. Morrison, Esq., London.

I have, &c.,

ALEX. BROGDEN.

PAPERS RELATING TO MR. VOGEL'S MISSION TO ENGLAND.

Extract from Appendix to the Journals of the House of Representatives, A.-6, 1871, pages 6 to 8 inclusive.

Extract from Report by the Hon. J. Vogel to the Hon. Mr. Fox.

RAILWAYS.

DURING the whole of my stay in London I was actively engaged in negotiations with Messrs. John Brogden and Sons, respecting the construction of railways in New Zealand.

Those gentlemen had, prior to my arrival, arranged to send out an agent, with a surveying staff. Their object was to cause some of the lines of suggested railways to be examined, to enable the firm afterwards to make proposals to the Government for their construction, should the preliminary examinations prove satisfactory. Messrs. Brogden were under the impression that the Government

would, in any event, defray the cost of their agent and his staff; and, as I understand, the acceptance of that responsibility would have been insisted upon by the agent as a condition-*precedent* to the commencement of surveying operations by himself and his staff. Immediately after I arrived in London Mr. Alexander Brogden, M.P. (the head of the firm), waited upon me, and asked whether I would advise him to send out the party, and whether I was prepared on behalf of the Government to guarantee its cost. I replied that I was not prepared to make any recommendation on the subject, or to guarantee the cost of the proposed expedition, because it appeared to me that, were I to do so, something like an understanding would be established that his firm should have the first offer to construct the railways, and that, therefore, a very long time might elapse, whilst his agent was making investigations or surveys, during which the Government might be held bound not to take any other steps towards the initiation of a railway system. It was my impression (I told Mr. Brogden) that the Government were so bent upon proceeding with railway construction that they would not be prepared to enter into any arrangements which, from their very nature, would involve tediously-protracted references to England. Besides, I did not see why the Government should be at the cost of the proposed surveys, since it was distinctly provided by the legislation of last session that the Government should have their own engineer and surveying staff. I added that I should be prepared to consider proposals for an agreement, upon the basis of which somewhat more prompt measures for the construction of railways in New Zealand might be devised.

Although negotiations were uninterruptedly continued, it was only after very great difficulties on both sides that the agreements were signed.

I hand to you herewith the agreements as signed, together with a letter from Mr. J. Mackrell, the solicitor who acted for me throughout the negotiations, and who was recommended to me by Mr. Magniac, M.P.; and also a letter from the gentleman who throughout acted as my counsel—Mr. Charles Dennistoun Wood, formerly Attorney-General of Victoria.

I may with confidence assert that I have, on behalf of the Government, concluded an arrangement highly favourable to the colony, but one which should entail upon it the exercise of great forbearance and encouragement towards the Contractors, who, I am convinced, would not have concluded the arrangement had they not calculated upon the Government affording to them all reasonable consideration and aid.

The Government have the power of choosing between the two agreements, and of adopting either or both of them, and, whichever decision may be come to, it will be absolutely binding upon the Contractors. In negotiating with Messrs. Brogden, I took care that one of the contracts should be such as to be completely within the limits of the discretion already intrusted to the Government by the Assembly; so that, whilst the commencement of works should be secured, the adoption of the larger contract should be a matter upon which the opinion of the Assembly could be taken.

It did not escape my consideration that, possibly, the Assembly might prefer to enter into specific arrangements for the construction of particular railways, but, obviously, it was not in my power to make any such arrangements. The agreements as signed, however, not only leave to the Government absolute discretion as to the railways to be constructed, but, from the very nature of the agreements, I have pleasure in stating that, should the Government prefer, in lieu of them or either of them, to make with Messrs. Brogden specific arrangements for the construction of particular railways, there will be found, on the part of those gentlemen, every disposition to consent to such a course. In reality, therefore, what has been secured for the colony is—power for the Government to secure the construction of railways under the provisions of either or both of the agreements, or the holding of a position which enables the Government to ask Messrs. Brogden to substitute for the agreements specific arrangements for the construction of particular railways.

At New York I received a telegram from Mr. Alexander Brogden, M.P., stating that he would leave England for New Zealand on 23rd August, and asking that the decision between the agreements should be deferred until after his arrival in the colony. On receipt of that telegram I telegraphed to Mr. John Morrison, authorizing him to inform Messrs. Brogden that, although I was not able to say that the decision would be delayed, I felt sure that the desire of the Government would be to show to the Contractors every consideration consistent with the interests of the colony. In order that the Government might not be prejudiced if they delayed their decision, I asked Mr. Morrison to consult Mr. Mackrell, and to get him to procure from Messrs. Brogden such an undertaking as would, in the event of the Government consenting to await Mr. A. Brogden's arrival, secure that the rights of the Government under the agreements should not be in any way prejudiced or jeopardized. On reaching San Francisco I received from Mr. Mackrell a telegram stating that Messrs. Brogden had given such an undertaking as left the Government free to decide at once between the agreements, or to delay the decision.

I may observe that, compared with the terms offered for the large number of colonial and foreign railway enterprises that are being floated in the London market, the agreements made with Messrs. Brogden are very favourable to the colony; and I feel sure that, with proper precautions, they will lead to the construction of railways upon advantageous terms. It may be found desirable to make some alterations in the agreements; but I must repeat my conviction that any wish in that direction on the part of the Government will be readily responded to by Messrs. Brogden, who to the last expressed themselves strongly as to the terms being rather harsh towards them, and as to their hope that the agreements would be so worked out as to put them in as favourable a position as possible for giving effect to their various provisions.

I have received from the Bank of New Zealand an acknowledgment of the deposit by Messrs. Brogden and Sons of securities to the value of £25,000 for the due performance of the agreements.

Under the terms of the agreements, Mr. John Henderson, C.E., Messrs. Brogden's representative or agent, has accompanied me to the colony; and with him are Mr. C. N. Bell, C.E., and Mr. J. G. Dees, surveyor.

I have the honour to state that throughout the progress of the negotiations with Messrs. Brogden, Mr. John Morrison, Agent in London for the Government, rendered me most cordial and zealous assistance, and that I have written to him thanking him for the same.

ANTICIPATIONS LAST SESSION, AND THE TERMS OF THE CONTRACT.

No doubt, very much interest will be manifested in comparing the arrangement now entered into with Messrs. Brogden with the anticipations expressed last session as to the nature of the terms on which it would be possible to secure the construction of railways in New Zealand. It will be remembered that those anticipations were largely based upon somewhat unreliable evidence—such, for example, as newspaper reports, and brief sketches of the nature of certain arrangements proposed by other colonies. I am convinced, by inquiries which I instituted in London, that we formed a somewhat too favourable estimate of the terms upon which we might secure the introduction of a large amount of capital for constructing railways under either a system of guarantees or of land subsidies. We were under the impression, for instance, that a railway was to be constructed in Tasmania upon a bare guarantee of 5 per cent. Although, on the surface, this will appear to be the fact, I am led to believe that there are in the agreement collateral provisions which materially alter its nature. Thus, as I am told, something like £25,000 for preliminary expenses and what is sometimes called “promotion-money” is to be put down to cost of construction. Further, I am informed that the gentlemen who are entering into the arrangement at home, have sent out to the colony insisting on a provision to the effect that the amount of discount at which they may find it necessary to dispose of shares or other securities, shall be considered as a portion of the construction-money. I do not mention these things with any view of reflecting upon the agreement made by Tasmania: I merely desire that New Zealand should understand that the assertions so freely made that the construction of railways could easily be secured upon a 5 or a 5½ per cent. guarantee may be very much affected by other provisions contained in an agreement, the basis of which appears to be simply such a guarantee. Many foreign and colonial railway enterprises are being brought out in the London market, upon terms which wholly put in the shade so low a rate of guarantee as that just stated. After I left England I received from Mr. John Morrison copy of a prospectus of the Wellington, Grey, and Bruce Railway Company, of Canada, announcing the intended issue of £71,000 7 per cent. first mortgage bonds, in which it is stated:—

“Taking into account the dates of the payment of the instalments, and the fact that the full half-year’s interest will be allowed on 1st January, 1872, the price of issue is in effect reduced to 88½. At this price the bonds yield 8 per cent. to the investor, in addition to the advantage arising from the redemption fund provided under the agreements with the Great Western Railway Company, by the application of which the whole of the bonds will probably be paid off at par within fourteen years.”

LAND GRANTS IN PAYMENT.

In respect to the construction of railways for land grants, I have to observe that I am very doubtful whether we are likely to be able to arrange for the construction of any railway for such grants only, upon any approach to terms that would be deemed admissible. One of the alternative agreements with Messrs. Brogden does, as the Government will observe, provide for an arrangement based on land grants, coupled with a guarantee; only one-fifth of the land to be granted being such as would be classed as “good” land, the rest being such as it may suit the convenience of the colony to part with; and there being a clear understanding that the two million acres which it was proposed to give for the Nelson Railway might be included in the amount. Should it not be desirable to part with the Nelson land, and with other land of the same character, I do not doubt but that Messrs. Brogden would consent to receive a very much smaller quantity of good land. The land-grant element in this arrangement is no doubt of very much importance, inasmuch as it represents the profit which Messrs. Brogden hope to make, the cost of the railway being otherwise minimized as much as possible. Had I proposed that railways should be constructed wholly for land grants, I should have had to give, in some form, a guarantee as to the value of the land to be parted with. You are aware that last year Messrs. Brogden negotiated for the construction of a railway in Nelson Province, which was to be paid for wholly in land. That land was exclusively of a mineral character, and the arrangement into which Messrs. Brogden proposed to enter, but which was not carried out, really amounted to this: that, except in respect to a short railway to the coal mine, they were to take three years to examine into the character of the country, or, in colonial phrase, to “prospect” it; and that, at the end of three years, they were to be at liberty to decline to proceed further in the matter, in which event they were to be compensated for the expense to which they had been put, by being allowed to select 5,000 acres of land free of cost. So that, in reality, what the Nelson Railway agreement would have effected would have been this: Messrs. Brogden would have incurred the outlay necessary for examining and surveying the country through which the railway was to pass, they having three years for the purpose; and, in the event of their concluding that it was not worth their while to proceed with the works, they were to be recouped their expenses by a free grant of 5,000 acres of land. Thus, although the arrangement might have led to the construction of the railway for land grants only, it would not have done so unless Messrs. Brogden became satisfied that the land they would receive was specially valuable on account of minerals; and therefore the agreement was not of a character to come within the ordinary meaning of the phrase, “Railway to be constructed under land-grant system.” I am not taking any exception to the proposed arrangement. On the contrary, it was devised with much care, and would in any case have led to the opening of the Brunner mine. No doubt, railways have been, and are being, constructed under a system of land grants in other parts of the world; but in such cases the land subsidies given are enormous, the contractors are unfettered as to the character of the railways to be constructed, and considerable grants of money are indirectly obtained.

I am doubtful whether the extent of land available in New Zealand is sufficient to place the colony in the position of obtaining the construction of railways for land grants only; although I do not doubt that such portions of land as can be spared for the purpose may be employed as useful adjuncts in obtaining the railways we require.

FURTHER PAPERS RELATING TO MR. VOGEL'S MISSION TO ENGLAND.

Extract from Appendix to the Journals of the House of Representatives, A.-6A, 1871, pages 1 and 2.

Messrs. J. BROGDEN and SONS to the Hon. J. VOGEL.

SIR,—

4, Queen Square, Westminster, 14th July, 1871.

We have the honour to inform you that Mr. Morrison showed to our Mr. Alexander Brogden a telegram which he had received from you, to which we replied as follows:—

“Alexander Brogden, 4, Queen Square, Westminster, London.

“To W. H. Webb, 54, Exchange Place, New York.

“Please wire Vogel I cannot possibly leave this month. If I leave August 23rd, can question be deferred until my arrival? Answer wanted immediately.”

We have also the honour to acknowledge receipt of a copy of your telegram to Mr. Morrison, as follows:—

“Brogden telegraphs, Can choice between the two contracts remain until his arrival, he leaving August? Cannot give positive answer, beyond believing Government will desire as far as possible to consult his convenience.

“In order to give us power to wait for his arrival, he should give to Mackrell necessary authority, indemnifying us from being prejudiced by delay in deciding between the contracts. See Mackrell, and with him see Brogden; and let Mackrell telegraph me to California whether he has so arranged that by delaying decision between the two contracts we shall not prejudice our full right to decide under arrangement, or prejudice any of the rights under contract.”

To this telegram Mr. Mackrell replies as follows, by telegraph, addressed to the Bank of California, San Francisco:—

“Brogden executed duplicates, but ‘six’ substituted for ‘three’ months in last recital and clause 1 of agreement. Letter given to Bank. Government may now safely delay.

“If obliged to decide, obtain powers to agree on modifications.”

Mr. Mackrell called upon us with the duplicate deeds for signature, and after conference with him we have signed the agreement, extending the time from three months to six months in the last recital and in clause 1 of the agreement.

We have also given a letter to the Bank of New Zealand, advising them of the alteration, and authorizing them to hold the securities placed in their hands.

It is, we regret to say, perfectly impossible at the present time for our Mr. Alexander Brogden to free himself from parliamentary duties and other pressing engagements, and so to come out by the mail leaving 27th July, or possibly the following mail, leaving here 24th August.

However anxious we may be to comply with your wishes that Mr. Alexander Brogden should come, there is doubtless some uncertainty about his being able to do so, even at the later date.

One of our firm, however, will come out for the purpose of conferring upon the arrangements.

We find that the views entertained at first as to the issue of the capital have been over-sanguine even in this most favourable state of the money-market, as the opinions then expressed are not capable of realization.

We shall, however, trust to your support in favour of a modification of the terms, so as to enable us to carry out the matter to the satisfaction of all parties.

The Hon. Julius Vogel, the Treasury,
Wellington, New Zealand.

We have, &c.,
BROGDEN AND SONS.

Messrs. J. BROGDEN and SONS to the Hon. J. VOGEL.

SIR,—

4, Queen Square, Westminster, S.W., 27th July, 1871.

We have the honour to confirm our letter to you dated 14th July.

We regret that we cannot yet announce definitely that our Mr. A. Brogden will leave by next mail, the uncertainty of parliamentary proceedings being such as to prevent any definite conclusion being arrived at. It was expected that an announcement would have been made to-day as to the future course of public business, but it has been deferred until next Monday. It is however certain either that Parliament will sit for a very long period, or that it will be adjourned for an autumn session. This is a state of matters which we assure you we find highly inconvenient.

In the meantime we should suggest to you to defer the consideration of the agreements by the Assembly, if possible, until the arrival of our Mr. A. Brogden or one of the firm, since it is evident, from our further inquiries as to the terms upon which the issues of the capital for the railways can be made, that a modification of the agreement to render the terms as nearly as possible like those adopted in the case of the Indian railways will be required, in order to make them such as the New Zealand Government and we would work under.

This observation will apply to both agreements; and, with regard to the No. 2 Contract, it has been observed that the lines may be made in any locality, and the Government are not under obligation to purchase as in No. 1 Contract, so that the guarantee can be regarded as of little more value than an annuity for thirty-five years. This objection can be overcome in different ways, and without any disadvantage to the New Zealand Government.

Necessarily we were hurried in the consideration of the details of the contracts, and we find several points suggested for modification as being unusual obligations upon companies, and applicable more to contractors. These we are now studying, and Mr. Mackrell has promised his assistance, so that we hope to have the whole business in the best state of preparation possible for our Mr. A. Brogden to bring with him.

We have the honour to renew our assurance that, in carrying out these undertakings, we shall endeavour to do so to the entire satisfaction of the Government.

We learn that Dr. Featherston has arrived in England, but none of our firm have yet seen him. We shall hope to hear of your safe arrival in New Zealand.

The Hon. Julius Vogel, the Treasury,
Wellington, New Zealand.

We have, &c.,
JOHN BROGDEN AND SONS.

PRELIMINARY CONTRACTS.

Extract from Appendix to the Journals of the House of Representatives, A-6, 1871, pages 22 to 48 inclusive.

PAPERS RELATING TO MR. VOGEL'S MISSION TO ENGLAND, APPENDIX E.

RAILWAYS.

ARTICLES OF AGREEMENT entered into this 26th day of June, 1871, between Sir George Ferguson Bowen, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, and Governor and Commander-in-Chief of Her Majesty's Colony of New Zealand and its Dependencies, and Vice-Admiral of the same (hereinafter called "the Governor"), of the one part, and Alexander Brogden, M.P., Henry Brogden, and James Brogden, all of No. 4, Queen's Square, in the City of Westminster, Railway Contractors (hereinafter called "the Contractors"), of the other part.

WHEREAS by articles of agreement purporting to have been entered into on the 21st day of June, 1871, and to be made between the Governor and the Contractors, after reciting as therein is recited, it is declared that it was thereby mutually covenanted and agreed by the Governor, on behalf of himself and his successors, with the Contractors, their executors, administrators, and assigns, and by the Contractors, and each of them, for themselves, and himself, and for their respective heirs, executors, administrators, and assigns, with the Governor, his successors and assigns, in manner therein mentioned (*inter alia*), that was to say: That the Governor would, as therein mentioned, entrust to the Contractors, and they would make and execute such railways in New Zealand as the Governor might desire, and provide such plant as he might require for the same, to an extent in cost not exceeding £4,000,000. That the Governor would cause the necessary surveys, plans, and sections of the railways, the making of which was to be entrusted to the Contractors, to be prepared and deposited; and the said railway should be made in the order, and course, and generally as the Governor should direct. That, when and so soon as the plans, sections, and specifications should have been so prepared, the said railway should be divided into sections as therein mentioned, and the probable cost of making each such section, and the times within which such section should be made, should be determined in manner therein mentioned. That the Minister, thereafter defined to mean the Minister for Public Works, or other public officer at the head of that department, and the Contractors, should, before the Contractors entered upon the making of the said railways, agree upon a schedule of prices, according to which the Contractors should be paid for any deviations from the said plans and sections, or any alterations, diminutions, additions, or substitution of work or materials. That the Governor should provide all land required for the said railway as and in manner therein mentioned. That the Minister should be at liberty to direct any deviations, alterations, diminutions, additions, or substitutions to be made in, from, or to the said railway, in such manner and upon such terms and conditions as were therein particularly mentioned. That the Contractors should not make any deviations from the said plans, sections, and specifications, unless authorized as therein mentioned. That if, by reason of any deviation, alteration, addition, or substitution as aforesaid, the Contractors should be delayed in completing the said railway, or any section thereof, within the time within which the same ought to have been completed, the Contractors should be allowed an extended time to complete the same, proportioned to such delay. That the Contractors would from time to time deposit with the Colonial Treasurer the probable amount which they would require to expend in New Zealand during the then next three calendar months, to be estimated in manner therein mentioned, which should from time to time be paid out to them as the works progressed, upon certificates, as therein mentioned, of the Engineer (the meaning of Engineer being therein defined). That all the railways should be made in strict accordance with the said plans and specifications, and to the satisfaction in all respects of the Engineer, and within the time therein mentioned or referred to. That the Contractors should provide all such plant (which term is therein defined to mean engines, rolling stock, fixed stock, and machinery for the working of and carrying on of traffic upon the railways) as and in manner and upon the terms therein particularly mentioned, and should pay for the same out of their own moneys. That the Contractors should keep and maintain the railways in thorough efficient working order, and properly work the same, and run such number of trains, and charge such fares and rates, as are therein also particularly mentioned. And by the said articles of agreement provision is made that in case the Contractors, or either of them, should become bankrupt or insolvent, or make any composition or arrangement with their creditors, or should not carry on the said works with due diligence, after notice as therein mentioned, the Governor might determine the now reciting agreement as regards the said railway, or any section or sections thereof, not then completed and open for traffic. And it is by the said articles of agreement further declared that it was agreed that the Contractors should in all things abide by, comply with, and conform to all such laws, regulations, and by-laws as were therein mentioned or referred to, and would make compensation to all persons who might sustain injury or loss through the negligence or wrongful act of the Contractors in making or working any of the said railways. And, further, that the Contractors should not assign or sublet the now reciting contract without such approval, and subject to such conditions as were therein mentioned; and after providing for the furnishing of proper accounts relating to the said railways by the Contractors to the Governor, and that the latter might deduct out of any moneys in his hands belonging or payable to the Contractors all sums payable by them to him under the now reciting articles of agreement, and after

providing for the settlement of disputes and certain other matters therein mentioned by arbitration, as and in manner therein particularly mentioned, provision was expressed to be made for the personal indemnification of the Governor in respect of the execution or ratification by him of the now reciting articles of agreement: And whereas by other articles of agreement, purporting to have been entered into the 22nd day of June, 1871, and also made between the Governor and the Contractors, after reciting as therein is recited, it is declared that it was thereby mutually covenanted and agreed by the Governor, on behalf of himself and his successors, with the Contractors, their executors, administrators, and assigns, and by the Contractors, and each of them, for themselves and himself, and for their respective heirs, executors, administrators, and assigns, with the Governor, his successors and assigns, in manner therein mentioned (*inter alia*), that was to say: That the Governor would entrust to the Contractors, and they would make and execute, such railways in New Zealand as the Governor might desire, and provide such plant as he might require for the same, the total cost whereof should amount to not less than £500,000, and after providing in terms similar to those expressed and contained in the lastly recited articles of agreement for the following matters, namely, the making of the necessary surveys, plans, sections, and specifications for such railways, the agreement upon a schedule of prices previous to the entering upon the making thereof, the providing of land by the Governor for such railways, the right to direct deviations, alterations, diminutions, additions, or substitutions in, from, or to any such railways, the not making any deviations from the said plans, sections, and specifications, the extension of time, the deposit by the Contractors with the Colonial Treasurer of the probable amount of expenditure during the then next three succeeding calendar months, and the payment out to them of the same moneys as the works progressed, the making of such railways in strict accordance to the plans and specifications, and to such satisfaction and within the times therein mentioned, the providing plant for the same, the keeping and maintaining the railways in thorough efficient working order, and the properly working of the same, the provision in case of the bankruptcy, insolvency, or otherwise of the Contractors or either of them, and also in case of their not carrying on the works with due diligence, or making default in properly maintaining the railways and works; the complying with and conforming to all such laws, regulations, and by-laws as were therein mentioned or referred to, the making compensation to persons who might sustain injury or loss through the negligence or wrongful acts of the Contractors in making or working the railways; and the prohibition against assigning or subletting the now reciting articles of agreement without approval. And it is in and by the said articles of agreement now in recital further expressed to be provided and agreed in terms similar to those expressed and contained in the lastly-recited articles of agreement, for the following matters, that is to say, the furnishing proper accounts, the right of the Governor to deduct, out of moneys in his hands belonging or payable to the Contractors, all sums payable by them to him under the now reciting agreement, the settlement of disputes and other matters by arbitration, and for the personal indemnity of the Governor: And whereas it is in consequence of certain negotiations which had taken place between the Honourable Julius Vogel, the Colonial Treasurer of New Zealand, acting as on behalf of the Governor and the Contractors, that the said recited articles of agreement were prepared and have been executed by the Contractors: And whereas the Contractors have also, in consequence of the said negotiations, deposited with the Bank of New Zealand, on behalf of the said Julius Vogel, as such Colonial Treasurer, and acting as on behalf of the Governor, certain securities for securing the sum of £25,000: And whereas the said articles of agreement have not, nor has either of them, been as yet executed by the Governor, and the said Julius Vogel had not nor has authority to enter into an agreement on behalf of the Governor with the Contractors, upon the terms contained in the said articles of agreement, or either of them, or to execute, on behalf of the Governor, the said articles, or either of them or these presents, but he has nevertheless agreed, that in token of his approval he will execute these presents as on behalf of the Governor: And whereas he has further agreed that he will procure the Governor to execute one or both of the said articles of agreement within the period of three calendar months hereinafter mentioned, and these presents as soon as possible after the same shall have arrived in the said colony: Now these presents witness that the Governor (as far as he lawfully can or may, under or by virtue of any Act or Acts of the General Assembly of New Zealand, and so far as he may be hereafter empowered by the General Assembly of the said colony, but not further or otherwise), for himself and his successors, all of whom are hereinafter included in the expression "the Governor" (so far as the agreements hereinafter contained are to be observed and performed on his and their parts respectively), agree with the Contractors, their executors, administrators, and assigns. And the Contractors and each of them, for themselves and himself, and their respective heirs, executors, administrators, and assigns, so far as the covenants and agreements hereinafter contained are to be observed and performed, on their parts do and doth hereby covenant and agree with the Governor, his successors and assigns, in manner following, that is to say,—

1. The Governor will, within a period of three calendar months from the time when the said articles of agreement shall have arrived in the said colony, execute one or both of them; and until the expiration of the said period, both of the said articles of agreement shall be binding upon the Contractors as fully as if the Governor had executed both of them; and after the expiration of the said period then, as the case may be, both, or if the Governor shall have executed one only of the said articles of agreement, such one only shall be binding upon the Contractors.

2. The part which the Governor shall execute of one or both of the said articles of agreement, as the case may be, shall be delivered to the agent (if any) of the Contractors in the said colony, or be forwarded to them in England; and the part thereof executed by the Contractors shall be retained by the Governor.

3. The Contractors will, within one calendar month after the date of these presents, deposit with the Bank of New Zealand, on behalf of the said Colonial Treasurer, the sum of £25,000 in lieu of the said securities so deposited as above recited; and, in case of default, the Contractors will, upon request, execute to the Colonial Treasurer for the time being of the said Colony of New Zealand, his successors in office and assigns, a valid assignment of the securities so deposited as above recited, upon trust thereout by sale or mortgage of the same, to raise the sum of £25,000.

4. The sum of £25,000, so secured by deposit of securities as above recited, shall continue to be so secured until the Contractors shall deposit the said sum of £25,000 as aforesaid, or until the same sum shall be so raised as aforesaid; and the same sum, when so deposited or raised as aforesaid, shall, at the risk of the Contractors, be invested from time to time in such securities as the Agent-General, or other officer for the time acting in England on behalf of the Governor and the Contractors, shall from time to time agree upon.

5. The Colonial Treasurer for the time being shall, on behalf of the Governor, hold the said sum of £25,000, and all securities for the same to that extent in value, as a security for the due performance and fulfilment by the Contractors of the covenants and agreements by and on the part of the Contractors respectively contained in the said articles of agreement, or such one of the same as the Governor shall have so executed, with reference to the making and completing the railways, and the providing the plant for the same, as in the same articles of agreement respectively mentioned.

6. If the Engineer mentioned in the said articles of agreement respectively, or such one of them as shall be executed by the Governor, or the Minister to whom appeal from the Engineer lies, according to the same articles, shall have given his certificates or certificate that all the railways to which both or such one of such articles of agreement as the case may be relate or relates, have been made and completed to his satisfaction, and that all the plant for the same has been provided, and delivered and placed on the same, then, immediately after the giving of such certificates or certificate, the said sum of £25,000, and all securities for the same, shall, at the expense of the Contractors, be transferred and delivered to them, or to such person or persons as they shall direct.

7. If default shall be made by the Contractors in the due performance and fulfilment of all or any of the covenants and agreements in the said recited articles of agreement, or such one of the same as may be executed by the Governor as aforesaid, as the case may be, respectively contained with reference to the making and completing of all the railways to which the said articles of agreement shall relate, and the providing the plant for such railways, then immediately thereupon the said sum of £25,000, or securities as aforesaid to the extent in value of £25,000, and no more; and all dividends, interest, and moneys thenceforth to become due and payable on or in respect of the same shall become absolutely forfeited to the Governor for the use of Her Majesty; but all surplus securities beyond the value of £25,000 shall be handed over to the Contractors.

8. Until and unless the said sum or securities shall become forfeited to the Governor, as last aforesaid, all dividends and interest which shall from time to time accrue and become due and payable, and be actually received by or on behalf of the Governor or the Colonial Treasurer for the time being, on or in respect of any such securities as aforesaid shall, from time to time as and when the same shall be so received, be paid to the Contractors or to such person or persons as they shall direct.

9. The Governor, by executing these presents or ratifying or confirming the same, shall bind only the Colony of New Zealand, and shall not be deemed to have bound himself personally, or to have incurred any personal responsibility or liability whatsoever; and no action or suit, at law or in equity, or other proceeding whatsoever shall be brought or taken against the Governor in respect of these presents elsewhere than in the said colony, nor in the said colony, unless by some Act or law of the said colony it is now or shall hereafter be provided that actions, suits, or proceedings, in respect of contracts entered into by the Governor on behalf of the colony, may be brought or taken against the Governor as a nominal defendant.

10. The said Julius Vogel shall not, by reason of his having entered into such negotiations as are hereinbefore referred to, or of his executing these presents, incur, or be taken to have incurred, any responsibility or liability whatsoever.

11. The above recitals shall not be held or construed in any manner or to any extent to vary or affect the said recited articles of agreement.

In witness whereof the Governor hath hereto set his hand and seal of office, the said Julius Vogel hath hereto set his hand, and the Contractors have hereunto set their hands and seals the day and year first above written.

No. 1.

ARTICLES of AGREEMENT entered into this 21st day of June, 1871, between Sir George Ferguson Bowen, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, and Governor and Commander-in-Chief of Her Majesty's Colony of New Zealand and its Dependencies, and Vice-Admiral of the same, of the one part; and Alexander Brogden, Esquire, M.P., Henry Brogden, and James Brogden, all of No. 4, Queen's Square, in the City of Westminster, Railway Contractors, of the other part.

WHEREAS by "The Immigration and Public Works Act, 1870" (and subject to the provisions of that Act), the Governor is empowered (section 12) to construct or cause to be constructed any lines of railway which shall be prescribed by the General Assembly as railways to be constructed under that Act, and to acquire the necessary engines, plant, and machinery for working and using the same or any of them, and (section 13) by Proclamation published in the *New Zealand Gazette* to declare and define the limits and description and line of such railways, and the lands proposed to be taken for the purpose of the same (subject to the provisions of any Act defining such limits and descriptions), and (section 15) to contract to pay for such works in money, or by grant of any lands which he may be authorized by law to contract to grant as compensation for such works, or to agree (on such terms as he shall think fit) to let or rent such railway, or guarantee to the Contractor or his assigns a certain amount of profits on the working thereof, or (on such terms as he may think fit) to pay an annual or other sum as subsidy for the construction or working thereof, or (on such terms as he shall think fit) to sell or purchase such railway when constructed, and in such case, either with or without conditions, for the repurchase thereof, or that any such agreement may include any or all of such arrangements, or any other arrangement which in the opinion of the Governor shall be calculated to carry out the object of the Act, and not conflict with the same. And (section 39) the Governor is

empowered to enter into such contracts as may seem proper with any person or persons within or without the colony for the selection of, conveyance to, or settlement in any province of the colony of such classes of immigrants and in such numbers as the Superintendent of such province shall request, and any such contract may or not (as the Governor shall think fit) form part of any contract for the construction of any railway which the Governor is by that Act authorized to construct, or may provide for compensating the person with whom the contract may be made, by guaranteeing to such person an agreed amount of interest not exceeding 6 per cent. per annum on moneys expended by such person on or about such purposes as aforesaid, and guaranteeing repayment of the principal moneys so expended: And whereas by "The Railways Act, 1870," the Governor is empowered (section 3) under the provisions of the said firstly recited Act to contract or enter into arrangements with any person for the construction of all or any of the railways mentioned in the First Schedule to the now reciting Act, by guaranteeing to such person, during a period not exceeding thirty-five years, a minimum rate of interest not exceeding £5 10s. per cent. per annum of the cost of construction, at a rate per mile not exceeding that in the First Schedule set opposite to the name of each railway, and (section 4) subject to certain conditions such as are incorporated in this contract: And whereas by "The Immigration and Public Works Loan Act, 1870," the Governor is empowered to borrow and raise certain money as therein mentioned not exceeding £4,000,000 for all or any of the purposes mentioned in the Schedule hereto, which Schedule specifies the sum of £2,000,000 for such railways as shall from time to time be determined by the General Assembly, including the expenses of raising the part of the loan, and specifies the sum of £1,000,000 for "Immigration, including expenses as aforesaid." And whereas, with a view to the exercise by the Governor of this power, conferred on him by the said Acts, and of such further or other powers as may be conferred upon him by the General Assembly of New Zealand, he has entered into arrangements with the Contractors for their making railways in and introducing immigrants into New Zealand, upon the terms and in the manner hereinafter set forth: Now these presents witness that the Governor (so far as he lawfully can or may under or by virtue of the said recited Acts or otherwise, and so far as he may be hereafter empowered by the said General Assembly, but not further or otherwise), for himself and his successors (all of whom are hereinafter included in the expression "the Governor"), so far as the covenants and agreements hereinafter contained are to be observed and performed on his and their parts respectively, doth hereby covenant and agree with the Contractors, their executors, administrators and assigns (all of whom are hereinafter included in the expression "the Contractor"), and the Contractors, and each of them, for themselves, and himself, and their respective heirs, executors, administrators, and assigns (so far as the covenants and agreements hereinafter contained are to be observed and performed on their parts), do and doth hereby covenant and agree with the Governor, his successors and assigns, in manner following (that is to say),—

1. In the construction of these presents the following words and expressions have the following meaning, unless such meaning shall be inconsistent with the context: the expression "Minister" means the Minister at the head of the Department of Public Works, by whatever title he may be from time to time designated, or the President of the Board of Works, as the case may be; "Engineer" means the Engineer whom the Governor shall appoint to be, or whom the Minister shall from time to time direct the Contractors to treat as, the Engineer acting on behalf of the Government in relation to any railway or any section thereof to which these presents relate, or to any particular class of works upon, or to plant intended for, any such railway, or any section thereof, and it shall, if the Governor so direct, include also "the Minister," and, as to the plant, the Agent-General or other Crown official in England of the Colony of New Zealand. The words "railway" and "railways" include not only the railway and permanent-way, but all stations, buildings, approaches, and other works shown upon or described in the plans and sections, or specifications, as works to be constructed by the Contractors, and at least a single-wire telegraph throughout the whole length, with all proper apparatus for working the same; and the expressions "make the said railway," or "make a section of the said railway," or any similar expression, shall include not only the making the railway and laying down the permanent-way, but the building of stations, the making of approaches, and the doing of all works shown upon, or described in the plans and sections, or specifications, and such telegraph and apparatus as aforesaid, but not the providing of plant. The expression "plant" means engines, rolling and fixed stock, and machinery required for using and working the said railways.

2. The Governor will, within eight years from the date of these presents, entrust to the Contractors the making of railways in New Zealand, and the providing of all plant for such railways, to the extent in total cost of £4,000,000; and the Contractors will, to the extent aforesaid, make all such railways and provide all such plant as the Governor shall require them to make and provide during the said period of eight years. The Governor may also entrust to any other person or persons, body or bodies politic, or corporate, the making of any railways or the providing of plant for the same.

3. The Governor will cause the necessary surveys, and plans and sections of the railways, the making of which shall be so entrusted to the Contractors, to be prepared, deposited, and proclaimed, and the Contractors will make and construct each of such railways in the order and course, and upon such terms and conditions relating to the making and constructing, and the materials for the same (such terms and conditions not being inconsistent with any of the provisions herein contained), and under and according to such specification or specifications of the works and materials for the same, as the Governor shall from time to time direct.

4. When and so soon as the plans, sections, and specification or specifications of any railway, and such working plans and sections as shall be requisite to enable the probable cost of such railway to be ascertained, shall have been prepared, the railway shall be divided (as the Governor shall direct) into lengths of ten miles or as near thereto as conveniently may be (which lengths are hereinafter referred to by the expression "section" or "sections"), and each section shall be distinguished by a separate number.

5. The probable prime cost to the Contractors of making each section of such railway, and the time within which each section shall be made and completed, shall with all convenient despatch be determined by agreement between the Minister and the Contractors, or, in case they shall not agree,

by arbitration as hereinafter provided for, and, in determining such probable prime cost, allowance shall be made to the Contractors in respect of loss during construction of interest on the capital, which it will be necessary for them to expend in making the railways, not, however, reckoning interest on any capital to be repaid by payments on account of "the subvention" hereinafter mentioned from the times when it is estimated that such payment will be made. Such probable prime cost, including therein such allowance as aforesaid, with a profit for the Contractors of 5 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 should 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 purpose 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 sections 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 Nos. 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.

14. The Contractors will be responsible for and make good any damage which may arise to any railway or any section thereof, or any plant, within twelve calendar months after the same shall have been completed and opened for public traffic in case such damage shall, in the opinion of the Engineer, arise from defective construction or materials or improper workmanship; and no addition shall be made to "the total cost" on account thereof; but if any such damage (the making good of which would not, in the opinion of the Engineer, come under the head of ordinary repairs) shall arise within such period or at any time afterwards by reason of storms, floods, insufficiency of design, or war, or disturbances in the colony, the Contractors will make good all such damage with all convenient despatch to the satisfaction of the Engineer; and if after any such railway or any section thereof, as the case may be, shall have been opened for traffic the Governor shall at any time or times require that any further or altered works shall be executed for the better working and using of the same for the purposes of public traffic or otherwise, the Contractors will execute the same according to plans and specifications to be prepared or approved by the Engineer, and the amount of the cost which shall be incurred by the Contractors in making good any such damage as last aforesaid, or in executing such further or altered works (such amount to be agreed upon between the Governor and the Contractors, or determined by arbitration), shall from time to time be added to "the total cost of the said railway," or "the total cost" of any section thereof, as the case may be, and included in the capital account hereinafter mentioned.

15. The Contractors will provide all such plant as the Governor shall require them to provide for the working and carrying on of traffic upon any railway or any section thereof which may be about to be opened for public traffic according to such drawings and specifications as the Governor shall direct (adopting, so far as he may think fit, any recommendation of the Contractors), and the Contractors will cause the same to be placed upon the said railway or section, as the case may be, in all respects complete and ready for use seven days at least before the time appointed by the Governor for the opening of such railway or section thereof, as the case may be, for public traffic; and in case after such railway or any section thereof shall have been opened for public traffic the Governor shall consider it necessary or expedient that any further or other plant should be provided for such railway or section, as the case may be, the Contractors will find and provide the same with all reasonable despatch after receiving notice from the Governor requiring the same to be provided, all which further or other plant shall be in strict accordance with such drawings and specifications as the Governor shall direct (adopting, so far as he may think fit, any recommendation of the Contractors), and all such plant shall be in all respects to the satisfaction of the Engineer.

16. When the drawings and specifications shall have been settled and furnished to the Contractors, they will obtain tenders for the supply of each description of plant from not less than six respectable and responsible persons, whose names shall have been previously submitted to and approved by the Engineer in England, if such number shall be found willing to tender, or, if not, then from as many of them as shall tender, such tenders to be based on the terms of payment in cash, and for delivery and approval in England; and, when the tenders shall have been received, the Engineer in England and the Contractors shall, having regard to the said tenders, agree as to the cost to be incurred in obtaining the various descriptions of plant respectively, and the amount so agreed upon, or, in case the Engineer and the Contractors shall not agree, determined by arbitration, with all charges and expenses of approval of plant, and for transport in England, shipment, freight, insurance, and landing and transport, and erecting and fitting, in the colony, which the Contractors shall incur, together with interest thereon at the rate of £5 per cent. per annum from the dates of payment for the same by the Contractors until the plant shall be used, and together with £5 per cent. on such agreed amount, charges, and expenses (but not on the said interest) for or by way of Contractors' profit, shall be deemed to be "the cost of the plant," and shall be added to "the agreed cost," and form part of "the total cost" of the section, as hereinbefore provided, and shall be included in the capital account hereinafter mentioned. If it is intended that the plant shall be used in the working of and carrying on traffic upon more than one section, "the cost of the plant" may, at the option of the Minister, either be charged against any one section, or a proportionate part of the cost may be charged against all the sections in the working of and carrying on traffic upon which it is intended that the plant shall be used.

17. The Contractors shall not be bound to accept any of the tenders so received by them, and in no case shall they be allowed any profit upon the plant beyond the said profit of £5 per cent.; but any commission, discount, allowance, or proportion of profit which may be paid or allowed by the manufacturers of the plant, or any part thereof or otherwise, shall be deducted before the cost of plant shall be added to "the agreed cost."

18. The Contractors will, out of their own moneys, pay for all manufactured materials and plant which it shall be necessary or expedient to obtain in England.

19. Any expense which the colony may incur in approving the plant or any manufactured materials in England shall be repaid by the Contractors to the Governor upon demand; and the same shall be added to the agreed cost, and form part of the total cost of the section as hereinbefore provided, and shall be included in the capital account hereinafter mentioned.

20. The Contractors will keep a proper capital account relating to the construction of each railway to be made by them, and relating to the original cost of plant, to be called "The Railway Capital Account," to which the total cost of all moneys expended on capital account shall from time to time be carried; and such account shall be so prepared and kept as to distinguish, as far as practicable, the expenditure in respect of each section of such railway; and when and so soon as such railway or any section or sections thereof shall have been completed and furnished with the

necessary plant, and opened for public traffic, the said capital account shall from time to time be made up, and a copy thereof shall be transmitted to the Governor, who shall cause the same to be examined, and if they shall be found to be correct will approve of the same, having the right to cause any corrections or disallowances to be made therein which he may consider to be necessary or proper, and such account, when approved, shall be conclusive as to the total cost of each railway or section or sections so opened for public traffic; and thenceforth, and from the opening of such railway or section or sections, as the case may be, the Contractors will pay the cost of maintaining the same with the plant in good working condition. But upon any additions, restorations, alterations, or improvements being made by agreement between the Governor and the Contractors to, of, or in such railway, section or sections, or plant, the cost whereof shall be properly chargeable to capital account, the cost necessarily incurred in executing such additions, restorations, alterations, or improvements shall be added to and included in the said capital account, and the said capital account shall from time to time be made up and stated afresh as occasion shall require, and be examined and approved accordingly: Provided that, if in any such capital account the Governor shall make a disallowance or disallowances to the extent of £500, the Contractor may require to have it referred to arbitration whether or not the same should to any, and, if any, what, extent prevail, and the account shall be rectified according to the award.

21. The Contractors will keep and maintain such railway, or section or sections thereof, so opened for public traffic in thorough efficient working order, and will properly work and use the same, and run thereupon not less than two trains each way daily, unless the Governor otherwise direct, and such further number of trains as the Governor may from time to time direct, and will not charge in any case rates for the conveyance of passengers or of cattle, minerals, goods, or any other thing below such minimum or in excess of such maximum fares and rates as may from time to time be fixed by the Governor in Council: Provided always that the Contractors may, if they think proper, require that it shall be decided by arbitration whether the expense of running any further number of trains is one which they ought reasonably be called upon to bear; and in such case it shall be decided by arbitration whether the Contractors shall be bound to run any, and, if any, what further number of, trains, and on what terms: Provided also that if and whenever the said minimum or maximum fares and rates are objected to by the Contractors, while the earnings of the railways are sufficient to relieve the Governor from any payment under the guarantee of interest hereinafter contained, they shall be settled by arbitration in the manner hereinafter mentioned.

22. The Contractors will, in such forms and under such heads or divisions as shall be from time to time prescribed by the Governor, keep accounts of all receipts and payments whatever in respect of such railway, or any section or sections thereof which may for the time being be opened for public traffic (except such receipts and payments as properly belong to capital account hereinbefore agreed to be kept), and such accounts shall be called "The Revenue Account of the Railway," and shall be made up half-yearly to the 30th day of June and the 31st day of December in every year, or to such other days in the year as the Governor shall from time to time appoint, and shall be regularly transmitted to the Governor, who shall cause the same to be examined, and if they shall be found to be correct will approve of the same, having the right at all times to cause any corrections or disallowances to be made therein which he may consider to be necessary or proper; and the Contractors will produce all such vouchers or other evidence as the Governor shall from time to time require to verify every such account. The account when so made up, examined and approved, shall be conclusive between the Governor and the Contractors as to the result of the working and carrying on of traffic on the said railway, or any section or sections thereof, as the case may be, during the time stated in such half-yearly account: Provided that, if in any such half-yearly account the Governor shall make a disallowance or disallowances to the extent of £500, the Contractors may require that it shall be referred to arbitration, whether or not the same should to any, and, if any, what, extent prevail, and the account shall be rectified according to the award.

23. The Contractors will collect all fares, rates, and freights for the conveyance of passengers, cattle, minerals, goods, and other things, and will at such periods, and in such form as they may be required by the Governor so to do, and in addition to the said capital and revenue accounts respectively, furnish him with a statement in detail of the amount of such fares and freights, and of all other sums of money received by them in respect of every such railway, or any section or sections thereof so opened for public traffic, and of the amounts expended by them from time to time, subsequent to the opening of the same for public traffic, in the repair and maintenance and otherwise of the said railway, or any section or sections thereof, as the case may be, and in repairing and replacing the plant belonging thereto, and in working expenses, and will at all reasonable times permit every person or persons appointed by the Governor to inspect their books of account and all vouchers and other documents relating to such receipts or expenditure, and take copies of the same, and furnish all such information in relation to the same as may at any time be reasonably required.

24. The rates of speed to be maintained in running trains shall be (including stoppages) not less than ten miles an hour on railways the agreed cost of making which shall not exceed £3,000 per mile, and not less than fifteen miles an hour on railways exceeding that cost, and not exceeding £4,000 a mile, and not less than twenty miles an hour on railways exceeding that cost, except over any part or parts thereof respectively where in the opinion of the Governor the gradients or curves do not justify so high a rate of speed.

25. The Contractors will provide conveyances for, and convey upon the railways, the members of the General Assembly and Provincial Councils at all times, and all military police and other forces when proceeding on duty, and all public mails in the ordinary trains, at 25 per cent. below the ordinary fares and rates, and in the event of war or civil commotion will, on the requisition of the Governor, place the whole of the resources of the railways at his disposal at the charges actually incurred.

26. The Governor, by his officers, shall have power at all reasonable times to enter into and upon the said railway, or any part or parts thereof, to establish and lay down or erect new or enlarge existing lines of electric telegraph, and erect new or enlarge existing telegraph stations, and to use such lines and stations without any charge, but not so as to obstruct the traffic on the said railway in such laying down and erecting.

27. If the Contractors shall do any of the following things, viz.,—

- (a.) Become bankrupt or insolvent, or make any general composition or arrangement with their creditors while any section of a railway which they shall be making shall be incomplete;
- (b.) Fail to complete (unless delayed by storms, floods, insufficiency of design, war, or disturbances in the colony, or by other causes entitling them to an extension of time for completing) the railways respectively entrusted to them within the time fixed for their completion, or within an extended period equal in duration to the period during which they were so delayed as aforesaid;
- (c.) Fail, while any of the railways entrusted to them are incomplete, to carry on the works with due diligence after reasonable notice from the Minister specifying the nature and extent of the failure imputed to them, and the rate of progress which, in the opinion of such Engineer, is necessary to enable them to complete the railways within the respective times fixed for their completion, or within the respective extended period aforesaid, where they are entitled to such extension:

And if the Engineer and Minister shall certify to the Governor that it is, in their judgment, expedient so to do, the Governor may cause notice to be given to the Contractors of his intention to determine this contract as to any section or sections of any railway as to which it shall not have been performed, and in that case this contract shall to that extent cease and determine, subject nevertheless to the other provisions herein made with respect to that event: Provided that the Governor shall not in the event (b) so determine this contract until the expiration of three calendar months after he shall have given notice to the Contractors of his intention to do so, nor unless the railway shall then remain uncompleted.

26. In case of such determination of this contract as aforesaid, the Governor may or may not, as he may think fit, take possession of all or any of the sections referred to in such notice, and also of any complete section or sections of such railway which he shall consider it desirable to take possession of and use in connection with any of the sections included in such notice, and of the plant belonging thereto, and in such case this contract shall also cease and determine in respect of any such completed section of the said railway and the plant belonging thereto, and the Governor shall accept all plant which at the time of the determination of this contract shall be *in transitu* from the manufacturers thereof in Europe, or in course of construction by them, in pursuance of previous orders, for the section or sections of railway so taken possession of, and the Governor may also take possession of all the Contractors' working plant, materials, and chattels upon all the said railways, or section or sections thereof of which the Governor shall take possession, and thereupon the Contractors will deliver to the Governor all plans, sections, drawings, and specifications in any way relating to such railway section or sections.

29. In case of and upon such determination of this contract to the extent aforesaid, the section or sections of such railway then completed and opened for public traffic not taken possession of by the Governor as aforesaid, and the plant belonging thereto, shall be deemed to be the only section or sections of such railway and plant to which the provisions of this contract with respect to the guarantee of interest or profit on the total cost thereof, and to the grant of land, and to the purchase by the Governor of the Contractors' rights and interest, and to the payment of the subvention, and to the division of the surplus net receipts beyond what is sufficient to pay a given rate of interest or profit on the total cost, shall apply, and the said provisions shall remain in force with respect to such section or sections of the said railway and the plant belonging thereto.

30. In case of and upon such determination of this contract, the Contractors shall be entitled to receive from the Governor payment for the said railway or the section or sections thereof so taken possession of as aforesaid, and for the plant belonging thereto, and for the plant *in transitu* or in course of manufacture for the same when delivered (but not for the Contractor's working plant, materials, and chattels), as hereinafter mentioned, that is to say, in respect of any section or sections of the said railway, which had been completed, and the plant belonging thereto, such a sum or sums as the Governor would have had to pay on purchase of the same, under the other provisions of these presents, but deducting therefrom any sum or sums paid by the Governor to the Contractors as the subvention in respect thereof, and in respect of any section or sections of the said railway not completed, such a sum or sums as, with the sum or sums paid on account of the subvention in respect thereof, shall be equal to the sum or sums at any time deposited by the Contractors with the Colonial Treasurer in respect thereof, according to the provisions in that behalf hereinbefore contained (so much of the sum or sums so deposited as shall not have been paid to the Contractors upon the certificate or certificates of the Engineer becoming the absolute property of the Governor), and in respect of the plant *in transitu* or in course of manufacture, the costs thereof, as fixed under clause No. 16 of these presents, together with such charges, expenses, and interest as mentioned in the same clause, but without any percentage of profit added thereto. All such payments to be made in New Zealand Government debentures, payable at the end of thirty years, with interest thereon in the meantime, at the rate of £5 per cent. per annum from the date of taking possession.

31. Provided that if in the event mentioned in clause No. 72, subsection (a), the Governor shall cause such notice to be given as firstly in such clause mentioned, the assignees or trustees of the Contractors shall have liberty at any time within twelve calendar months after the giving of such notice to take up and proceed to complete and carry out the works, and to provide the plant in respect of the section or sections of the said railway included in such notice, and if within such period such assignees or trustees shall repay, or cause to be repaid to the Governor all sum or sums of money which the Governor shall in his absolute discretion have thought fit in the meantime to expend, and shall have expended upon the same, and upon any other section or sections of which he may have taken possession as hereinbefore authorized, or in providing plant for the same respectively, less the amount of all such sum or sums of money which the Governor would have paid to the Contractors as the subvention in case the Contractors had duly proceeded with the making of the section or

sections included in the said notice, and in providing the plant for the same, and shall either themselves enter into or procure some respectable and responsible person or persons, to be approved by the Governor, to enter into a proper contract with the Governor in substitution, as regards such section or sections, of these presents, then the Governor will give possession to the person or persons entering into such contract with him of the said railway, or the section or sections thereof of which he shall so have taken possession, and of the plant belonging thereto respectively.

32. If and whenever the Contractors shall make default in properly maintaining any railway or any section thereof when completed (other than such as may have been taken possession of by the Governor under any provision hereof), or in properly providing the plant for the same, and keeping the plant provided in good and sufficient working order and condition, or in properly working and using the said railway or section, as the case may be, it shall be lawful for the Governor to direct the necessary repairs to be done, as well to such railway or section, as to the said plant, and to supply any plant which ought to have been but shall not have been supplied, and to replace any of the plant that may be worn out by others of the same or a similar description, and dispose of the old plant, and, at the cost of the Contractors, to enter upon, use, and work so much of such railway or section, as the case may be, and the plant belonging to the same, as the Governor shall, from time to time, think fit to use and work. And the Contractors will upon demand repay to the Governor all moneys expended by him in and about any of the matters aforesaid, provided that if by the moneys which shall be received from such working and using of such railway or section, and from the disposal of all plant, or by the Contractors, the Governor shall, within six calendar months, have been repaid all moneys expended by him under this clause, the Contractors shall be reinstated in the possession of the said railway or section and plant, provided also that the Governor will, until the expiration of such period, from time to time render to the Contractors accounts of his receipts and payments under this clause.

33. The Contractors will in all things abide by, comply with, and conform to all the laws and regulations for the time being in force in New Zealand, and also all such general regulations and by-laws for the maintenance of order and securing the safety of the public, as the Governor shall from time to time frame and establish, and will make compensation and satisfaction to all persons who, according to law, may be entitled to compensation or satisfaction for or in respect of any injury or loss sustained by them in their person, property, or otherwise, through or in consequence of any negligence or wrongful act whatsoever on the part of the Contractors in making the said railway, or any part thereof, or in working or carrying on traffic thereupon.

34. The Contractors will not assign or sublet this contract, or any part thereof, without the approval of the Governor, but with such approval and subject to such conditions as he may impose, they may assign or sublet the same, or any part thereof, to one or more company or companies in England or in the said colony, in which case such company or companies shall enter into a formal contract or formal contracts with the Governor to secure the due observance and performance by it or them of the stipulations herein contained, and in any such contract or contracts provisions shall be made that the Governor shall have a right from time to time to appoint an *ex-officio* director upon the board of directors of each such company in London or elsewhere in England, and also upon the board (if any) in the colony, and that each of such *ex-officio* directors shall rank as and be one of the board of directors of the company, and be entitled in all things to act as such, and to exercise at his discretion a right of veto at all proceedings whatsoever of the board (except proceedings for the purpose of communicating with the legal advisers of the company), and shall not be removable except by order of the Governor; no such director, however, being entitled to any salary from the company; and also the company shall record and keep in proper books for the purpose full and particular accounts of all their transactions and proceedings, so as at all times to exhibit thereby fully and truly the state of their affairs and proceedings, and also that any person or persons appointed by the Governor in that behalf shall, at all reasonable times, have full access to the books, accounts, papers, and documents of the company (except communications with the legal advisers of the company on matters in difference between the Governor and the company), and power to make copies of or extracts from the same; and also that as between the Governor and the company or companies respectively, only such charges of management shall be allowed out of or against revenue account as shall from time to time be approved by the Governor; and in any such contract or contracts provision shall be made for such sums for expenses of direction and management of the company during the construction of a railway, being added to the total cost, as shall be approved by the Governor: Provided that this clause shall not prevent the employment by the Contractors of competent sub-contractors in the execution of the works under them, or in the maintenance of the same.

35. The Governor will grant to the Contractors land situate in such locality or localities as the Governor shall in his discretion think fit, at the rate of three-quarters of an acre for every pound sterling of "the total cost" of each and every section completed and open for public traffic as aforesaid, according to the accounts as made up and approved as aforesaid, up to the time of opening the same for public traffic, and one-fifth part of the whole quantity of land so to be granted shall be suitable for settlement, and for settlers to take immediate possession of. Such portions of the land suitable for settlement as are from time to time required for immigrants shall be granted as and when required. The residue of the land in respect of each section of a railway shall be granted on the giving of the Engineer's certificate of the completion thereof. When a railway shall have been decided upon the Governor will set apart the land out of which the grants in respect of the same are to be made. And if, after the Contractors shall have entered upon the making of any section and before the same shall be completed, the Governor can conveniently do so, he will provide all such land as aforesaid, and permit the Contractors to occupy, use, and enjoy the same, but no grant of such land, except what is required for immigrants, shall be made until the Engineer shall have certified as last aforesaid.

36. The Governor will from the time of the opening of any railway or any section thereof for public traffic, and thenceforth half-yearly until the expiration of forty years, to be computed from the time of the commencement of each said railway, or until the payment at an earlier period by the Governor for the right and interest of the Contractors in such railway, or any section or sections

hereof, as the case may be, and in the plant belonging thereto, pay to the Contractors such a sum as, with the net receipts from all the said railways or sections thereof constructed under the provisions of these presents which shall have been opened for public traffic, and shall not then have been purchased by the Governor, from time to time remaining after defraying all working expenses, maintenance, and other outgoings properly chargeable against revenue in the case of railway companies, will be sufficient to secure to the Contractors interest or a dividend at the rate of £5 5s. per cent. per annum on the aggregate amount of the total cost of all the said railways, or any section or sections thereof, then open for public traffic, as such total cost shall appear from time to time by the said capital accounts of each of the said railways to be so made up, and when approved as aforesaid, after deducting from such total cost all sums paid on account of the subvention in respect of each of the said railways or sections thereof, as will make each half-yearly payment in England within four calendar months, after he shall have been furnished with the half-yearly revenue accounts of all the same railways, and shall have examined and approved of the same respectively as aforesaid.

37. If and whenever the net receipts as last aforesaid appearing by all the said half-yearly revenue accounts of all the railways which, or a section or sections of which, shall have been from time to time opened for public traffic, and shall not then have been purchased by the Governor when such accounts shall have been examined and approved as aforesaid, shall in the aggregate have amounted to a sum sufficient to pay for that half-year's interest, or a dividend at a rate exceeding the rate of 8 per cent. per annum upon the aggregate amount of the total cost of all the said railways, or any section or sections thereof, which shall have been opened for public traffic, and from the respective times of their being opened, as such total cost shall appear from time to time by the said capital account of each of the said railways to be so made up, and when approved as aforesaid, after deducting from such total cost all sums paid on account of the subvention in respect of each of the said railways or sections thereof, then and whenever afterwards it shall so happen the amount of the excess shall be paid to the Governor until he shall have been repaid the whole of the sums paid by him as interest as aforesaid under clause No. 36 of these presents, exceeding interest at the rate of £5 5s. per cent. per annum, together with simple interest on such sums at the rate of £5 5s. per cent. per annum, and subject to the provision last aforesaid, such excess shall from time to time be divided equally between the Governor and the Contractors.

38. The Governor will make to the Contractors towards the purchase to be made from them of their right and interest in every section made by them, and of the plant belonging to the same, as in the next succeeding clause mentioned, a payment (in these presents referred to as "the subvention") equal to one-third part of the amount of "the total cost" of a section, in the proportions and at the times and in the manner following, that is to say: Whenever any amount shall be paid to the Contractors out of the sum or sums deposited by them with the Colonial Treasurer as aforesaid, the Governor will in addition pay to the Contractors, on account of the said subvention, a sum equal to one-sixth part of the amount so paid out of the sum or sums so deposited; and whenever any manufactured materials to be used in the making of a railway, or any plant shall have been placed or delivered upon any section for the making of or upon which the same shall be intended to be used, the Engineer shall certify what to the best of his judgment is the value thereof, and the Governor will pay to the Contractors a sum equal to one-sixth of the value so certified, but the Contractors shall not be entitled to any such payments on account of "the subvention" in excess of one-half of "the subvention," payable in respect of such section, until the Engineer shall have certified that such section has been completed to his satisfaction, and that the plant for the same has been placed thereon. And as soon as the Engineer shall have so certified, the Governor will pay to the Contractors the balance which may remain due on account of "the subvention" in respect of the same section.

39. The Governor will, at the expiration of forty years from the time when the Contractors commenced to make any railway, or he may at any time sooner, if he think fit, after he shall have given twelve calendar months' notice of his intention so to do, purchase the right and interest of the Contractors in such railway, or any section or sections thereof, which shall have been completed and opened for traffic, and the plant belonging thereto, and the Contractors will sell the same to the Governor at a price to be agreed upon between him and the Contractors, or in case they shall not agree, to be determined by arbitration in the manner hereinafter mentioned, namely, the price to be so paid being the total cost of such railway section or sections as it shall then appear by the said capital account to be so made up, and when approved as aforesaid, after making a deduction from such total cost of the amount by which such railway-section or sections and the plant belonging thereto, shall have deteriorated in value through wear and tear or want of repair since the same was or were made or supplied respectively, and after giving the Governor credit for the amount of "the subvention" paid in respect of such railway or section or sections thereof respectively, and at the expiration of the said forty years or on the payment of the purchase money, as the case may be, the said half-yearly payments of interest hereinbefore mentioned shall respectively cease; and the Contractors will give to the Governor peaceable possession of the said railway or section or sections, and of the plant belonging thereto, and of all plans, sections and specifications, books, papers, and documents relating to the same which it shall be necessary or desirable for the Governor to have or possess for use or reference.

40. The Governor will, within twelve calendar months after the making of the agreement or award as to the price to be paid for the right and interest of the Contractors in the said railway or section or sections thereof, as the case may be, and for the plant belonging thereto, pay the said price to the Contractors in England.

41. If at any time before the expiration of the said period of forty years, or before the Governor shall have given notice of his intention to purchase as aforesaid, the Contractors shall desire to issue debentures to the amount of the sum or sums which the Contractors shall be prospectively entitled to receive in respect of any railway or section, the Governor will upon request from time to time cause the Contractors to be supplied with a statement showing the amount which the Governor is then entitled to have credited to him in reduction of the price to be paid by him for the purchase of such railway or section, and the plant belonging thereto, in respect of payments on account of the subvention

made by him, but nothing herein contained shall be deemed to amount to a guarantee by the Governor of the payment of any sum purporting to be secured by any such debenture.

42. The Contractors will, within ten years from the time when they shall have commenced to make the said railway, land in New Zealand not less than 10,000 European immigrants, to be approved of before they shall sail from Europe by such officer or officers as may be from time to time appointed by the Governor for the purpose, such proportion as the Governor shall from time to time direct to consist of married men and women with families, such immigrants shall be landed in not less than the following proportions: During the first year, 500; during the second year, 750; during the third year, 1,000; during the fourth year, 1,000; during the fifth year, 1,000; during the sixth year, 1,000; during the seventh year, 1,250; during the eighth year, 1,250; during the ninth year, 1,250; and during the tenth year, 1,000. The Governor will pay the Contractors for each immigrant so landed, and whether or not employed upon any of the said railways, the sum of £1 in the month of December in each year until the expiration of ten years from the time when each such immigrant shall have landed in New Zealand, so that there shall be ten of such yearly payments in respect of each such immigrant, unless such immigrant shall have sooner died or ceased to reside in New Zealand. The Contractors shall, if required, furnish the Governor with such evidence that such immigrant is alive and resident in New Zealand as he may reasonably require.

43. In order to encourage settlement on and improvement of the lands to be granted to the Contractors as aforesaid under this arrangement, the Governor will guarantee the payment of mortgage bonds issued in respect of any such lands, with interest at a rate not exceeding five per cent. per annum, for a period not exceeding ten years, to an amount not exceeding one-half of the amount of money expended, to the satisfaction of the Governor or his officers appointed for that purpose, upon the lands referred to in the bonds respectively in the making of such improvements therein or thereupon as may be approved by the Governor or such officers; but the total amount of such mortgage bonds shall not exceed in the aggregate the sum of £500,000 sterling. The Governor to stand in the place of, and have all the remedies of the mortgagee in respect of moneys which he may pay under the obligation of this guarantee.

44. The Governor may retain or deduct out of any moneys in his hands belonging to the Contractors, or out of any moneys payable by the Governor to the Contractors, all sum and sums of money payable to the Governor by the Contractors under or by virtue of these presents.

45. All payments under these presents shall, except where it is otherwise expressed, be made in New Zealand.

46. Wherever in these presents the Governor, Colonial Treasurer, or Minister, or any other person holding an official situation is referred to, the Governor, Colonial Treasurer, Minister, or person holding such situation for the time being, shall be understood; and whenever by these presents the Governor, Colonial Treasurer, or Minister is authorized or empowered to exercise any power, or do any act whatsoever, the Governor, Colonial Treasurer, or Ministers as the case may be, may from time to time authorize any other person or persons to exercise such power, or to do such act, and any power or act exercised or done by such person or persons within the scope of such authority, shall have the same effect as if exercised or done by the person by whom they shall have been so authorized, and these presents shall be read as referring to such person or persons.

47. Any notice, request, declaration, or direction to be given or made by the Governor, Colonial Treasurer, Minister, or any person acting on behalf or by the direction of them, may be given to the reputed Agent of the Contractors for the time being in New Zealand, by delivering the same to him, or leaving the same at his last known place of residence there, or, if there be no such Agent, may be given or made by publishing the same in the *New Zealand Gazette*; and any notice, request, declaration, or direction so given or made or published respectively shall have the same effect to all intents and for all purposes as if it had been given or made to the Contractors personally on the day when the same was so given or made or published respectively.

48. In case the Governor or the Minister, as the case may be, and the Contractor shall not agree as to the probable prime cost of making the railways respectively, or as to any schedule of prices, or as to the time or times within which the railways, or any of them, or any part thereof are to be made, or as to the amount to be added to or deducted from "the agreed cost" in respect of any such deviation, diminution, addition, or substitution hereinbefore mentioned, or as to the price to be paid for the purchase of the right and interest of the Contractors in the said railways respectively, or the plant belonging to the same, or in case any dispute or difference whatsoever shall arise between the Governor, or Minister, or Colonial Treasurer, or the Engineer in England, referred to in clause 16 of these presents, and the Contractors in the carrying out of these presents, and whether it shall or shall not have been expressly hereinbefore provided, that in case the parties shall not agree the matter shall be determined by arbitration; every such matter, as to which they shall not agree, dispute, or difference shall be settled by arbitration, to be conducted in New Zealand, except as regards the said clause No. 16; as to which, any arbitration shall be conducted in England, and for the purposes of this portion of these presents any matter of disagreement, dispute, or difference between the Minister, or Colonial Treasurer, or the said Engineer in England and the Contractors, shall be deemed a matter of disagreement, dispute, or difference between the Governor and the Contractors; and unless the Governor and the Contractors shall unite in the appointment of a single arbitrator, the Governor and the Contractors shall each appoint an arbitrator, and if either party shall for thirty days after receiving a request from the other party to appoint an arbitrator, fails so to do or to give notice of the appointment to the party from whom he received such request, then the arbitrator appointed by the party who shall have made such request may proceed to hear and determine the matter, dispute, or difference; and in such cases the award or arbitration of such single arbitrator shall be final. If each party shall appoint an arbitrator, such two arbitrators shall appoint a third arbitrator; but if they shall be unable to agree upon the choice of a third arbitrator, then the third arbitrator shall be appointed by such one of the Governors of any of the colonies of Australia or of the Colony of Tasmania as the Governor of New Zealand shall request to appoint an arbitrator. The award or

determination of such three arbitrators, or of any two of them, shall be final and conclusive. If, before the matter, dispute, or difference shall be determined, any arbitrator shall die or become incapable, or refuse or neglect to act, the party by whom such arbitrator was appointed shall appoint some other person in his stead; and if he shall for thirty days after receiving a request from the other party to appoint an arbitrator fail so to do or to give notice of his appointment to the other party, then the party who shall have made such request may appoint an arbitrator in the stead of the arbitrator who shall have so died, become incapable, or refused or neglected to act. If the arbitrator who shall have so died, become incapable, or refused or neglected to act, shall be the arbitrator who was not appointed by either of the parties, then the provisions hereinbefore contained as to the appointment of a third arbitrator shall be applicable, and under them a successor shall be appointed in the stead of the arbitrator so dying, becoming incapable, or refusing or neglecting to act. Every arbitrator to be so substituted as aforesaid shall have the same authority as the original arbitrator. If a single arbitrator shall have been appointed and he shall die, become incapable, or refuse or neglect to act, and the parties shall not be able to unite in the appointment of another single arbitrator, then, in his stead, three arbitrators shall be appointed in the manner hereinbefore mentioned. Notwithstanding anything hereinbefore contained, the Engineer in England, in case any matter of disagreement, dispute, or difference shall arise between him and the Contractors, shall have the same powers as are hereinbefore conferred upon the Governor as to the appointment of an arbitrator, so far as regards any question which shall arise under the said 16th clause of these presents; and the said Engineer and the Contractors shall have power, from time to time, to determine the manner in which the third arbitrator shall be appointed, in case the arbitrators appointed by the Engineer and the Contractors respectively shall not agree upon the choice of a third arbitrator. This submission to arbitration may be made a rule of the Supreme Court of New Zealand, or of any of the Superior Courts of Westminster, as the case may be, or require. The costs of and attending the arbitration and award shall be in the discretion of the arbitrators.

49. The Governor enters into this contract only on behalf of the Colony of New Zealand, and by executing these presents shall bind only the said colony, and not himself personally, and shall not be deemed to have incurred any personal responsibility or liability whatsoever, and no action or suit at law or in equity or other proceeding whatsoever shall be brought or taken against the Governor in respect of these presents, or the contract hereby created or purported to be created elsewhere than in the said colony, nor in the said colony unless by any Act or law of the said colony it is now or shall hereafter be provided that actions, suits, or proceedings, in respect of contracts entered into by the Governor on behalf of the colony, may be brought or taken against the Governor as a nominal defendant.

In witness whereof the Governor hath hereunto set his hand and seal of office, and the Contractors have hereunto respectively set their hands and seals, the day and year first above written.

No. 2.

ARTICLES OF AGREEMENT entered into this 22nd day of June, 1871, between Sir George Ferguson Bowen, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, and Governor and Commander-in-Chief of Her Majesty's Colony of New Zealand and its Dependencies, and Vice-Admiral of the same, of the one part; and Alexander Brogden, Esquire, M.P., Henry Brogden, and James Brogden, all of No. 4, Queen Square, in the City of Westminster, Railway Contractors, of the other part.

WHEREAS by "The Immigration and Public Works Act, 1870" (and subject to the provisions of that Act), the Governor is empowered (section 12) to construct or cause to be constructed any lines of railway which shall be prescribed by the General Assembly as railways to be constructed under that Act, and to acquire the necessary engines, plant, and machinery for working and using the same or any of them, and (section 13) by Proclamation published in the *New Zealand Gazette*, to declare and define the limits and description and line of such railways, and the lands proposed to be taken for the purpose of the same (subject to the provisions of any Act defining such limits and descriptions), and (section 15) to contract to pay for such works in money, or to agree on such terms as he shall think fit to let or rent such railway, or guarantee to the Contractor or his assigns a certain amount of profits on the working thereof, or, on such terms as he shall think fit, to sell or purchase such railway when constructed, and in such case, either with or without conditions for the re-purchase thereof, or any such agreement may include any or all of such arrangements, or any other arrangement which in the opinion of the Governor are calculated to carry out the object of the Act, and not conflict with the same: And whereas by "The Railways Act, 1870," the Governor is empowered (section 3), under the provisions of the said firstly-recited Act, to contract or enter into arrangements with any person for the construction of all or any of the railways mentioned in the First Schedule to the now reciting Act, by guaranteeing to such person, during a period not exceeding thirty-five years, a minimum rate of interest not exceeding £5 10s. per cent. per annum of the cost of construction, at a rate per mile not exceeding that in the said First Schedule set opposite to the name of each railway, and (section 4) subject to conditions incorporated in this contract: And whereas by "The Immigration and Public Works Loan Act, 1870," the Governor is empowered to borrow and raise certain money as therein mentioned, not exceeding £4,000,000, for all or any of the purposes mentioned in the Schedule thereto, which Schedule specifies the sum of £2,000,000 for such railways as shall from time to time be determined by the General Assembly, including the expenses of raising the part of the loan, and specifies the sum of £1,000,000 for "immigration, including expenses as aforesaid." And whereas, with a view to the exercise by the Governor of the powers conferred on him by the said Acts, he has entered into arrangements with the Contractors for their making railways in New Zealand, upon the terms and in the manner hereinafter set forth: Now these presents witness that the Governor (so far as he lawfully can or may, under or by virtue of the said recited Acts or otherwise, but not further or otherwise), for

himself and his successors, all of whom are hereinafter included in the expression "the Governor," (so far as the covenants and agreements hereinafter contained are to be observed and performed on his or their parts respectively), doth hereby covenant and agree with the contractors, their executors, administrators, and assigns, all of whom are hereinafter included in the expression "the Contractors," and the Contractors, and each of them for themselves and himself, and their respective heirs, executors, administrators, and assigns (so far as the covenants and agreements hereinafter contained are to be observed and performed on their parts), do and doth hereby covenant and agree with the Governor, his successors and assigns, in manner following (that is to say),—

1. In the construction of these presents the following words and expressions have the following meaning, unless such meaning shall be inconsistent with the context: The expression "Minister" means the Minister at the head of the Department of Public Works, by whatever title he may be from time to time designated, or the President of the Board of Works as the case may be; "Engineer" means the Engineer whom the Governor shall appoint to be, or whom the Minister shall from time to time direct the Contractors to treat as the Engineer acting on behalf of the Government in relation to any railway, or to any section thereof to which these presents relate, or to any particular class of works upon, or to plant intended for any such railway, or any section thereof; and it shall, if the Governor so direct, include also "the Minister," and as to the plant, the Agent-General or other Crown official in England of the Colony of New Zealand; the words "railway" and "railways" include not only the railway and permanent-way, but all stations, buildings, approaches, and other works shown upon or described in the plans and sections, or specifications, as works to be constructed by the Contractors, and at least a single wire telegraph throughout the whole length, with all proper apparatus for working the same; and the expressions "make the said railway," or "make a section of the said railway," or any similar expression, shall include not only the making the railway, and laying down the permanent-way, but the building of stations, the making of approaches, and the doing of all works shown upon, or described in the plans and sections, or specifications, and such telegraph and apparatus as aforesaid, but not the providing of plant; the expression "plant" means engines, rolling and fixed stock and machinery required for using and working the said railways.

2. The Governor will, with all convenient despatch, entrust to the Contractors the making of railways in New Zealand and the providing of all plant for such railways to the extent in total cost of £500,000. And the Contractors will, to the extent aforesaid, make all such railways, and provide all such plant as the Governor shall require them to make and provide. The Governor may also entrust to any other person or persons, body or bodies, politic or corporate, the making of any railways or the providing of plant for the same.

3. The Governor will cause the necessary surveys and plans and sections of the railways, the making of which shall be so entrusted to the Contractors, to be prepared, deposited, and proclaimed, and the Contractors will make and construct each of such railways in the order and course and upon such terms and conditions relating to the making and constructing and the materials for the same (such terms and conditions not being inconsistent with any of the provisions herein contained), and under and according to such specification or specifications of the works and materials for the same as the Governor shall from time to time direct.

4. When and so soon as the plans, sections, and specification or specifications of any railway and such working plans and sections as shall be requisite to enable the probable cost of such railway to be ascertained, shall have been prepared, the railway shall be divided (as the Governor shall direct) into lengths of ten miles, or as near thereto as conveniently may be (which lengths are hereinafter referred to by the expressions "section" or "sections"), and each section shall be distinguished by a separate number.

5. The probable prime cost to the Contractors of making each section of the said railway, and the time within which each section shall be made and completed, shall with all convenient despatch be determined by agreement between the Minister and the Contractors, or in case they shall not agree, by arbitration as hereinafter provided for, and in estimating such probable prime cost no allowance shall be made to the Contractors in respect of loss during construction of interest on the capital which it will be necessary for them to expend in making the railways and providing the plant for the same, inasmuch as interest is to be paid thereon by the Governor as hereinafter mentioned. Such probable prime cost, with a profit of 5 per cent. for the Contractors added thereto, is hereinafter referred to as "the agreed cost," and "the agreed cost," with such additions thereto or diminution therefrom as hereinafter mentioned, with the "costs of the plant" hereinafter mentioned added thereto, 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 allow 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 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." 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, and all moneys expended by the Contractors in England for manufactured materials or plant as hereinafter mentioned, shall bear interest at the rate of $5\frac{1}{2}$ per cent. per annum from the time or times when the same shall have been so deposited, or from the date of such expenditure, as the case may be, until the completion and opening for public traffic of the said railway, or the section thereof to which the same relate respectively, and such interest shall be paid to the Contractors half-yearly, on the last days of the months of June and December in every year.

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 sections, 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 as 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 his withholding a certificate of his satisfaction on such completion under this clause, 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.

14. The Contractors will be responsible for and make good any damage which may arise to any railway or any section thereof, or any plant, within twelve calendar months after the same shall have been completed and opened for public traffic, in case such damage shall, in the opinion of the Engineer, arise from defective construction, or materials, or improper workmanship, and no addition shall be made to "the total cost" on account thereof; but if any such damage (the making good of which would not, in the opinion of the Engineer, come under the head of ordinary repairs) shall arise within such period or at any time afterwards by reason of storms, floods, insufficiency of design, or war, or disturbances in the colony, the Contractors will make good all such damage with all convenient despatch to the satisfaction of the Engineer; and if, after any such railway or any section thereof, as the case may be, shall have been opened for traffic, the Governor shall at any time or times require that any further or altered works shall be executed for the better working and using the same for the purposes of public traffic or otherwise, the Contractors will execute the same according to plans and specifications to be prepared or approved by the Engineer, and the amount of the cost which shall be incurred by the Contractors in making good any such damage as last aforesaid, or in executing such further or altered works, such amount (to be agreed upon between the Governor and the Contractors, or determined by arbitration) shall from time to time be added to "the total cost of the said railway," or the "total cost" of any section thereof, as the case may be, and included in the capital account hereinafter mentioned.

15. The Contractors will provide all such plant as the Governor shall require them to provide for the working and carrying on of traffic upon any railway, or any section thereof, which may be about to be opened for public traffic, according to such drawings and specifications as the Governor shall direct, adopting so far as he may think fit any recommendation of the Contractors, and the Contractors will cause the same to be placed upon the said railway or section, or as the case may be, in all respects complete and ready for use seven days at least before the time appointed by the Governor for the opening of such railway, or section thereof, as the case may be, for public traffic; and, in case after such railway, or any section thereof, shall have been opened for public traffic, the Governor shall consider it necessary or expedient that any further or other plant should be provided for such railway or section, as the case may be, the Contractors will find and provide the same with all reasonable despatch after receiving notice from the Governor requiring the same to be provided; all which further or other plant shall be in strict accordance with such drawings and specifications as the Governor shall direct, adopting, so far as he may think fit, any recommendation of the Contractors, and all such plant shall be in all respects to the satisfaction of the Engineer.

16. When the drawings and specifications shall have been settled and furnished to the Contractors they will obtain tenders for the supply of each description of plant from not less than six respectable and responsible persons, whose names shall have been previously submitted to and approved by the Engineer in England, if such number shall be found willing to tender, or if not, then from as many of them as shall tender, such tenders to be based on the terms of payment in cash, and for delivery and approval in England; and when the tenders shall have been received, the Engineer in England and the Contractors shall, having regard to the said tenders, agree as to the cost to be incurred in obtaining the various descriptions of plant respectively, and the amount so agreed upon; or in case the Engineer and the Contractors shall not agree, determined by arbitration, with all charges and expenses of approval of plant, for transport in England, shipment, freight, insurance, and landing, and transport, and erection, and fitting in the Colony which the Contractors shall incur, together with £5 per cent. on such agreed amount, charges, and expenses for or by way of Contractor's profit, shall be deemed to be "the cost of the plant," and shall be added to "the agreed cost," and form part of "the total cost" of the section, as hereinbefore provided, and shall be included in the capital account hereinafter mentioned. If it is intended that the plant shall be used in the working of and carrying on traffic upon more than one section, "the cost of the plant" may, at the option of the Minister, either be charged against any one section, or a proportionate part of the cost may be charged against all the sections in the working of and carrying on traffic upon which it is intended that the plant shall be used.

17. The Contractors shall not be bound to accept any of the tenders so received by them, and in no case shall they be allowed any profit upon the plant beyond the said profit of £5 per cent., but any commission, discount, allowance, or proportion of profit which may be paid or allowed by the manufacturers of the plant, or any part thereof, or otherwise, shall be deducted before the cost of plant shall be added to the "agreed cost."

18. The Contractors will, out of their own moneys, pay for all manufactured materials and plant which it shall be necessary or expedient to obtain in England.

19. Any expense which the Colony may incur in approving the plant or any manufactured materials in England shall be repaid by the Contractors to the Governor upon demand, and the same shall be added to the agreed cost and form part of the total cost of the section, as hereinbefore provided, and shall be included in the capital amount hereinafter mentioned.

20. The Contractors will keep a proper capital account relating to the construction of each railway to be made by them, and relating to the original cost of plant, to be called "The Railway Capital Account," to which the total cost shall from time to time be carried, and such account shall be so prepared and kept as to distinguish as far as practicable the expenditure in respect of each section of such railway; and when and so soon as such railway, or any section or sections thereof, shall have been completed and furnished with the necessary plant, and opened for public traffic, the said capital account shall from time to time be made up, and a copy thereof shall be transmitted to the Governor, who shall cause the same to be examined, and if they shall be found to be correct, will approve of the same, having the right to cause any corrections or disallowances to be made therein which he may consider to be necessary or proper, and such account, when approved, shall be conclusive as to the total cost of each railway, or section or sections so opened for public traffic, and thenceforth and from the opening of such railway, or section or sections, as the case may be, the Contractors will pay the cost of maintaining the same, with the plant, in good working condition; but upon any additions, restorations, alterations, or improvements being made by agreement between the Governor and the Contractors to, of, or in such railway section or sections, or plant, the cost whereof shall be properly chargeable to capital account, the cost necessarily incurred in executing such additions, restorations, alterations, or improvements shall be added to and included in the said capital account, and the said capital account shall from time to time be made up and stated afresh as occasion shall require, and be examined and approved accordingly; provided that if in any such capital account the Governor shall make a disallowance or disallowances to the expending of £500, the Contractors may require to have it referred to arbitration whether or not the same should to any, and, if any, what extent prevail, and the account shall be rectified according to the award.

21. The Contractors will keep and maintain such railway, or section or sections thereof, so opened for public traffic in thorough, efficient, working order, and will properly work and use the same and run thereupon not less than two trains each way daily, unless the Governor otherwise direct, and such further number of trains as the Governor may from time to time direct, and will not charge in any case rates for the conveyance of passengers or of cattle, minerals, goods, or any other thing below such minimum or in excess of such maximum fares and rates as may from time to time be fixed by the Governor in Council: Provided always that the Contractors may, if they think proper, require that it shall be decided by arbitration whether the expense of running any further number of trains is one which they ought reasonably to be called upon to bear; and in such case it shall be decided by arbitration whether the Contractors shall be bound to run any, and, if any, what further number of trains,

and on what terms: Provided also that if and whenever the said minimum or maximum fares or rates are objected to by the Contractors while the earnings of the railways are sufficient to relieve the Governor from any payment under the guarantee of interest hereinafter contained, they shall be settled by arbitration in manner hereinafter mentioned.

22. The Contractors will, in such forms and under such heads or divisions as shall be from time to time prescribed by the Governor, keep accounts of all receipts and payments whatever in respect of such railway, or any section or sections thereof, which may for the time being be opened for public traffic (except such receipts and payments as properly belong to capital account hereinbefore agreed to be kept); and such accounts shall be called "The Revenue Account of the Railway," and shall be made up half-yearly to the 30th day of June and the 31st day of December in every year, or to such other days in the year as the Governor shall from time to time appoint, and shall be regularly transmitted to the Governor, who shall cause the same to be examined, and, if they shall be found to be correct, will approve of the same, having the right at all times to cause any corrections or disallowances to be made therein which he may consider to be necessary or proper; and the Contractors will produce all such vouchers or other evidence as the Governor shall from time to time require to verify every such account. The account, when so made up, examined, and approved, shall be conclusive between the Governor and the Contractors as to the result of the working and carrying on of traffic on the said railway, or any section or sections thereof, as the case may be, during the time stated in such half-yearly account: Provided that, if in any such half-yearly account the Governor shall make a disallowance or disallowances to the extent of £500, the Contractors may require to have it referred to arbitration whether or not the same should to any, and, if any, what extent, prevail; and the account shall be rectified according to the award.

23. The Contractors will collect all fares, rates, and freights for the conveyance of passengers, cattle, minerals, goods, and other things, and will at such periods and in such form as they may be required by the Governor so to do, and in addition to the said capital and revenue accounts respectively, furnish him with a statement in detail of the amount of such fares and freights, and of all other sums of money received by them in respect of every such railway, or any section or sections thereof, so opened for public traffic, and of the amounts expended by them from time to time subsequent to the opening of the same for public traffic in the repair and maintenance and otherwise of the said railway, or any section or sections thereof, as the case may be, and in repairing and replacing the plant belonging thereto, and in working expenses; and will at all reasonable times permit every person or persons appointed by the Governor to inspect their books of account, and all vouchers and other documents relating to such receipts or expenditure, and take copies of the same, and will furnish all such information in relation to the same as may at any time be reasonably required.

24. The rates of speed to be maintained in running trains shall be (including stoppages) not less than ten miles an hour on railways the ageed cost of making which shall not exceed £3,000 a mile; and not less than fifteen miles an hour on railways exceeding that cost, and not exceeding £4,000 a mile; and not less than twenty miles an hour on railways exceeding that cost, except over any part or parts thereof respectively where in the opinion of the Governor the gradients or curves do not justify so high a rate of speed.

25. The Contractors will provide conveyances for and convey upon the railways the members of the General Assembly and of Provincial Councils at all times in the ordinary trains, at 25 per cent. below the ordinary fares and rates, and all military, police, and other forces when proceeding on duty, and all public mails, free of charge; and in the event of war or civil commotion will, on the requisition of the Governor, place the whole of the resources of the railways at his disposal at the charges actually incurred.

26. The Governor by his officers shall have power at all reasonable times to enter into and upon the said railway, or any part or parts thereof, to establish and lay down or erect new or enlarge existing lines of electric telegraph, and erect new or enlarge existing telegraph stations, and to use such lines and stations without any charge, but not so as to obstruct the traffic on the said railway in such laying down and erecting.

27. If the Contractors shall do any of the following things, viz. :—

- (a.) Become bankrupt or insolvent, or make any general composition or arrangement with their creditors, while any section of railway which they shall be making shall be incomplete:
- (b.) Fail to complete (unless delayed by storms, floods, insufficiency of design, war, or disturbances in the colony, or by other causes entitling them to an extension of time for completing) the railways respectively entrusted to them within the time fixed for their completion, or within an extended period equal in duration to the period during which they were so delayed as aforesaid:
- (c.) Fail while any of the railways entrusted to them are incomplete to carry on the works with due diligence, after reasonable notice from the Minister specifying the nature and extent of the failure imputed to them, and the rate of progress which in the opinion of such Engineer is necessary to enable them to complete the railways within the respective times fixed for their completion, or within the respective extended period aforesaid, where they are entitled to such extension.

And if the Engineer and Minister shall certify to the Governor that it is in their judgment expedient so to do, the Governor may cause notice to be given to the Contractors of his intention to determine this contract, as to any section or sections of any railway as to which it shall not have been performed; and in that case this contract shall to that extent cease and determine, subject nevertheless to the other provisions herein made with respect to that event: Provided that the Governor shall not in the event (b) so determine this contract until the expiration of three calendar months after he shall have given notice to the Contractor of his intention to do so, nor unless the railway shall then remain uncompleted.

28. In case of such determination of this contract as aforesaid, the Governor may or may not, as he may think fit, take possession of all or any of the sections referred to in such notice, and also of any

completed section or sections of such railway which he shall consider it desirable to take possession of and use in connection with any of the sections included in such notice, and of the plant belonging thereto; and in such case this contract shall also cease and determine in respect of any such completed section of the said railway and the plant belonging thereto, and the Governor shall accept all plant which at the time of the determination of this contract shall be *in transitu* from the manufacturers thereof in Europe, or in course of construction by them in pursuance of previous orders for the section or sections of railway so taken possession of; and the Governor may also take possession of all the Contractors' working plant, materials, and chattels upon all the said railways, or section or sections thereof, of which the Governor shall take possession; and thereupon the Contractors will deliver to the Governor all plans, sections, drawings, and specifications in any way relating to such railway, section, or sections.

29. In case of and upon such determination of this contract to the extent aforesaid, the section or sections of the said railway then completed and open for public traffic, and not taken possession of by the Governor as aforesaid, and the plant belonging thereto, shall be deemed to be the only section or sections of the said railway and plant to which the provisions of this contract with respect to the guarantee of interest or profits on the total cost thereof, and to purchase by the Governor of the Contractors' rights and interest, and to the division of the surplus net receipts beyond what is sufficient to pay a given rate of interest or profit on the total cost shall apply; and the said provisions shall remain in force with respect to such section or sections of the said railway and the plant belonging thereto.

30. In case of and upon such determination of this contract the Contractors shall be entitled to receive from the Governor payment for the said railway, or the section or sections thereof so taken possession of as aforesaid, and for the plant belonging thereto, and for the plant *in transitu* or in course of manufacture for the same when delivered (but not for the Contractors' working plant, materials, and chattels), the prices to be ascertained in the following manner, that is to say: Firstly, in respect of any section or sections of the said railway which had been completed and the plant belonging thereto, such a sum or sums of money as the Governor would have had to pay on purchase of the same under the other provisions of these presents; secondly, in respect of any section or sections of the said railway not completed such a sum or sums of money as will be equal to the sum or sums deposited by the Contractors with the Colonial Treasurer in respect thereof according to the provisions in that behalf hereinbefore contained (so much of the sum or sums so deposited as shall not have been paid to the Contractors upon the certificate or certificates of the Engineer becoming the absolute property of the Governor); and thirdly, in respect of the plant *in transitu* or in course of manufacture the cost thereof as settled under clause No. 16 of these presents, together with such charges and expenses as mentioned in the same clause, but without any percentage for profit added thereto. The payments firstly and thirdly mentioned to be made in New Zealand Government debentures payable at the end of thirty years, with interest thereon in the meantime at the rate of £5 per cent. per annum; and the payment secondly mentioned to be made by the grant of a Government annuity at the rate of 5½ per cent. per annum, to continue for the residue of the term of thirty-five years computed from the commencement of the said railway, or section or sections thereof, as the case may be.

31. Provided that if, in the event mentioned in clause No. 27, sub-section (a), the Governor shall give such notice, as in such clause mentioned, the assignees or trustees of the Contractors shall have liberty at any time within twelve calendar months after the giving of such notice to take up and proceed to complete and carry out the works, and to provide the plant in respect of the section or sections of the said railway included in such notice; and if, within such period, such assigns or trustees shall repay, or cause to be repaid, to the Governor all sum or sums of money which the Governor shall, in his absolute discretion, have thought fit in the meantime to expend and shall have expended upon the same, and upon any other section or sections of which he may have taken possession as hereinbefore authorized, or in providing plant for the same respectively, less the amount of all such sum or sums of money which the Governor would have paid to the Contractors as the subvention in case the said Contractors had duly proceeded with the making of the section or sections included in the said notice, and in providing the plant for the same; and shall either themselves enter into or procure some respectable and responsible person or persons (to be approved by the Governor) to enter into a proper contract with the Governor in substitution (as regards such section or sections) of these presents, then the Governor will give possession to the person or persons entering into such contract with him of the said railway, or the section or sections thereof, of which he shall so have taken possession, and of the plant belonging thereto respectively.

32. If and whenever the Contractors shall make default in properly maintaining any railway, or any section thereof, when completed (other than such as may have been taken possession of by the Governor under any provision hereof), or in properly providing the plant for the same, and keeping the plant provided in good and sufficient working order and condition, or in properly working and using the said railway or section, as the case may be, it shall be lawful for the Governor to direct the necessary repairs to be done as well to such railway or section as to the said plant, and to supply any plant which ought to have been, but shall not have been supplied, and to replace any of the plant that may be worn out by others of the same, or a similar description, and dispose of the old plant, and at the cost of the Contractors, to enter upon, use, and work so much of such railway or section, as the case may be, and the plant belonging to the same, as the Governor shall from time to time think fit to use and work. And the Contractors will, upon demand, repay to the Governor all moneys expended by him in and about any of the matters aforesaid. Provided that if by the moneys which shall be received from such working and using of such railway or section and from the disposal of all plant, or by the Contractors, the Governor shall, within six calendar months, have been repaid all moneys expended by him under this clause, the Contractors shall be reinstated in the possession of the said railway or section and plant. Provided also that the Governor will, until the expiration of such period, from time to time render to the Contractors accounts of his receipts and payments under this clause.

33. The Contractors will in all things abide by, comply with, and conform to all the laws and regulations for the time being in force in New Zealand, and also all such general regulations and by-laws for the maintenance of order and securing the safety of the public as the Governor shall from time to time frame and establish, and will make compensation and satisfaction to all persons who, according to law, may be entitled to compensation or satisfaction for or in respect of any injury or loss sustained by them in their person, property, or otherwise, through or in consequence of any negligence or wrongful act whatsoever on the part of the Contractors in making the said railway, or any part thereof, or in working or carrying on traffic thereupon.

The Contractors will not assign or sublet this contract, or any part thereof, without the approval of the Governor, but, with such approval and subject to such conditions as he may impose, they may assign or sublet the same, or any part thereof, to one or more company or companies in England, or in the said colony, in which case such company or companies shall enter into a formal contract or contracts with the Governor to secure the due observance and performance by it or them of the stipulations herein contained; and in any such contract or contracts provisions shall be made that the Governor shall have a right from time to time to appoint an *ex-officio* director upon the board of directors of each such company in London or elsewhere in England; and also upon the board (if any) in the colony, and that each of such *ex-officio* directors shall rank as and be one of the board of directors of the company and be entitled in all things to act as such, and to exercise at his discretion a right of veto at all proceedings whatsoever of the board (except proceedings for the purpose of communicating with the legal advisers of the company), and shall not be removable except by order of the Governor; no such director, however, being entitled to any salary from the company, and also the company shall record and keep in proper books for the purpose full and particular accounts of all their transactions and proceedings, so as at all times to exhibit thereby fully and truly the state of their affairs and proceedings; and also that any person or persons appointed by the Governor in that behalf, shall at all reasonable times have full access to the books, accounts, papers, and documents of the company (except communications with the legal advisers of the company, on matters in difference between the Governor and the company), and power to make copies or extracts from the same; and also that, as between the Governor and the company or companies respectively only, such charges of management shall be allowed out of or against revenue account as shall from time to time be approved of by the Governor; and in any such contract or contracts provision shall be made for such sums for expenses of direction and management of the company during the construction of a railway, being added to the total cost as the Governor shall approve. Provided that this clause shall not prevent the employment of the contractors or competent subcontractors in the execution of the works under them, or in the maintenance of the same.

35. The said railway, or, if the Governor shall think fit, any section or sections thereof, when made, completed, and opened for public traffic, shall be demised and leased to the Contractors for the term of ninety-nine years, at a nominal rent of one shilling per mile, and shall at the expiration or sooner determination of such term revert to and become the property of Her Majesty.

36. Every such lease as aforesaid shall contain all reasonable and necessary covenants and conditions for insuring the performance by the Contractors of all things which, according to the true intent and meaning of these presents, ought on their part to be performed, including a power to the Governor to re-enter upon the demised premises in case of breach or non-observance of the covenants; but such power shall be subject to a condition that if, within eighteen calendar months after he shall at any time have so entered, he shall, by perception of profits or by any other means whatsoever, have been satisfied or compensated for the breach of the covenant or condition in respect of which he re-entered, the Contractors shall be reinstated in their original rights under the lease, and the Governor shall account with them in respect of all his receipts and payments in the meantime.

37. The Governor will from the time of the opening of any railway, or any section thereof for public traffic, and thenceforth half-yearly, until the expiration of thirty-five years, to be computed from the time of the commencement of each such railway, or until the payment at an earlier period by the Governor, for the right and interest of the Contractor in such railway, or any section or sections thereof, as the case may be, and in the plant belonging thereto, pay to the Contractors such sum as, with the net receipts from all the said railways, or sections thereof constructed under the provisions of these presents, which shall have been opened for public traffic and shall not then have been purchased by the Governor from time to time remaining, after defraying all working expenses, maintenance, and other out-goings properly chargeable against revenue in the case of railway companies, will be sufficient to secure to the Contractors interest or a dividend at the rate of $5\frac{1}{2}$ per cent. per annum on the aggregate amount of the total cost of all the said railways, or any section or sections thereof then open for public traffic, as such total cost shall appear from time to time by the said capital accounts of each of the said railways to be so made up, and when approved as aforesaid; and will make such half-yearly payments in England, within four calendar months, after he shall have been furnished with the half-yearly revenue accounts of all the same railways, and shall have examined and approved of the same respectively as aforesaid.

38. If and whenever the net receipts as last aforesaid appearing by all the said half-yearly revenue accounts of all the railways which, or a section or sections of which, shall have been from time to time opened for public traffic, and shall not then have been purchased by the Governor, when such accounts shall have been examined and approved as aforesaid, shall in the aggregate have amounted to a sum sufficient to pay for that half-year's interest or a dividend at a rate exceeding the rate of $\text{£}5\frac{1}{2}$ per cent. per annum upon the aggregate amount of the total cost of all the said railways, or any section or sections thereof which shall have been opened for public traffic, and from the respective times of their being opened, as such total costs shall appear from time to time by the said capital account of each of the said railways to be so made up; and when approved as aforesaid, then and whenever afterwards it shall so happen, the amount of the excess shall be paid to the Governor until he shall have been repaid the whole of the sums paid by him as interest as aforesaid, under clause No. 37 of these presents, exceeding interest at the rate of $\text{£}5\frac{1}{2}$ per cent. per annum, together with simple interest on

such sums at the rate of £5½ per cent. per annum, and subject to the provision last aforesaid, such excess shall from time to time be divided as follows—viz., one-fourth to the Governor and three-fourths to the Contractors, until the Governor shall by means of such one-fourth have been repaid the whole of the sums paid by him as interest as aforesaid, together with simple interest on such sums at the rate aforesaid, and when from time to time, when all moneys paid by the Governor by way of interest as aforesaid, and interest thereon, shall have been repaid, the whole of such excess shall belong to the Contractors.

39. The Governor may, at any time within twenty years from the time when any railway, or any section thereof, shall have been completed, and after he shall have given twelve calendar months' notice of his intention so to do, purchase the right and interest of the Contractors in such railway or section, and the plant belonging thereto; and the Contractors will, in such case, sell the same to the Governor at a price to be agreed on between him and the Contractors, or, in case they shall not agree, to be determined by arbitration in manner hereinafter mentioned—viz., the price to be so paid being the total cost of such railway section or sections as it shall then appear by the said capital account to be so made up, and when approved as aforesaid, after making a deduction from such total cost of the amount by which such railway section or sections, and the plant belonging thereto, shall have deteriorated in value through wear and tear or want of repair since the same was or were made or supplied respectively.

40. Upon the expiration of the said notice the lease of the said railway, or section or sections, as the case may be, shall cease and determine, and the Contractors will give to the Governor peaceable possession of the said railway, or section or sections, and of the plant belonging thereto, and of all plans, sections, specifications, books, papers, and documents relating to the same, which it shall be necessary or desirable for the Governor to have or possess for use or reference.

41. The Governor will, within twelve calendar months after the making of the agreement or award as to the price to be paid for the right and interest of the Contractors in the said railway, or section or sections, and plant, pay the said price to the Contractors in England, and thereupon the said half-yearly payment of interest shall cease.

42. The Governor may retain or deduct out of any moneys in his hand belonging to the Contractors, or out of any moneys payable by the Governor to the Contractors, all sum and sums of money payable to the Governor by the Contractors under or by virtue of these presents.

43. All payments under these presents shall, except where it is otherwise expressed, be made in New Zealand.

44. Wherever in these presents the Governor, Colonial Treasurer, or Minister, or any other person holding an official situation, is referred to, the Governor, Colonial Treasurer, Minister, or person holding such situation for the time being shall be understood; and whenever by these presents the Governor, Colonial Treasurer, or Minister, is authorized or empowered to exercise any power, or do any act whatsoever, the Governor, Colonial Treasurer, or Minister, as the case may be, may from time to time authorize any other person or persons to exercise such power or do such act; and any power or act exercised or done by such person or persons within the scope of such authority shall have the same effect as if exercised or done by the person by whom they shall have been so authorized; and these presents shall be read as referring to such person or persons.

45. Any notice, request, declaration, or direction, to be given or made by the Governor, Colonial Treasurer, Minister, or any person acting on behalf or by the direction of them, may be given to the reputed agent of the Contractors for the time being in New Zealand, by delivering the same to him or leaving the same at his last known place of residence there, or, if there be no such agent, may be given or made by publishing the same in the *New Zealand Gazette*; and any notice, request, declaration, or direction so given, or made, or published respectively, shall have the same effect to all intents and for all purposes as if it had been given or made to the Contractors personally on the day when the same was so given, or made, or published respectively.

46. In case the Governor or the Minister, as the case may be, and the Contractors shall not agree as to the probable prime cost of making the railways respectively, or as to any schedule of prices, or as to the time or times within which the railways, or any of them, or any part thereof, are to be made, or as to the amount to be added to or deducted from "the agreed cost" in respect of any such deviation, diminution, addition, or substitution hereinbefore mentioned, or as to the price to be paid for the purchase of the right and interest of the Contractors in the said railway respectively, or the plant belonging to the same, or in case any dispute or difference whatsoever shall arise between the Governor, or Minister, or Colonial Treasurer, or the Engineer in England, referred to in clause 16 of these presents, and the Contractors in the carrying out of these presents, and whether it shall or shall not have been expressly hereinafter provided that in case the parties shall not agree, the matter shall be determined by arbitration, every such matter as to which they shall not agree, dispute, or difference, shall be settled by arbitration, to be conducted in New Zealand, except as regards the said clause No. 16, as to which any arbitration shall be conducted in England; and for the purposes of this portion of these presents, any matter of disagreement, dispute, or difference between the Minister or Colonial Treasurer, or the said Engineer in England and the Contractors, shall be deemed a matter of disagreement, dispute, or difference between the Governor and the Contractors; and unless the Governor and the Contractors shall unite in the appointment of a single arbitrator, the Governor and the Contractors shall each appoint an arbitrator; and if either party shall for thirty days after receiving a request from the other party to appoint an arbitrator fail to do so, or to give notice of the appointment to the party from whom he received such request, then the arbitrator appointed by the party who shall have made such request may proceed to hear and determine the matter, dispute, or difference, and in such cases the award or determination of such single arbitrator shall be final. If each party shall appoint an arbitrator, such two arbitrators shall appoint a third arbitrator: but if they shall be unable to agree upon the choice of a third arbitrator, then the third arbitrator shall be appointed by such one of the Governors of any of the colonies of Australia, or of the Colony of Tasmania, as the Governor of New Zealand shall request, to appoint an arbitrator. The award or

determination of such three arbitrators, or of any two of them, shall be final and conclusive. If, before the matter, dispute, or difference shall be determined, any arbitrator shall die or become incapable, or refuse or neglect to act, the party by whom such arbitrator was appointed shall appoint some other person in his stead, and if he shall for thirty days after receiving a request from the other party to appoint an arbitrator fail so to do, or to give notice of his appointment to the other party, then the party who shall have made such request may appoint an arbitrator in the stead of the arbitrator who shall have so died, become incapable, or refused or neglected to act. If the arbitrator who shall have so died, become incapable, or refused or neglected to act, shall be the arbitrator who was not appointed by either of the parties, then the provisions hereinbefore contained as to the appointment of a third arbitrator shall be applicable, and under them a successor shall be appointed in the stead of the arbitrator so dying, becoming incapable, or refusing or neglecting to act. Every arbitrator to be so substituted as aforesaid shall have the same authority as the original arbitrator. If a single arbitrator shall have been appointed and he shall die, become incapable, or refuse or neglect to act, and the parties shall not be able to unite in the appointment of another single arbitrator, then in his stead three arbitrators shall be appointed in the manner hereinbefore mentioned. Notwithstanding anything hereinbefore contained, the Engineer in England, in case any matter of disagreement, dispute, or difference shall arise between him and the Contractors, shall have the same powers as are hereinbefore conferred upon the Governor as to the appointment of an arbitrator, so far as regards any question which shall arise under the said 16th clause of these presents, and the Engineer and the Contractors shall have power from time to time to determine the manner in which the third arbitrator shall be appointed, in case the arbitrators appointed by the Engineer and the Contractors respectively shall not agree upon the choice of a third arbitrator. This submission to arbitration may be made a rule of the Supreme Court of New Zealand, or of any of the superior Courts of Westminster, as the case may be or require. The cost of and attending the arbitration and award shall be in the discretion of the arbitrators.

47. The Governor enters into this contract only on behalf of the Colony of New Zealand, and by executing these presents shall bind only the said colony, and not himself personally; and shall not be deemed to have incurred any personal responsibility or liability whatsoever; and no action or suit at law or in equity or other proceeding whatsoever shall be brought or taken against the Governor in respect of these presents, or the contract hereby created or purported to be created, elsewhere than in the said colony, nor in the said colony, unless by any Act or law of the said colony it is now or shall hereafter be provided that actions, suits, or proceedings in respect of contracts entered into by the Governor on behalf of the colony may be brought or taken against the Governor as a nominal defendant.

In witness whereof the Governor hath hereunto set his hand and seal of office, and the Contractors have hereunto respectively set their hands and seals, the day and year first above written.

Mr. J. MACKRELL to the Hon. J. VOGEL.

DEAR SIR,—

21, Cannon Street, London, E.C., 28th June, 1871.

I think it may be convenient to you if I give a brief epitome of the arrangements you have entered into with Messrs. Brogden and Sons for the construction of railways in New Zealand, and point out in what respect these differ from the arrangements entered into by the Government of India, and show how the former arrangements are more favourable in my opinion than the latter.

The contracts entered into with Messrs. Brogden are twofold, and for convenience have been called arrangement No. 1 and arrangement No. 2. Both arrangements have many stipulations in common, but differ as to the amounts to be expended in railways, the amount of the guarantee of dividend, the application of profits, and the terms of purchase. I will first point out those stipulations which are common to both, and which may be said to be the general terms which govern both contracts, and afterwards describe the special stipulations of each.

The Government are, at their absolute discretion, to select the lines of railway, and may regard the requirements of the colony irrespective of the remunerative character of the railways. When a railway has been decided upon, the Government are to have the necessary surveys, plans, and sections prepared, and the necessary Proclamations made enabling them to take the land, and are to determine the order and course and the terms of constructing the railway, and the specification of works and materials. Each railway is to have a single-wire telegraph with the necessary apparatus.

When such plans, sections, specifications, and working plans are prepared as will enable the probable cost of the railway to be ascertained, the Government are to divide it into sections of about ten miles each. The probable prime cost to the Contractors of making each section and the time within which the same is to be completed are then to be arranged between the Government and the Contractors, or settled by arbitration, and to this prime cost 5 per cent. thereon is to be added for the agreed profit for the Contractors. A schedule of prices to regulate the payment or allowance in respect of any alteration in the original plans, &c., is in a similar way to be arranged or settled. The Government are, within proper time, to provide the requisite land. The Government may order the original plans, &c., to be altered, or the works diminished or added to, or others substituted, and the settled price of the railway is in such case to be varied according to the schedule of prices. The Government are alone to decide what are variations from the original plans, &c., but the question of the value thereof may be referred in case of difference. The Contractors may not deviate from the original plans, &c., without the special authority of the Government, and no alteration involving an increased cost exceeding £500 may be made without the consent of the Governor in Council. If the works be delayed by reason of any variations from the original plans, &c., the time for completion is to be proportionately extended.

The Government Engineer, at the commencement of the railway, and at the beginning of each calendar month, is to estimate the probable expenditure in New Zealand during the then next three months, and the Contractors are from time to time to deposit with the Colonial Treasurer enough

money, with what out of previous deposits may remain unexpended, to meet the same, and payments thereout are to be made to the Contractors upon and according to certificates of the Government Engineer, with liberty to the Contractors to appeal to the Government to have any certificate increased. The Government may out of moneys so deposited pay any wages unpaid by the Contractors.

Every section of a railway is to be made in strict accordance with the original plans, &c., subject to variation as above mentioned, and with such further instructions as the Government Engineer may give, and to his satisfaction in all respects, and within the time appointed; and, if the Government so direct, is to be opened for public traffic upon the Engineer's certifying its completion. An appeal lies to the Government against this certificate of the Engineer, or should he withhold a certificate.

The Contractors are at their own cost to maintain the railway for twelve months after completion, unless any damage shall, in the opinion of the Government Engineer, have risen from storms, floods, insufficiency of design, war, or disturbance in the colony; in which case, whenever the same may happen, the cost of making good such damage is to be defrayed by the Contractors, and added to the settled cost of the railway.

Any further or altered works which the Government may afterwards require are to be executed by the Contractors according to plans, &c., to be prepared or approved by the Government Engineer, and the cost thereof is also to be added to the settled cost.

The Contractors are to provide all such plant, and according to such drawings and specifications, as the Government shall direct, and place the same on the railways seven days before the time appointed for opening; and afterwards provide such further plant, and according to such drawings and specifications, as the Government may direct, all of which plant is to be to the satisfaction of the Government Engineer.

When the description, drawings, &c., of the plant have been decided upon, the Contractors are to obtain tenders from not less than six respectable and responsible persons previously approved by an officer of the Government in England, such tenders to be based upon the terms of a cash payment, and for delivery and approval in England; and the Contractors and Government officer in England are then, having regard to the tenders, to agree as to the cost to be incurred in obtaining the plant, failing which the same is to be settled by arbitration. This cost, with all charges and expenses of approval, transport in England, shipment, freight, insurance, landing, and transport, and erecting and fitting in the colony, with 5 per cent. thereon by way of Contractors' profit, is to be added to the settled cost of the railways.

Any commission, discount, allowance, or proportion of profit allowed to the Contractors by the manufacturers of the plant is to be deducted from the cost of the plant before being so included. The Contractors are out of their own moneys to pay for all manufactured materials and plant obtained in England, and any costs the Government may incur of approving the plant in England.

A proper capital account of each railway, distinguishing therein the cost of each section, is to be kept by the Contractors, and the same is to be from time to time submitted to and approved by the Government, who may disallow any items, subject to a reference if the disallowances exceed £500.

The Contractors are to maintain the railways in thorough efficient working order, and run not less than two trains each way daily, unless the Government otherwise direct; and such further number of trains as the Government may require, charging only fares and rates within limits to be fixed by the Governor in Council. The question as to running more than two trains a day may be referred, and as may also the question of rates and fares when the Government have to pay nothing under their guarantee.

A proper revenue account of each railway is to be kept by the Contractors, which is to be submitted half-yearly to the Government for approval, and the Government may disallow any items, subject to a reference if the disallowances on any account exceed £500.

All fares, tolls, and freights are to be collected by the Contractors, who are to furnish the Government with all such detailed accounts and statements as may be required, and the Government may at all times inspect the Contractors' books of account and vouchers relating to the receipts and expenditure generally, and take copies of the same.

The trains are to be run at a speed, including stoppages, of not less than ten miles an hour on railways costing under £3,000 a mile, fifteen miles an hour on those costing £4,000 a mile, and twenty miles an hour on those costing over that amount, except where the Government consider the gradients or curves do not justify so high a rate of speed.

The members of the General Assembly and Provincial Councils are to be conveyed in the ordinary trains at 25 per cent. below ordinary fares and rates; and in the event of war or civil commotion the whole resources of the railways are to be placed at the disposal of the Government at cost price.

The Government may enter upon the railways to lay down or enlarge existing lines of telegraph, and erect or enlarge stations, and may use such lines and stations without charge, but are not to obstruct the traffic in laying down and erecting the lines, &c.

If the Contractors become bankrupt, &c., or fail to complete the railways in due time, or fail to proceed with due diligence after notice, the Government, upon certain certificates, may give notice and determine the contract as to any sections in respect of which the contract is not properly observed; but in case of non-completion in due time three months' notice is to be given and not to take effect if the railways are completed within that time. Upon such determination the Government may or not, as they think fit, take possession of all or any of the sections referred to in the notice, and also of any other completed sections which it may be desirable to take possession of and use in connection with any other section, and all the plant belonging thereto; in which case the contract is also to be determined in respect of such completed section and the plant belonging thereto. The Government to accept all plant then *in transitu* or in course of construction for the sections taken possession of, and may take possession of all the Contractors' working plant, materials, and chattels thereon, and the Contractors are to deliver up all plans, &c., relating to the same. Upon any such determination of the contract, the provisions of the contract with respect to guarantee of dividend, division of profits, and purchase are only to apply to the section or sections of a railway then completed and opened for traffic, and not taken possession of, and the plant belonging thereto.

If the contract is determined by reason of the bankruptcy, &c., of the Contractors, their assignees or trustees may, within twelve months, repay to the Government any moneys expended, and enter into proper contracts with the Government for completing the railways and providing the plant, in which case the Government are to restore possession of the sections and plant taken possession of.

If the Contractors make default in maintaining a railway or providing plant and keeping the same in good working order, or in properly working and using the railway, the Government may direct the necessary repairs to be done and plant supplied, and replace any plant worn out, and enter and use and work the railway, and the Contractors are to repay all moneys expended. If within six months the Government are recouped the moneys expended, the Contractors are to be reinstated.

The laws and regulations of New Zealand are to be complied with and conformed to, as well as any by-laws which the Government may establish; and the Contractors are to compensate parties injured by the negligence or wrongful act of the Contractors in making the railways or working the same.

The contract is not to be assigned or sublet without the approval of the Government. If assigned to a company, such company are to enter into a formal contract with the Government for securing the due observance and performance of the stipulations of the contract.

The Government are to have the right to appoint an *ex officio* director on the Board of the company, both in England and in the colony, with a right of veto at all proceedings of the Board, and only such charges for the direction and management of the company are to be allowed as the Government shall approve of. The company are to keep proper books, and the same are to be open to the inspection of the Government and its officers.

In the event of the Government purchasing the railways they are to pay for the same in England within twelve months after the price is agreed upon or settled.

The Government may retain out of any moneys in their hands belonging to the Contractors any sums due to the Government. All payments, except where otherwise expressed, are to be made in New Zealand.

Any notices to the Contractors may be given to their agent in New Zealand, or, if there be no such agent, may be published in the *New Zealand Gazette*.

For the determination of such questions as may be referred to arbitration, the Government and the Contractors may either agree as to a single arbitrator, or each appoint one, and the two so appointed are to choose a third; but, if they cannot agree, the third is to be appointed by such one of the Governors of any of the Colonies of Australia or of the Colony of Tasmania as the Government of New Zealand may request to do so. The award of such three arbitrators, or any two of them, to be final.

Having thus described those stipulations which are common to both contracts, I now proceed to point out those which apply only to each particular contract.

The special provisions as regards No. 1 are as follows:—

Before the 21st June, 1879, the Government are to intrust to the Contractors the making and providing of railways and plant, to cost £4,000,000, and the Contractors are to make and provide the same. The interest on capital employed during construction of a railway and in providing plant is to be estimated and added to the settled cost. The moneys deposited with the Colonial Treasurer for expenditure in New Zealand are not to bear interest. The police and other forces when proceeding on duty, and the public mails, are to be carried by the ordinary trains at 25 per cent. below ordinary fares and rates.

In case of forfeiture of the railways, the Government are not to pay for the Contractors' working plant, &c., but the Government are to pay as follows: For any completed section which they may take possession of and its plant, the same sum as on purchase; for any non-completed sections, such a sum as, with the sums paid on account of subdivision, will be equal to the sums deposited by the Contractors with the Colonial Treasurer for expenditure in New Zealand, the Government retaining any unexpended moneys; and for plant *in transitu* or course of manufacture, the agreed cost thereof with all charges and expenses, but without any percentage for profit. All such payments to be in Government debentures having thirty years to run, with interest at 5 per cent.

The Government are to grant to the Contractors such land, and so situate, as the Government think fit, at the rate of three-fourths of an acre per £1 of the cost of the railways and plant, one-fifth only of which land need be suitable for settlement and for settlers to take immediate possession of. Such portions of this one-fifth as may be required for immigrants are to be granted as required, and the residue in respect of each section of railway on the completion thereof. When a railway is decided upon, the lands out of which the grant is to be made are to be set apart, and the Government are to allow the Contractors, so far as they can conveniently, to occupy the land in the meantime.

From the opening of a railway until the expiration of forty years, or the purchase thereof by the Government at an earlier period, and until payment of the purchase-money, the Government are to pay to the Contractors in England such a sum as, with the net receipts from all the railways in the Contractors' hands then open for traffic, after defraying all working expenses, maintenance, and other out-goings properly chargeable against revenue, will give the Contractors a dividend at the rate of £5 5s. per cent. per annum on the aggregate amount of the total cost of all the same railways and their plant, as appearing by the capital accounts of the respective railways, after deducting all sums paid by the Government for subvention, within four months after the examination and approval by the Government of the half-yearly revenue accounts. When such net receipts are sufficient to pay a dividend exceeding 8 per cent. on the aggregate cost of all the said railways and plant, after deducting the subvention, the excess thereof is to be applied to recoup any advances made by the Government under their guarantee, exceeding interest at the rate of £5 5s. per cent. per annum, with interest at 5½ per cent., and subject thereto, is to be divided equally between the Government and the Contractors.

The Government are to pay to the Contractors in part payment of the purchase-moneys a subvention equal to one-third of the cost of the railway and plant as follows: When any moneys are paid out to the Contractors from the funds deposited by them with the Colonial Treasurer, a sum

equal to one-sixth of the amount so paid out is also to be paid to them on account of the subvention; and when any manufactured materials or plant are placed or delivered upon a railway, the Government are to pay to the Contractors a sum equal to one-sixth of the value thereof according to the certificate of the Government Engineer, such payment on account not to exceed one-half of the subvention, until the completion of each section, when the balance of the subvention in respect thereof is to be paid.

At the expiration of forty years the Government are to, and they may at any earlier time, on giving twelve months' notice, purchase the right and interest of the Contractors in any railway or any section thereof completed and open for traffic, and the plant belonging thereto; the price to be the total cost thereof as appearing by the capital account so approved as aforesaid, deducting therefrom the amount of any deterioration in value through wear and tear or want of repair, and giving credit for the sums paid for subvention. The Contractors are to give up possession, with all plans, sections, and documents relating thereto.

If before the Government purchase the railways the Contractors wish to issue debentures, the Government are to furnish a statement showing what sum the Government is entitled to have allowed on account of the subvention, but the Government are not to be deemed thereby in any way to guarantee any debentures.

Within ten years after the commencement of any railway the Contractors are to land not less than 10,000 European immigrants, to be approved of by a Government officer before sailing from Europe, in not less than the following proportion: First year, 500; second year, 750; third year, 1,000; fourth year, 1,000; fifth year, 1,000; sixth year, 1,000; seventh year, 1,250; eighth year, 1,250; ninth year, 1,250; and tenth year, 1,000. The Government to pay for each immigrant so landed, whether or not employed on the railways, £1 in the month of December in each year for ten years from the time when each immigrant landed, unless in case of death or ceasing to reside in the colony.

To encourage improvements the Government are to guarantee mortgage-bonds, with interest not exceeding 5 per cent., for not exceeding ten years, to an amount not exceeding one-half of the moneys expended, to the satisfaction of the Government officers, in such improvements as may be approved by the Government; such bonds not to exceed £500,000. The Government to have all the mortgagees' rights to recoup themselves for any moneys paid under such guarantee.

The special provisions relating to arrangement No. 2 are as follows:—

The Government are, with all convenient despatch, to intrust to the Contractors the making and providing railways and plant to cost £500,000, and the Contractors are to make and provide the same. The Government are, during the construction of the railways, to pay interest at the rate of $5\frac{1}{2}$ per cent. per annum on the last days of June and December in each year on all moneys deposited with the Colonial Treasurer for expenditure in New Zealand, and on all the moneys expended by the Contractors in England for manufactured materials or plant.

The military, police, and other forces, when proceeding on duty, and the public mails, are to be carried free of charge.

In case of forfeiture of the railways the Government are not to pay for the Contractors' working plant, &c., but are to pay as follows: Firstly, for any completed sections and plant belonging thereto, the same sum as on purchase. Secondly, for any completed sections, such a sum as will be equal to the sums deposited with the Colonial Treasurer for expenditure in New Zealand, the Government retaining any unexpected moneys. And, thirdly, for plant *in transitu* or course of manufacture, the agreed cost thereof, with all charges and expenses, but without any percentage for profit. The payments firstly and thirdly mentioned to be in Government debentures having thirty years to run, with interest at 5 per cent., and the payment secondly mentioned, by a grant of a Government annuity at $5\frac{1}{2}$ per cent. for the residue of the term of thirty-five years, computed from the commencement of the railway or sections.

When the railway or any section thereof is completed and open for traffic, the same is to be demised to the Contractors for ninety-nine years, at the nominal rent of one shilling per mile, and at the expiration or sooner determination of the term is to revert to and become the property of Her Majesty.

The lease is to contain all reasonable and necessary covenants, with a forfeiture-clause, but subject to a condition that if, within eighteen calendar months after taking possession, the Government shall, by perception of profits or other means, have been satisfied or compensated in respect of the grounds of forfeiture, the Contractors are to be reinstated.

From the opening of any railway or section for public traffic, the Government are to pay to the Contractors half-yearly, in England, until the expiration of thirty-five years from the commencement of such railway, or the purchase of the railways at an earlier period, and until the payment of the purchase-money, such a sum as, with the net receipts from all the railways in the Contractors' hands then open for traffic, after paying all working expenses, maintenance, and other outgoings properly chargeable against revenue, will give the Contractors a dividend at the rate of $5\frac{1}{2}$ per cent. per annum on the aggregate amount of the total cost of all the same railways and their plant, as appearing by the capital accounts of the railways respectively, within four months after the examination and approval by the Government of the half-yearly revenue accounts. When such net receipts are more than sufficient to pay such dividend at the rate of $5\frac{1}{2}$ per cent., the excess is to be first applied in recouping to the Government any sums paid for working expenses, with interest at $5\frac{1}{2}$ per cent., and the balance divided, one-fourth to the Government and three-fourths to the Contractors, until the Government are recouped all advances under their guarantee, with a like interest thereon, when the Contractors are to take all the profits.

At any time within twenty years after the completion of any railway, or any section thereof, the Government may, on giving twelve months' notice, purchase the right and interest of the Contractors in the railway or section, and its plant; the price to be the total cost thereof, as then appearing by the capital account so approved as aforesaid, deducting therefrom the amount of any deterioration in value through wear and tear or want of repair.

I have, for the sake of brevity, used the word "Government," although in the contracts distinctions are drawn between the Governor and the Minister or President of the Department of Public Works.

I will now shortly state the terms under which railways are constructed in India :—

The railway companies select their own lines of railway, and, of course, select only those which are likely to be most remunerative, not regarding what may be required to develop the resources of the country. They are under no restrictions as regards the cost of the railways, but whatever sums they expend in construction are allowed as between themselves and the Government. They pay their capital to the Indian Treasury as fast as they think fit, and the Government pay 5 per cent. interest from the time of such payment, paying out the moneys as wanted, but continuing to pay interest. Having made their own selection of lines, the companies take upon themselves the risk of working expenses, and the Government covenant to pay them 5 per cent. interest on all their capital.

The profits are applied, first, in exoneration of the covenant of the Government to pay interest, and one moiety of the surplus is applied to recoup moneys previously advanced by the Government under their guarantee, with interest at 5 per cent., and subject thereto all the profits belonging to the railway companies.

The railways are granted to the companies for ninety-nine years, and the Government have the right to buy them up only at the expiration of the first twenty-five or fifty years, when they have to repay to the companies the market-value of all their capital, according to the last three years' average price of the stock or shares, taking over all their property. The companies, however, have the privilege of relinquishing their undertaking at any time during the ninety-nine years, in which case the Government have to repay their capital.

It will thus be seen that the contracts you have secured for the New Zealand Government give to that Government advantages which the Indian Government have not obtained. The New Zealand Government have the absolute right of selection of the lines of railway, and may choose those best calculated to develop the resources of the colony, irrespective of the question of immediate profit; nevertheless, very properly taking upon themselves any risk of the railways not paying their working expenses, whereas the Indian Government have no such advantage.

The cost of the railways in New Zealand is limited to the net prime cost, with a simple addition of 5 per cent. only for Contractors' profits, whereas there is really no limitation as to cost in the Indian contracts.

The New Zealand Government may alter the lines during construction in any way that they may think fit, which is a privilege not accorded the Government in the case of the Indian railways.

The New Zealand Government may purchase, at any time they think fit, under arrangement No. 1, within forty years, and under arrangement No. 2, within twenty years, any of the railways or any sections of any of the railways opened for traffic, with the plant belonging thereto, and at the bare cost of the same, with 5 per cent. only for Contractors' profits, and with deductions in respect of any deterioration in value; whereas the Indian Government can only buy up the whole of a railway at certain stated periods of twenty-five and fifty years, and have then to pay the full value of all the stock or shares of the company according to the average of the three preceding years, which, in the case of railways selected by promoters, will probably be, at that distance of time, at a very considerable premium. Moreover, the railway companies can at any time relinquish their undertakings, and call upon the Government to repay their capital.

I think you may fairly congratulate yourself that your protracted and most difficult negotiation with Messrs. Brogden and Sons has been brought to so satisfactory a termination, and that there has been deposited by them securities for the sum of £25,000 as a guarantee for the carrying-out of the obligations they have entered into.

From the many questions raised by Messrs. Brogden from time to time, and from the extreme reluctance with which they concluded the arrangements, I must confess I doubted very much whether the contracts would have been completed and executed; and I cannot but feel that it was only owing to your excellent diplomacy that (although at the very last moment) the arrangements were brought to a satisfactory conclusion.

I have, &c.,

The Hon. the Colonial Treasurer.

JOHN MACKRELL.

Mr. J. DENNISTOUN WOOD'S OPINION.—The Governor of New Zealand and Messrs. John Brogden and Sons.

THE Colonial Treasurer wishes to be advised by counsel as to the relative advantages (if any) which, in the opinion of counsel, may have been secured to the Governor of New Zealand by the contracts entered into by Messrs. Brogden, as compared with those entered into by the Secretary of State in Council with railway companies for the construction of railways in India.

Mr. Dennistoun Wood is therefore requested, by reference to these contracts and the accompanying print of one of the contracts entered into by the Government of India, to advise accordingly.

21, Cannon Street, 28th June, 1871.

Opinion.

In comparing the two contracts, into one or both of which it is intended that the Governor of New Zealand shall enter on behalf of the colony, with the contract made between the East India Company and the Scinde Railway Company, I will first of all remark upon the remuneration to be paid to the Contractors, which may be considered under the two heads (1) of payments to be made not in the nature of purchase-money, and (2) of the terms of purchase.

As regards the first head: The East India Company guarantees interest to the railway company at the rate of 5 per cent. upon the capital expended by it. The interest guaranteed by the Government of New Zealand is somewhat higher, being $5\frac{1}{4}$ under Contract No. 1, and $5\frac{1}{2}$ under Contract No. 2; but, on the other hand, under the Indian contract the Government pays interest on the capital from the day on which it was paid into the Treasury, and of the estimated probable expenditure of £500,000 no less a sum than £276,845 8s. 9d. was so paid, or taken to have been paid, before the date of the

contract; whereas under Contract No. 1 interest is not payable in respect of any section until it has been opened for traffic; and under Contract No. 2 interest is payable only from the time when the amount which according to estimate will be expended in making the railways during the next three months is deposited with the Colonial Treasurer, or, in the case of materials or plant purchased in England, only from the time when the purchase-money is paid. Again, under the Indian contract, only one-half of the profits is to be applied in repaying the Government the sums previously paid by it under the guarantee of interest, the other half belonging to the railway company; and when the whole of the sums paid by the Government under the guarantee have been repaid, then the whole of the profits are to belong to the company; whereas under Contract No. 1, although it is certainly not until the profits exceed 8 per cent. that they are to be applied in repaying the Government the sums paid by it under the guarantee of interest, yet, when this occurs, the whole amount by which the profits exceed 8 per cent. is to be so applied, and, when the Government has been repaid, the amount of such excess is to be equally divided between the Government and the Contractors, instead of belonging entirely to the latter, as under the Indian Contract; and under Contract No. 2, when the profits exceed $5\frac{1}{2}$ per cent. the whole of the excess is in like manner to be applied in repaying the Government any sums paid by it under the guarantee of interest exceeding $5\frac{1}{2}$ per cent., and, when these sums have been repaid, one-fourth of the excess is to belong to the Government until all its advances under the guarantee have been repaid with interest.

As regards the terms of purchase, it is to be observed that under the Indian contract the purchase-money is to be "the full amount of the value of all the shares or capital-stock calculated according to the mean market-value in London of such shares or stock during the period immediately preceding the expiration of the period of twenty-five years or fifty years," at which alone the East India Company had the right to purchase. The shares may have risen considerably above par, and it is quite possible that the belief of an intention on the part of the Government to purchase may of itself raise the value of shares above what it otherwise would be, and so increase the amount of the purchase-money. Under both the New Zealand contracts the purchase-money is to be merely the amount of the capital expended by the Contractors in making the railways and providing the plant, with a profit of 5 per cent. added, after making a deduction for the deterioration in value of the lines and plant, through wear and tear and want of repair.

It would, however, be improper to omit reference to the fact that under Contract No. 1 the remuneration of the Contractors does not consist solely in money-payments, as they are to receive a grant of three-quarters of an acre of land for every pound expended by them in making the railways and providing plant. As to this, it may be pointed out that, if the opening-up of railway communication shall render the grant of land valuable to the Contractors, it must, of course, have a like effect upon the greatly larger extent of land retained by the Government; so that if, on the one hand, the Contractors receive an advantage which they do not enjoy under the Indian contract, on the other hand the Government of New Zealand will derive, from the enhancement in the value of its waste lands, an advantage which the Indian Government will not derive, or at all events not nearly to the same extent. It is to be further remarked that for the remuneration given to the Contractors under Contract No. 1, consisting as it does partly in money-payments and partly in grants of land, they bind themselves not merely to make the railways and supply the plant, but also to introduce 10,000 immigrants on terms which appear to be very advantageous to the Government, as, instead of paying a lump sum on the arrival of each immigrant, it is required only to make ten annual payments of £1 each, and these payments are to cease if the immigrant dies or ceases to reside in the colony.

As I have already incidentally mentioned, under the Indian contract the Government can purchase only at the expiration of twenty-five or fifty years from the 1st of May in the year in which the contract was made, whereas the Government of New Zealand may purchase under Contract No. 1 at any time within forty years from the commencement of the making of a railway, or under Contract No. 2 at any time within twenty years from the completion of a railway.

The comparison between the New Zealand contracts and the Indian contracts, as regards the terms of the purchase, would be imperfect if I were to omit to point out that under the latter the Government becomes the owner of the railway without purchase at the end of ninety-nine years, supposing that it has not purchased at the expiration of the twenty-five or fifty years, whereas it is only under Contract No. 2 that a like privilege has been accorded to the Government of New Zealand; the Government under Contract No. 1, being bound to purchase at the expiration of forty years, if it has not sooner done so. It is, however, unlikely—having regard to the policy of the Australian Colonies, in which the Government is almost universally the owner of the railways—that the Government of New Zealand would not acquire the railways at as early a period as possible, so that a provision as to a reversionary interest at the end of ninety-nine years would be practically of little value.

There are other advantages which the New Zealand contracts appear to possess over the Indian contract. Under it the company may at any time, after a portion of the railway has been in work for three months, call on the Government to accept a surrender of the undertaking and pay the whole of the capital then expended by the company; under the New Zealand contracts the Contractors have no such rights.

Under the New Zealand contracts the cost of making each section is to be determined between the Contractors and the Government before the former enter upon it; and this cost they cannot exceed, unless the Government should order alterations or deviations, and in that case the cost of them is fixed by a schedule of prices previously agreed upon. Under the Indian contract the Government seeks to limit the expenditure by the somewhat complicated arrangement that the company is to make no contract and enter upon no undertaking not previously sanctioned by the East India Company. This almost amounts to the Government becoming a railway contractor.

The Indian contract fixes the termini of the railway (although there is a power to limit or extend the route), and under the New Zealand contracts the Government has the absolute right of determining the lines of railway.

29th June, 1871.

J. DENNISTOUN WOOD.

NOTICE AS TO THE SECURITIES DEPOSITED.

To the Directors and Managers of the Bank of New Zealand.

I HEREBY, on behalf of Sir George Ferguson Bowen, G.C.M.G., the Governor, and of the Honourable Julius Vogel, the Colonial Treasurer of Her Majesty's Colony of New Zealand, give you notice that the securities which were deposited with you by Alexander Brogden, Esquire, M.P., Henry Brogden, and James Brogden, all of No. 4, Queen's Square, in the City of Westminster, railway contractors, on or about the 23rd day of June instant, were, by articles of agreement dated the 26th day of June, 1871, and made or expressed to be made between the said Sir George Ferguson Bowen, of the one part, and the said Alexander Brogden, Henry Brogden, and James Brogden, of the other part, declared to have been so deposited for and on behalf of the said Colonial Treasurer, on behalf of the said Governor, and for the purposes expressed and declared, or referred to in and by the same articles of agreement. And I do hereby accordingly give you further notice, and require you to hold all such securities respectively for and on behalf of the said Governor and Colonial Treasurer, and not to part with the same or any of them, or any part thereof respectively, without the express direction or consent in writing of the Governor or Colonial Treasurer for the time being of the said Colony of New Zealand, or the Agent-General of the said colony in England for the time being, except on payment to you of the sum of twenty-five thousand pounds.

Dated this 28th day of June, 1871.

JOHN MACKRELL,
21, Cannon Street, London, Solicitor, acting for and on
behalf of the said Governor and Colonial Treasurer.

ON behalf of the Bank of New Zealand I accept this notice, and acknowledge that the securities deposited with the bank by Messrs. John Brogden and Sons are held by the bank on behalf of the Governor and Colonial Treasurer of New Zealand, on the terms stated in the agreement mentioned in this notice.

For the Bank of New Zealand,

A. LARKWORTHY,
Managing Director.

London, 28th June, 1871.

The securities referred to in this notice are promissory note of Messrs. John Brogden and Sons to Bank of New Zealand, on demand, for £14,000, ditto for £11,000, total £25,000; and lease, Queen to Messrs. Brogden, of coal, ironstone, &c., within the Manor of Ogmore, in the County of Glamorgan, Duchy of Lancaster, dated 30th August, 1865.—A. L.

The Hon. Mr. VOGEL to the SECRETARY of STATE for the COLONIES.

MY LORD,—

Charing Cross Hotel, London, 3rd June, 1871.

I have the honour to inform your Lordship that, on behalf of the Government of New Zealand, I am about to make an arrangement for the construction of railways in that colony. Under that arrangement, it may from time to time be necessary that umpires should be appointed to act in cases of arbitration as to the prices to be paid for different works, and as to other questions arising out of the agreement. It is desirable that such appointments should be made outside New Zealand. I have, therefore, to ask, whether your Lordship will permit the Governors of Victoria, New South Wales, South Australia, Queensland, and Tasmania, respectively, to appoint an umpire or umpires when required, leaving it to the discretion of the Government of New Zealand to make the request to any one of their Excellencies to do so. Of course the Government of New Zealand will undertake to pay all the expenses in connection with any such appointment.

I have, &c.,

The Right Hon. the Earl of Kimberley, &c.

JULIUS VOGEL.

Mr. R. H. MEADE to the Hon. J. VOGEL.

SIR,—

Downing Street, 10th June, 1871.

I am directed by the Earl of Kimberley to acknowledge your letter of the 3rd instant, and to inform you that the Governor of each of the colonies you mention will be requested to comply with any application he may receive from the Government of New Zealand for the appointment of an umpire or umpires in the event of any questions arising which might call for arbitration under the arrangement you are about to make for the construction of railways in New Zealand.

I have, &c.,

Julius Vogel, Esq.

R. H. MEADE.

Messrs. BROGDEN and SONS to the Hon. J. VOGEL.

SIR,—

4, Queen Square, Westminster, S.W., 24th June, 1871.

We intend at once to send out rails, engines, goods-wagons, and other plant for the New Zealand railways, to the extent of about twenty-five thousand pounds, and we have the honour to request that you will name some engineer in England with whom we can communicate, and who will be authorized to approve the specifications, and inspect and pass the material when ready for shipment.

We have, &c.,

The Hon. J. Vogel, Charing Cross Hotel, W.C.

JOHN BROGDEN and SONS.

The Hon. J. VOGEL to MESSRS. BROGDEN and SONS.

GENTLEMEN,—

Charing Cross Hotel, London, 24th June, 1871.

I have the honour to acknowledge the receipt of your letter of this day's date, respecting a proposed shipment by you to New Zealand of certain railway plant and material, and the appointment of an engineer to inspect the same. In reply, I have the honour to enclose you copy of a letter on the subject which I have addressed to Mr. A. O. Ottywell, of 16, Charing Cross, who has recently been acting on behalf of the Government of New Zealand as to railways in Canterbury.

I have, &c.,

Messrs. John Brogden and Sons.

JULIUS VOGEL.

The Hon. J. VOGEL to Mr. OTTYWELL.

SIR,—

Charing Cross Hotel, London, 24th June, 1871.

Under the terms of a contract entered into with Messrs. Brogden and Sons, those gentlemen propose to ship certain railway materials and plant to New Zealand, and have applied to me to appoint an Engineer to inspect and approve of the same.

I have, therefore, the honour to request that you will move Mr. G. W. Hemans, C.E., to prepare specifications, or to consider specifications submitted by Messrs. Brogden and Sons; and, if he thinks it right so to do, to approve of the same. In either case, Mr. Hemans will inspect, and certify respecting the plant and material before they are shipped. It is proposed to send out—Rails, suitable for light railways; engines; and goods wagons; the total value not to exceed £25,000. You should consider that the gauge is to be 3 feet 6 inches, and that the railways are to be light—say, to cost from £3,000 to £5,000 a mile. As this is business in the nature of that which Mr. Hemans contemplated, I beg you will arrange with him that his charges shall be limited to 1½ per cent.

You will be so good as at once to place yourself in communication with Messrs. Brogden on the matter generally.

A. O. Ottywell, Esq., Charing Cross.

I have, &c.,

JULIUS VOGEL.

The Hon. J. VOGEL to Messrs. BROGDEN and SONS.

GENTLEMEN,—

Charing Cross Hotel, London, 26th June, 1871.

I have the honour to enclose to you copy of a letter which I have this day addressed to Mr. A. O. Ottywell, of 16, Charing Cross.

Messrs. John Brogden and Sons.

I have, &c.,

JULIUS VOGEL.

The Hon. J. VOGEL to Mr. OTTYWELL.

SIR,—

Charing Cross Hotel, London, 26th June, 1871.

Referring to my letter of the 24th instant, as to certain railway plant and materials to be shipped to New Zealand by Messrs. Brogden and Sons, and as to the services in connection therewith which you are to move Mr. G. W. Hemans, C.E., to render, I have the honour to add that, when tenders are received by Messrs. Brogden and Sons, and submitted to Mr. Hemans, he is to consult those gentlemen, and to come to some determination with them as to the tender or tenders to be accepted.

A. O. Ottywell, Esq., Charing Cross.

I have, &c.,

JULIUS VOGEL.

The Hon. J. VOGEL to Mr. MORRISON.

DEAR SIR,—

New York, U.S., 10th July, 1871.

The shortness of my stay in London, after the contract with Messrs. Brogden was signed, did not permit me time to write to thank you for the cordial assistance you rendered me throughout the protracted negotiations with those gentlemen. I now, therefore, take the opportunity of conveying to you my thanks for that assistance, as also for the readiness with which you lent me your valuable services for other purposes during my stay in London.

John Morrison, Esq.

I have, &c.,

JULIUS VOGEL.

The Hon. J. VOGEL to Mr. MORRISON.

MY DEAR MR. MORRISON,—

San Francisco, Cal., 20th July, 1871.

Many thanks for your letter of June 29th, and for the copy of advertisements enclosed in it. I have received safely the letter from Mr. Mackrell, and its enclosures.

In reply to your question whether you are at liberty to use the explanation I gave you orally as to the reason why I referred Mr. Brogden to Mr. Ottywell instead of to yourself, I have to say that you are fully at liberty to use that explanation. I may add that it was only in the hurry of the moment it occurred to me to employ Mr. Ottywell, and that, if I had had time to think over the matter, I should certainly have referred Mr. Brogden to you, leaving it to you to make arrangements with Mr. Ottywell. I have, further, explicitly to assure you that it was only in consequence of my having been brought into contact with Mr. Ottywell in respect to Canterbury matters, for similar purposes, that the idea of employing him upon the occasion in question occurred to me. Nothing was further from my mind than the idea of putting any slight upon yourself. Indeed, I had reason to be very much obliged to you for the great zeal you showed throughout the negotiations with Messrs. Brogden.

John Morrison, Esq.

I have, &c.,

JULIUS VOGEL.

SUBSEQUENT CONTRACTS, PRELIMINARY TO RAILWAY CONTRACTS.

Extract from Appendix to the Journals of the House of Representatives, D.-1, 1872, pages 14 to 19 inclusive.

ARTICLES OF AGREEMENT ENTERED INTO BETWEEN HER MAJESTY THE QUEEN AND MESSIEURS ALEXANDER, HENRY, AND JAMES BROGDEN, TEMPORARILY SUSPENDING CONTRACT NO. 2.

ARTICLES OF AGREEMENT entered into this eighteenth day of December, one thousand eight hundred and seventy-one, between Her Majesty the Queen, of the first part, Sir George Ferguson Bowen, Governor of New Zealand (hereinafter referred to as "the Governor"), of the second part, and Alexander Brogden, Henry Brogden, and James Brogden, all of Queen's Square, in the City of Westminster, in England, Railway Contractors (hereinafter referred to as "the Contractors"), of the other part.

WHEREAS by articles of agreement dated the twenty-first day of June, one thousand eight hundred and seventy-one (hereinafter referred to as Contract No. 1), made between the Governor and

the Contractors, after reciting as therein recited, it is amongst other things declared that it was agreed between the Governor and the Contractors that he would, within eight years from the date of the articles of agreement now being recited, entrust to the Contractors the making of railways in New Zealand, and the providing of plant for such railways, to the extent in total cost of four million pounds: And whereas by articles of agreement dated the twenty-second day of June, one thousand eight hundred and seventy-one (hereinafter referred to as Contract No. 2), made between the Governor and the Contractors, after reciting as therein recited, it is amongst other things declared that it was agreed by the Governor that he would, with all convenient despatch, entrust to the Contractors the making of railways in New Zealand, and the providing plant for such railways, to the extent of five hundred thousand pounds; and that he would cause the necessary surveys and plans and sections of such railways to be declared, deposited, and proclaimed: And whereas by other articles of agreement purporting to have been entered into on the twenty-sixth day of June, one thousand eight hundred and seventy-one, between the Governor and the Contractors, after reciting amongst other things that the said Contract No. 1 and Contract No. 2 had not as yet been executed by the Governor, it was amongst other things agreed between the Governor and the Contractors that the Governor would, within a period of three months from the time when the said Contracts Nos. 1 and 2 arrived in New Zealand, execute one or both of them, and that, until the expiration of the said period, both of the said contracts should be binding upon the Contractors as fully as if the Governor had executed both of them, and that, after the expiration of the said period, then, as the case may be, both, or, if the Governor should have executed one only of the said Contracts Nos. 1 and 2, such one only should be binding upon the Contractors: And whereas by other articles of agreement dated the twenty-sixth day of June, one thousand eight hundred and seventy-one, and made between the Governor and the Contractors, but executed by the said Contractors subsequently to the execution by them of the said thirdly hereinbefore in part recited articles of agreement, it was agreed between the Governor and the Contractors to the same effect and in the same terms as in the said thirdly hereinbefore in part recited articles of agreement, except that the period of six months was substituted for the period of three months in the last recited, and in the first clause thereof: And whereas on the day of , one thousand eight hundred and seventy-one, being within the said period of six months, the Governor did execute the Articles of agreement secondly hereinbefore in part recited and referred to as Contract No. 2, and has determined and elected not to execute the first hereinbefore in part recited articles of agreement called Contract No. 1: And whereas, in accordance with the terms of the said two lastly hereinbefore in part recited articles of agreement, certain securities have been deposited by the Contractors with the Bank of New Zealand, and are now held by the said bank, for and on behalf of the Governor and the Colonial Treasurer of New Zealand, subject to the terms of the said two lastly hereinbefore in part recited articles of agreement, and as security for the due performance and fulfilment, by the Contractors, of the covenants and agreements by and on the part of the Contractors respectively contained in the said Contract No. 2: And whereas the House of Representatives, on the twenty-sixth day of October, one thousand eight hundred and seventy-one, resolved as follows: "And further recommends that the Government negotiate with the Messieurs Brogden for the modification and extension of No. 2 Contract, or the substitution of one in its place as nearly as possible to the following effect: That Messieurs Brogden and Sons construct such railways authorized or to be authorized by the Assembly as it may be agreed shall be offered to them, to the amount of one million pounds, at prices to be agreed to between them and the Government, such prices being within the limits fixed by the Legislature; Messieurs Brogden and Sons to state the price at which they are willing to construct each railway, and the Government to be at liberty to refuse or accept the offer. Payment to be made in debentures, bearing five and one quarter per cent. interest, or in cash, at the option of the Government. In the event of the Government and Messieurs Brogden and Sons not being able to agree as to the construction of railways under these provisos, the Government or Messieurs Brogden and Sons, on notice to that effect being given by either party, to be bound to carry out No. 2 Contract." And whereas, with a view to carrying out the said recommendation of the House of Representatives, so far as the Governor thinks it expedient so to do, it is proposed that negotiations should at once be entered into with the Contractors for the construction of railways to the extent of one million pounds, and that, if such negotiations should eventuate in a contract, the said Contract No. 2 should by the parties thereto be mutually released, cancelled, and abandoned, and that, pending such negotiations, the said Contract No. 2 should be suspended: Now these presents witness that Her Majesty the Queen, for herself, her heirs and successors (all of whom are hereinafter included in the term "the Queen"), and so far as the covenants hereinafter contained are to be performed or observed on her or their parts respectively, doth hereby covenant with the Contractors, their executors, administrators, and assigns (all of whom are hereinafter included in the expression "the Contractors"), and the Contractors and each of them, for themselves and himself, and their respective heirs, executors, administrators, and assigns (so far as such covenants hereafter contained are to be performed or observed on their parts), do and doth hereby covenant with the Queen, her heirs and successors, in manner hereinafter appearing; and the Governor, for himself and his successors (all of whom are hereinafter included in the expression "the Governor"), so far as the covenants hereinafter contained are to be performed or observed on his and their parts respectively, doth hereby covenant with the Contractors, their executors, administrators, and assigns (all of whom are hereinafter included in the expression "the Contractors"), and the Contractors and each of them, for themselves and himself, and their respective heirs, executors, administrators, and assigns (so far as the covenants hereinafter contained are to be observed and performed on their parts), do and doth hereby covenant and agree with the Governor, his successors and assigns, in manner hereinafter appearing.

1. That, notwithstanding anything to the contrary contained in the said Contract No. 2, or in the said two lastly hereinbefore recited articles of agreement, dated respectively the twenty-sixth day of June last, the said Contract No. 2 shall not, so far as regards any of the covenants or agreements therein contained which are to be observed or performed either by the Queen or the Governor, or by the Contractors, be deemed to have come into or be in operation until the negotiations intended to be

entered into pursuant to a certain memorandum of proposals already prepared and agreed to between the said parties, and intended to bear even date with these presents, but to be executed after the execution of these presents, shall have failed in manner therein particularly mentioned, and the Governor on the one hand shall have caused to be delivered to the Contractors, or the Contractors shall have delivered to the Minister of Public Works on behalf of the Governor, a notice in writing that such negotiations have failed and are deemed at an end, and any such notice to the Contractors which shall be delivered to any one of the Contractors in New Zealand, or to any Agent or reputed Agent of the Contractors in New Zealand, or be published in the *New Zealand Gazette*, shall have the same effect as if delivered to the Contractors.

2. The Contractors covenant that the said securities so deposited as aforesaid shall, notwithstanding anything contained in these presents, remain as now deposited during the suspension of the said Contract No. 2, and be held, as provided by the said Contract No. 2, as security for the due performance thereof by the Contractors in case the same shall come into actual operation.

In witness whereof the Seal of the Colony has hereunto been affixed, and the said Contractors have hereunto set their hands and seals, the day and year first above written.

G. F. BOWEN,
Governor.
(Seal of the
Colony.)

Sealed with the Seal of the Colony,
and signed by the Governor, in the presence of

JULIUS VOGEL.

ALEXANDER BROGDEN,
By his Attorney, James Brogden.

(Seal.)

HENRY BROGDEN,
By his Attorney, James Brogden.

(Seal.)

Signed, sealed, and delivered by the above-named Alexander Brogden, Henry Brogden, and James Brogden, in the presence of

W.M. THOS. LOCKE TRAVERS,
Solicitor,
Wellington.

JAMES BROGDEN.

(Seal.)

I, the within named James Brogden, of No. 4, Queen's Square, in the City of Westminster, in England, railway contractor, now residing at the City of Wellington, in the Colony of New Zealand, do solemnly and sincerely declare,—

1. That I am the attorney named in a certain power of attorney dated the nineteenth day of August, one thousand eight hundred and seventy-one, of which a copy is annexed to the within written deed.

2. That I have not received any notice or information of the revocation of the said power of attorney, by death or otherwise.

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of an Act of the General Assembly of New Zealand intituled "The Powers of Attorney Act, 1854."

JAMES BROGDEN.

Declared at Wellington, this eighteenth day of December, 1871.

G. S. COOPER,

A Justice of the Peace for the Colony of New Zealand.

To all to whom these presents shall come, we, ALEXANDER BROGDEN, Esquire, M.P., and HENRY BROGDEN, both of No. 4, Queen's Square, in the City of Westminster, Railway Contractors, send greeting:

WHEREAS two agreements have been prepared and are dated respectively the twenty-first and twenty-second days of June, one thousand eight hundred and seventy-one, and are respectively expressed to be made between Sir George Ferguson Bowen, Knight Grand Cross of the Most Distinguished Order of St. Michael and St. George, and Governor and Commander-in-Chief of Her Majesty's Colony of New Zealand and its Dependencies, and Vice-Admiral of the same (therein and hereinafter called "the Governor"), of the one part, and ourselves and James Brogden, of No. 4, Queen's Square aforesaid, Railway Contractors (therein called "the Contractors"); and those two Agreements have been executed by the Contractor but not by the Governor, and relate to projected railways in New Zealand: And whereas a third agreement has been prepared, and is dated the twenty-sixth day of June, one thousand eight hundred and seventy-one, and is expressed to be made between the Governor, of the one part, and the Contractors, of the other part, and by which (after reciting that the first and second agreements were a consequence of negotiations between the Honourable Julius Vogel, the Colonial Treasurer of New Zealand, and the Contractors, and that neither of them had been executed by the Governor, and that the said Julius Vogel had not authority to enter into them, but that he had, in token of his approval of them, agreed to execute the third agreement as on behalf of the Governor, and to procure the Governor to execute one or both of the two first agreements within a given time), it was expressed to be thereby agreed that the Governor would, within a given period, execute one or both of the first and second agreements, and that, until the expiration of that period, both should be binding on the Contractors, and after that period both, or if the Governor should have executed only one, then such one only of the first and second agreements should be binding upon the Contractors; and other provisions were contained in the third agreement relative to a sum of twenty-five thousand pounds deposited, or agreed to be deposited, by the Contractors as security for performance of the two first agreements: And whereas the terms of all or some or one of the said Agreements may be found to require modifications, or it may be found expedient to cancel all or some or one of the said Agreements, and to make some other agreements or agreement between the Governor and the Contractor

relative to railways in New Zealand; and the said James Brogden is about to go to New Zealand, on his own and our behalf, to definitely settle all terms between the Governor or other the authority in New Zealand competent on that behalf relative to railways; and we are desirous both to appoint him our attorney for the purpose aforesaid, and to invest him also with full power to negotiate other undertakings in New Zealand: Now know ye, and these presents witness, that we, the said Alexander Brogden and Henry Brogden, do and each of us doth, by these presents, constitute and appoint the said James Brogden to be the true and lawful attorney of us and each of us, for us and the survivor of us, and in the names and name of us and the survivor of us, jointly with himself, to do anything that he in his discretion thinks expedient for all or any of the purposes following, that is to say: For entirely confirming or for entirely cancelling or annulling all or any one or two of the said three agreements, or for altering all or any of the terms of all or any one or two of the said agreements, in any manner and to any extent; or for making with the said Governor of the Colony of New Zealand any agreement or any number of agreements upon any terms and conditions on both sides or on either side, for the granting, by such Governor or competent department, to us or the survivor of us jointly with the said James Brogden, of the right and the acceptance by us, or the survivor of us jointly with the said James Brogden, of the duty of making railways in New Zealand, and furnishing all materials and things requisite for the making thereof, and for the carrying and conveying of goods and passengers thereon, and the right and duty respectively of working any such railways for any length of time, and for and concerning the payment and reward to be made or secured to us or the survivor of us jointly with the said James Brogden, whether in capital or in revenue, and whether in land or in money or in Government securities, or by way of subvention of subsidy, or in all of those ways, or in any other way, for every or any duty so accepted; and also for the undertaking by us or the survivor of us jointly with the said James Brogden of the duty of importing immigrants into New Zealand, and the terms and conditions on both sides or on either side of such undertaking; and for making with the said Governor, or any such competent department as aforesaid, and others, any agreement or any number of agreements, on any terms and conditions, on either side or on both sides, for the granting to and taking by us or the survivor of us jointly with the said James Brogden, of coal and iron mines, and mines of and lands yielding or bearing precious or other metals in the said colony, whether in fee-simple or for a term or terms of years; and for the granting to and taking by us and the survivor of us jointly with the said James Brogden of any rights, privileges, easements, or concessions whatsoever in the said colony; and for all or any of the purposes aforesaid to sign, seal, and, as our act and deed, deliver, every agreement, contract, deed, covenant, conveyance, lease, counterpart of lease, and other instrument whatsoever, which the said James Brogden thinks fit and proper; and for all or any of the purposes aforesaid to appoint from time to time a substitute or substitutes, and to delegate to him or them all or any of the powers hereby given to our said attorney, and every such substitution and delegation at pleasure to revoke. And for every purpose herein expressed we do and each of us doth give unto the said James Brogden entire, special, ample, and unlimited powers, and hereby ratify and confirm, and agree to ratify and confirm as valid and effectual, all and whatsoever our said attorney or his substitute or substitutes shall or may lawfully do or cause to be done in or about the premises by virtue of these presents. And we and each of us do and doth hereby declare that the death of or the revocation of this power by us or either of us shall not invalidate any act done under it with or towards the Governor or other the competent department aforesaid, or any persons or person, unless the Governor or the department, or such persons or person respectively, had at the time of the doing of the act express notice of such death or revocation.

In witness whereof we, the said Alexander Brogden and Henry Brogden, have hereunto set our hands and seals, this nineteenth day of August, one thousand eight hundred and seventy-one.

Signed, sealed, and delivered by the
above-named Alexander Brogden, in the
presence of

THOM. R. HARGREAVES,
Victoria Street,
Westminster,
Solicitor.

ALEXANDER BROGDEN.

(Seal.)

Signed, sealed, and delivered by the
above-named Henry Brogden, in the presence
of

E. C. JOHNSTON,
8, Ashbourne Terrace,
Cecil Street,
Accountant,
Manchester.

HENRY BROGDEN.

(Seal.)

Articles of Agreement entered into between Her Majesty the Queen and Messieurs Alexander, Henry, and James Brogden, providing for the construction of Lines of Railway during the suspension of Contract No. 2.

ARTICLES OF AGREEMENT made and entered into this eighteenth day of December, one thousand eight hundred and seventy-one, by and between the Governor of New Zealand, in the name and on behalf of Her Majesty the Queen, of the one part, and the Messieurs Alexander, Henry, and James Brogden, Railway Contractors, of the other part (hereinafter referred to as "the Contractors").

WHEREAS a contract was made between the Governor of New Zealand, of the one part, and the Contractors, of the other part, for the construction of railways to the extent of five hundred thousand

pounds, bearing date the twenty-second day of June, one thousand eight hundred and seventy-one, and which is hereinafter referred to as Contract No. 2, which contract was, on the _____ day of _____, one thousand eight hundred and seventy-one, duly executed by the Governor: And whereas a resolution having been passed by the House of Representatives in the terms following: "And further recommends that the Government negotiate with the Messieurs Brogden for the modification and extension of No 2 Contract, or the substitution of one in its place as nearly as possible to the following effect: 'That Messieurs Brogden and Sons construct such railways authorized or to be authorized by the Assembly as it may be agreed shall be offered to them, to the amount of one million pounds, at prices to be agreed to between them and the Government, such prices being within the limits fixed by the Legislature; Messieurs Brogden and Sons to state the price at which they are willing to construct each railway, and the Government to be at liberty to refuse or accept the offer. Payment to be made in debentures, bearing five and one-quarter per cent. interest, or in cash, at the option of the Government. In the event of the Government and Messieurs Brogden and Sons not being able to agree as to the construction of railways under these provisions, the Government or Messieurs Brogden and Sons, on notice to that effect being given by either party, to be bound to carry out No. 2 Contract:'"

And whereas, by deed of even date with but executed before the execution of these presents, and made and entered into between Her Majesty the Queen, of the first part, the Governor of the second part, and the Contractors, of the third part, it has been mutually agreed between them that the operation of the said Contract No. 2 should, so far as regards the agreements and covenants to be performed or observed by the Queen or the Governor, or by the Contractors, be suspended as therein provided: And whereas the Governor of New Zealand, on behalf of the Queen, being desirous to carry out the terms of the said resolution so far as herein appears, has made to the Contractors the proposals hereinafter set forth, which proposals the Contractors have accepted, subject to the terms hereinafter set forth:

Now the Governor, on behalf of the Queen, proposes, and the Contractors consent, as follows, that is to say,—

1. That, in the event of the Contractors agreeing with the Governor, as hereinafter provided, for the construction by the Contractors of railways to be specified by the Governor as hereinafter mentioned, at prices agreed upon between the Governor and the Contractors, amounting in the aggregate to a sum not less than seven hundred thousand pounds, each railway to be paid for either in cash or in debentures, as shall be agreed upon between the Governor and the Contractors, as hereinafter mentioned (the several contracts for which railways are hereinafter referred to as Contract No. 3), then the said Contract No. 2 shall be annulled, cancelled, and be of no effect.

2. That the Governor will, within twenty-one days after the execution of these presents, specify in writing to the Contractors the several railways which he is willing and proposes to have constructed by the Contractors under Contract No. 3, or from amongst which, in the event of Contract No. 3 not being entered into, the Governor is, under Contract No. 2, to entrust to the Contractors railways for construction to the extent in cost of five hundred thousand pounds, and such last-mentioned railways shall be such one or more of the railways so to be specified as aforesaid, for the purposes of Contract No. 3, as the Governor shall think fit. For the purpose of this clause such railways shall be sufficiently specified if the termini of each railway be specified.

3. That the Governor will from time to time, whenever he shall think fit, but not later than nine months from the date hereof, cause to be furnished to the Contractors all necessary and usual data for enabling them to estimate the probable cost of construction of each of the lines of railway to be specified as aforesaid for the purposes of Contract No. 3, and also the terms and conditions upon which each of the said railways is to be constructed; and the Contractors shall, after receiving the data in respect of each railway, tender to the Governor in writing for the construction thereof, and state the prices at which they are willing to construct each such railway, according to the plans and specifications and conditions submitted to them: the tender for each railway to be sent in to the office at Wellington of the Minister of Public Works within one calendar month after the Contractors shall have received the data of such railway, and the prices to be mentioned in such tenders are to be calculated upon the following contingencies, that is to say: In the first place, upon the contingency of the Governor electing to pay for the work in cash; and in the next place, upon the contingency of the Governor electing to pay for the same in debentures, under "The Immigration and Public Works Loan Act, 1870," charged upon the consolidated revenue of New Zealand, and bearing interest at five pounds per centum per annum, such debentures to be taken at par; and no notice shall be given by or to the Governor that negotiations in respect of Contract No. 3 have failed, until the Governor shall have notified to the Contractors the rejection by him of such a number of the tenders sent in as will, in the opinion of the Governor, reduce the probable cost of the rest of the specified railways, including those as to which prices have been assented to by the Governor and those as to which tenders have not been sent in, below seven hundred thousand pounds; and it shall be lawful for the Governor, at any time after any tender has been rejected, to cause the railway tendered for to be constructed in any manner he may think fit, and for such purpose, if he thinks fit, to call for tenders generally; and, after notice has been given that negotiations have failed, it shall not be necessary for the Governor to supply data for the rest of the railways.

4. And whereas negotiations are now pending between the Governor and the Contractors for the construction of a railway from the Town of Blenheim, in the Province of Marlborough, to the Town of Picton, in the said province, but such negotiations are as yet incomplete, and no contract has been entered into for the construction thereof by the Contractors; and it is proposed that, in the event of a contract being entered into for the construction of such railway, it shall be proceeded with without delay, and without waiting for the completion of Contract No. 3:

Now it is further proposed by the Governor, and accepted by the Contractors, that, in the event of the said Contract No. 2 being cancelled, and Contract No. 3 being entered into, then the said railway from Blenheim to Picton shall be deemed to be one of the railways to be constructed under Contract No. 3, and the amount of the contract price thereof shall be taken into account in making up the said

amount of seven hundred thousand pounds; but if the said Contract No. 2 is not cancelled, and Contract No. 3 is not entered into, then the construction of the said railway from Blenheim to Picton is to be deemed a subsisting but a separate and independent work, and not to be included in the works to be constructed under the provisions of the said Contract No. 2.

5. Pending negotiations with the Contractors for Contract No. 3, it is further proposed by the Governor, and accepted by the Contractors, that the Contractors shall, on the terms hereinafter specified, and according to such plans, specifications, and conditions as shall be fixed by the Governor, commence and proceed with the construction of such of the railways so to be specified by the Governor as aforesaid, for purposes of Contract No. 3, as the Governor shall think fit, or such part or parts thereof as the Governor shall think fit, the Governor providing for that purpose the cost of all necessary labour, skilled and otherwise, and of all necessary plant, tools, implements, and materials.

6. Such interim construction shall be carried out under the inspection and subject to the control and direction of an Engineer, appointed for that purpose by the Minister of Public Works, for each railway, and on failure by the Contractors to comply with any directions of such Engineer, then the Governor may at once take out of the hands of the Contractor the further construction, under clauses five, six, and seven of this agreement, of the railway as to which such directions shall have been given.

7. All intended expenditure on account of such construction shall be approved of by the Engineer so to be appointed by the Governor as aforesaid, and the money for such expenditure shall be provided and disbursed by the Governor; and the Contractors are to receive from the Governor, by way of remuneration for such construction, the sum of ten pounds for every one hundred pounds expended in manner aforesaid, and no more; but the Contractors are not to be entitled to receive such percentage on any moneys expended on plant or materials not actually consumed or used in or about the construction of work under the provisions of clauses five, six, and seven of these presents, nor upon plant or materials in respect of the expenditure for which he may have previously received such percentage either under the above clauses or under any separate or independent arrangement.

8. If Contract No. 3 is entered into, then all disbursements made by the Governor under the terms contained in clauses five, six, and seven of these presents, and all percentages paid to the said Contractors, shall be deemed to be payments in cash under Contract No. 3 in respect of the railway upon which such disbursements have been made, if such railway shall be included in Contract No. 3: Provided that it shall be lawful for the Governor, in lieu of including in Contract No. 3 any railway of which any part or parts has or have been constructed on the terms mentioned in clauses five, six, and seven of these presents, to require the Contractors to complete such railway upon the same terms, in which case the estimated cost of such railway shall form part of the seven hundred thousand pounds payable under Contract No. 3, unless the Governor and the Contractors shall agree for the construction of some other railway in lieu thereof, the price of which shall be equal to such estimated cost, in which case such estimated cost shall not be computed in such seven hundred thousand pounds.

9. If any railway, the construction of which has been commenced under the provisions of clauses five, six, and seven of these presents, is not included in Contract No. 3 or Contract No. 2, as hereinafter provided, the Governor may, if he thinks fit, take the same into his own hands for the purpose of completing the same; and, upon such possession being taken, the Contractors shall give up to the Governor or his Engineer all plant, materials, tools, and implements belonging to the Governor, or brought on to the works by any engineer, or workman, or other person employed by or on behalf of the Governor.

10. Provided, further, that if Contract No. 3 is not entered into, then, in regard to any railway of which any part or parts has or have been constructed on the terms contained in clauses five, six, and seven of these presents, which is not included in the railways to be constructed under the said Contract No. 2, the Governor may, if he thinks fit, and so far as such railway or any part of it is not completed at the time of either party giving to the other notice that negotiations have failed to be made for Contract No. 3, require the Contractors to complete such railway or any part thereof on the terms contained in the said clauses five, six, and seven of these presents.

11. Provided, further, that if Contract No. 3 is not entered into, the Governor may include any railway, any part or parts of which has or have been constructed on the terms contained in clauses five, six, and seven of these presents, amongst the lines of railway to be constructed under the said Contract No. 2; and all moneys paid and disbursed by the Governor under the clauses five, six, and seven of these presents, on account of such railway or any part or parts thereof, including all percentage paid to the Contractors in respect thereof, shall form part of the capital or agreed cost on which guarantee is to be paid to the Contractors; but the Contractors shall forthwith, after the cost of the line of such railway is agreed on for the purposes of the said Contract No. 2, refund to the Governor all moneys paid and disbursed by him under clauses five, six, and seven of these presents on account of such railway or any part or parts thereof, and all percentages paid to the Contractors, and all moneys expended for plant and materials purchased for the purposes of such railway, whether such plant or materials shall actually have been used or consumed in such construction, or shall be ready to be so consumed or used, or shall have been purchased for the purpose and not delivered, and all percentages, whether under these proposals or not, paid to the Contractors in respect of any such plant or materials; and this provision shall extend to the plant and material ordered through the Agent-General of New Zealand, by letter of the twenty-fifth day of November, one thousand eight hundred and seventy-one, of which a copy is hereunto annexed and marked "A," so far as the same shall have been used or consumed in or for or appropriated to the purposes of such railway, together with all percentages paid to the Contractors in respect thereof. In the construction of this contract the term "plant" shall be deemed to include buildings; but for the purposes of clause eleven shall only include such buildings as shall have been erected for the purposes of any railway, with the mutual consent of the Contractors and the Engineer appointed by the Minister of Public Works under this contract.

In witness whereof the Seal of the Colony has hereunto been affixed, and the said Contractors have hereunto set their hands and seals the day and year first above written.

G. F. BOWEN. (Seal of the Colony.)

Sealed with the Seal of the Colony,
and signed by the Governor, in presence
of

JULIUS VOGEL.

ALEXANDER BROGDEN,
By his Attorney, James Brogden. (Seal.)

Signed, sealed, and delivered by the
above-named Alexander Brogden, Henry
Brogden, and James Brogden, in the
presence of

WM. THOS. LOCKE TRAVERS,
Solicitor,
Wellington.

HENRY BROGDEN,
By his Attorney, James Brogden. (Seal.)

JAMES BROGDEN. (Seal.)

I, the within named James Brogden, of No. 4, Queen's Square, in the City of Westminster, in England, railway contractor, now residing at the City of Wellington, in the Colony of New Zealand, do solemnly and sincerely declare,—

1. That I am the attorney named in a certain power of attorney dated the nineteenth day of August, one thousand eight hundred and seventy-one, of which a copy is annexed to the within written deed.

2. That I have not received any notice or information of the revocation of the said power of attorney, by death or otherwise

And I make this solemn declaration conscientiously believing the same to be true, and by virtue of an Act of the General Assembly of New Zealand intituled "The Powers of Attorney Act, 1854."

JAMES BROGDEN.

Declared at Wellington, this eighteenth day of December, 1871,

G. S. COOPER,

A Justice of the Peace for the Colony of New Zealand.

FURTHER CORRESPONDENCE PRELIMINARY TO RAILWAY CONTRACTS.

Extract from Appendix to the Journals of the House of Representatives, D.-1, 1872, page 20.

The Hon. W. GISBORNE to Mr. J. BROGDEN.

SIR,—

Public Works Office, Wellington, 18th December, 1871.

In reference to the stipulations contained in the agreement this day entered into between your firm and the Government, I beg to state that the Government will give you, not less than one month before the delivery of the data referred to in clause 3 of that agreement, in respect of each railway proposed to be constructed, a notice of the probable time at which the data for such railway will be supplied to you, and will, at any time after such notice, at your request, supply you with any information relative to the proposed work which the Government then have in their possession and may feel justified in supplying; but this letter is to be entirely without prejudice to the right of the Government to require you to accept the data afterwards actually delivered as those upon which your tender for construction is to be based.

I also beg to state that if the tender for any such railway is posted in a registered letter within the time specified in the contract, and addressed to the Minister for Public Works at Wellington, or shall, within such time as aforesaid, be delivered to any person, in any province or county, who shall be appointed by the Minister for Public Works for the purpose of receiving tenders from you for railways to be constructed within such province or county, such posting or delivery shall be deemed a sufficient delivery of such tenders within the meaning of the said contract.

I have also to inform you that the 10 per cent. agreed to be paid you on the order dated 25th November last will, if you wish it, be paid in London.

James Brogden, Esq., for the Messrs. Brogden.

I have, &c.,

W. GISBORNE.

The UNDER-SECRETARY, Public Works, to Messrs. BROGDEN.

GENTLEMEN,—

Public Works Office, Wellington, 19th December, 1871.

I am directed by the Hon. the Minister for Public Works to forward to you the enclosed list of railways, which, in conformity with clause 2 of the agreement signed by you yesterday, it is desired to have constructed.

I have, &c.,

JOHN KNOWLES,

Under-Secretary.

Messrs. Alexander, Henry, and James Brogden, Contractors.

LIST OF RAILWAYS.

North Island.

Auckland to Mercer.

Wellington to Hutt Valley. (Twenty miles.)

Waitara to New Plymouth.

Napier to Pakipaki. (Twenty miles.)

Kawakawa to place of shipment. (Conditional on satisfactory arrangement being made with owners or lessees of coal mines by the Government.)

Middle Island.

Dunedin to Clutha. (Such portions of the entire line as are not under contract.)
 Blenheim to Picton.
 Rakaia to Ashburton.
 Ashburton to Temuka.
 Temuka to Washdyke.
 Invercargill to Matura.
 Moeraki to Waitaki.
 Brunner to Greymouth. (Conditional on satisfactory arrangement being made with owners or lessees of coal mines by Government.)

Public Works Office, 19th December, 1871.

THE SIX RAILWAY CONTRACTS ENTERED INTO 10TH AUGUST,
1872.

Extract from Appendix to the Journals of the House of Representatives, D.—19, 1872.

THE AUCKLAND TO MERCER RAILWAY CONTRACT.

ARTICLES OF AGREEMENT made and entered into this tenth day of August, 1872, between the Governor of New Zealand, in the name and on behalf of Her Majesty the Queen, of the one part, and Alexander Brogden, Henry Brogden, and James Brogden, all of Queen's Square, in the City of Westminster, in England, Railway Contractors (hereinafter referred to as "the Contractors"), of the other part.

WHEREAS by the sixth section of "The Railways Act, 1871," it is, amongst other things, enacted that the Governor may, if he think fit, construct and maintain, or cause to be constructed and maintained, under the provisions of "The Immigration and Public Works Act 1870" (hereinafter referred to as "the said Act"), and "The Immigration and Public Works Act Amendment Act, 1871" (hereinafter referred to as "the said amending Act"), certain railways, and amongst others a railway from Auckland, in the Province of Auckland, to Mercer, in the said province (which said railway is hereinafter referred to as "the railway herein mentioned"):

And whereas by the said amending Act it is provided that all contracts under any Act authorizing the construction of any railway under the said Act or the said amending Act shall be entered into in the name of the Queen, her heirs and successors:

And whereas the Governor of New Zealand, on behalf of the Queen, has agreed with the Contractors for the execution and construction by them of the works described or referred to herein, and in the specifications, conditions, drawings, and plans hereto annexed or herein referred to, all of which specifications, conditions, drawings, and plans are signed by the Contractors and John Caruthers, Esquire, the Chief Engineer of the said Colony, on behalf of the colony: Now these presents witness that her Majesty the Queen, for herself, her heirs and successors (all of whom are hereinafter included in the expression "the Queen"), and, so far as the covenants hereinafter contained are to be performed or observed on her or their parts respectively, doth hereby covenant with the Contractors, their executors, administrators, and assigns (all of whom are hereinafter included in the expression "the Contractors"), and the Contractors and each of them, for themselves and himself, and their respective heirs, executors, administrators, and assigns, so far as such covenants hereinafter contained are to be performed or observed on their parts, do and doth hereby covenant with the Queen, her heirs and successors, in manner hereinafter appearing, that is to say,—

1. That they, the Contractors, shall and will, in all respects subject to and in accordance with the said conditions, specifications, drawings, and plans, construct, make, complete, and maintain, and do and perform, all the works, and supply all such plant and materials, as are by the said specifications and conditions to be supplied by the Contractor, whether such works, plant, and materials are described or referred to in the said conditions, specifications, drawings, or plans, or are extra or in addition thereto, within the time mentioned in the said conditions, subject, however, to the provisions contained in the said conditions for extension of time.

2. That the Queen shall and will, free of cost to the Contractors, provide and deliver to the Contractors, at the ship's side at the Harbour of Auckland, the iron rails and fastenings required for the permanent-way and the rolling-stock respectively mentioned in the specification.

3. That the Queen will pay the Contractors for the construction and execution of the said works, and the maintenance thereof, for the period of three months from the completion of the works, and for the supply of all such plant and materials as the Contractors are to supply under the provisions of this contract as aforesaid, the sum of one hundred and sixty-eight thousand nine hundred and twenty-four pounds (exclusive of the supply of such plant and materials as by the said specifications and conditions it is provided the Queen or the Government of New Zealand shall supply, and subject to the provisions contained in the conditions and specifications for increase and decrease in case of extras or deductions, and to the provisions contained in the said specifications or conditions for extra payment to the Contractors by percentages on the cost of such works as, by such specifications it is provided, the Contractors are to receive payment by way of percentage on the cost thereof).

4. The Queen shall and will make payments to the Contractors upon account of the said sums herein agreed to be paid at the rate and times and upon the terms and conditions mentioned in the said specifications and conditions.

Lastly. The parties hereto shall and will each respectively perform, observe, and fulfil all and singular the conditions and stipulations expressed or contained in the said general conditions and specifications, and which thereby it is provided shall be performed, observed, or fulfilled by such parties respectively.

In witness whereof the Seal of the Colony has hereunto been affixed, and the said Contractors have hereunto set their hands and seals, the day and year first above written.

G. F. BOWEN,
Governor.

Sealed with the Seal of the Colony,
and signed by the Governor, in the presence of

WILLIAM FOX.
J. D. ORMOND.

ALEXANDER BROGDEN,
By his Attorney, James Brogden. (Seal.)

Signed, sealed, and delivered by the
above named Alexander Brogden, Henry
Brogden, and James Brogden in the
presence of

WM. THOS. LOCKE TRAVERS,
Solicitor,
Wellington.

HENRY BROGDEN,
By his Attorney, James Brogden. (Seal.)

JAMES BROGDEN. (Seal.)

(Seal of the
Colony.)

Approved in Council, August 10th, 1872.

FORSTER GORING.
Clerk of the Executive Council.

GENERAL CONDITIONS FOR THE AUCKLAND AND MERCER RAILWAY.

Interpretation Clause.

1. In these conditions the words "Minister for Public Works" shall mean the Minister for Public Works appointed under "The Immigration and Public Works Act, 1870," or any Minister or person for the time being authorized by the Governor to act for such Minister in respect of the special work contracted for; the word "Engineer" shall mean the Engineer for the time being who shall have principal charge of the works on behalf of the Government; and the word "Contractor" shall mean "Contractors" when two or more persons tender or contract jointly for the work; and the word "month" shall mean "calendar month."

Works, &c., to be according to Drawings and Specifications, and to the Satisfaction of the Engineer.

2. All the materials used are to be the best of their respective kinds, and all works of every description throughout are, subject to the provisions hereinafter contained, to be executed conformably to the several drawings and details prepared or that may be prepared for that purpose, and herein referred to, in the strictest accordance with the provisions of the specifications, and in the best, most substantial, and workmanlike manner, and to the satisfaction of the Engineer; and should any work not be so executed, it shall be immediately altered and amended at the cost of the Contractor.

Plans, &c.

3. A copy of the plans and drawings, with the specifications, shall be furnished to the Contractor by the Engineer, and the plans and drawings referred to in the specification, and the specification, shall be taken together to explain each other; and if, in the execution of the works, it shall be found that anything has been omitted or mis-stated either in the drawings or specification which is necessary for the proper performance and completion of any part or parts of the works, the Contractor shall at his own cost and expense execute the same, and provide whatever may be requisite for so doing, provided the extra cost thereof shall not exceed the sum of £200 in each particular case. Any written dimensions on the drawings shall be taken in all cases in preference to measurements by the scale attached, and anything contained either in the drawings or specification shall be equally binding on the Contractor as if it were contained in both; and in case the written or figured dimensions on the drawings shall disagree with the scaling, or in case there shall be any discrepancy between the drawings and specification, or any ambiguity in them, such occurrence shall not invalidate the contract, but the same shall be rectified by the Engineer if thought requisite, and the Contractor shall not be entitled to make any claim or demand for compensation or damages on account of such discrepancy or ambiguity. If neither the drawings nor the specification contain any notice of minor parts, the intention to include which is nevertheless clearly to be inferred, and which parts are obviously necessary for the workmanlike completion and stability of the work, all such parts are to be made and executed by the Contractor without extra charge, and are to be deemed by him as included in the sum at which he contracts for the works.

Extra Works and Alteration of Works.

4. The Contractor is to make and execute, in the like manner as aforesaid, and with the like materials as aforesaid, any additions, deviations, or alterations to, from, or in the works, which the Engineer may from time to time, previously to the commencement or during the progress of the works, by an order in writing, require, at and for such prices or rates as shall be agreed upon in writing between the Contractor and the Minister for Public Works. In case of non-agreement as to price the work shall be done by the Contractor as required by the Engineer, and the price thereof shall be

settled by arbitration as hereinafter provided, and shall when so ascertained be added to and thenceforth deemed to be part of the contract-price for the works to be executed under this contract; but no additions, deviations, or alterations whatever, which shall be claimed by the Contractor, will be admitted or recognized under any circumstances, or will be allowed or paid for, which shall be done or executed without or contrary to any previous order from the Engineer in writing as aforesaid: Provided always that no addition, deviation, or alteration from the plans and specifications to be ordered by the Engineer as aforesaid shall involve an increased expenditure in connection with the works or any part thereof, unless distinctly authorized by writing under the hand of the Minister for Public Works, who, before authorizing any such deviation, shall obtain from the Engineer an estimate of the increased expenditure arising therefrom: Provided also that in all cases where such deviation, addition, or alteration as last aforesaid from the plans and specifications shall involve an outlay exceeding £500, the consent of the Governor in Council shall first be obtained. And in all cases it shall be the duty of the Contractor to satisfy himself that such addition, deviation, or alteration (if any) has been duly authorized in the manner required by "The Immigration and Public Works Act, 1870," and also that to any such outlay as aforesaid, requiring the consent of the Governor in Council as aforesaid, such consent has been obtained as required by the said Act.

Omission of Portions of Works.

5. To the Minister for Public Works there is reserved the right from time to time of requiring the omission of any particular portion or portions of works described in the specification or shown on the drawings, and of deducting the value thereof from the amount of the contract, such value to be agreed upon between the Minister for Public Works and the Contractor, or in case of difference to be settled by arbitration as hereinafter provided; but the Contractor shall be entitled to be paid a sum of 10 per cent. on the agreed or ascertained value of the work omitted; such sums for omissions to be paid on the completion of the contract.

Materials, Labour, &c.

6. The Contractor shall provide, at his own costs and charges, all materials, labour, tools, plant, tackle, machinery, scaffolding, wagons, cordage, cartage, stores, planking, centres, coffer-dams, diving-bells, staging, diving-dresses, and everything necessary for the proper execution and completion of the several works, and centres must not be struck without the written authority of the Engineer. The Contractor is also to provide, at his cost, for keeping all the trenches and foundations free from water, and for preventing all slips of ground into the trenches. All material and all prepared work brought upon the ground of the works for use therein is to be considered the property of the Queen, and the Contractor shall not take away any such material or work without the written authority of the Engineer, unless the same shall be required for the purposes of other works under this contract. The Contractor will be required to set out accurately, at his own expense, all the works comprised in this contract, agreeably to the drawings and specifications, and shall be held responsible for their being so set out and executed accordingly.

Removal of Improper Materials.

7. It shall be lawful for the Engineer to order the removal from the works of any materials, whether fixed or not, which may appear to him to be of an inferior or improper description, and the Contractor shall remove the same within twenty-four hours after a written notice in that behalf given to him by the Engineer; and, in case of neglect or refusal to remove the same according to such notice, the Engineer shall have power to remove the same at the cost of the Contractor.

Contractor to be represented.

8. The Contractor at all times during the progress of the works, when he is not personally superintending them, must have a responsible agent or overseer stationed on them, to receive instructions from the Engineer, and to represent him for all the purposes of this contract.

Progress of Works.

9. If the Contractor shall, in the opinion of the Engineer, fail to make such progress with the works as the Engineer shall deem sufficient to insure their completion within the specified time, or if the Contractor shall use or employ bad or insufficient materials, or execute any work in an imperfect manner, and shall fail or neglect to rectify any such cause of complaint for fourteen days after being thereunto required in writing by the Engineer, or if the Contractor shall, in the judgment of the Engineer, commit a wilful breach of his contract, then, and in any of such cases, it shall be lawful for the Minister for Public Works, by any instrument in writing under his hand delivered to the Contractor or to his representative on the works, or left at the Contractor's usual or last known place of abode or business, absolutely to determine this contract, and from and after the delivery of the said instrument as aforesaid the contract shall be absolutely determined; and in the event of such determination happening, then it shall be lawful for the said Minister, after having delivered such instrument to the Contractor as aforesaid, to take the works out of the Contractor's possession, and at the option of such Minister either to carry the works on under the Engineer or by another Contractor, and that either after advertising for Contractors or without doing so, as he shall think fit; and all the materials, implements, and plant then upon or used in connection with the works may be used in and applied for the purpose of completing the works; and on the final completion of the works, if it should be found that the balance of the contract-price remaining unpaid, if any, and the deposit-money and percentages, together with the net proceeds realized by the sale of the then residue of such materials, implements, and plant as aforesaid, after being sold in any way that may appear to be most advisable to the Minister for Public Works, is not sufficient to meet the outlay incurred in completing the works in all respects, then the Contractor, his executors or administrators, shall be bound to pay to the Minister for Public Works the surplus expenditure above such balance, and other sums as aforesaid. But if, on the other hand, the works shall be completed within the contract-price, then there shall be paid to the Contractor, or his executors, administrators, or assigns, such balance as may be due to him or them,

including the deposit-money and percentages or retention-money, if any, but without any interest thereon; and the Engineer shall, within fourteen days after such balance has been ascertained to be due, grant authority to the Contractor or his representatives for the removal of all surplus material, implements, and plant belonging to him or them, and remaining on the works after their completion, if not sold as before mentioned. But it is herein expressly provided that, in the event of any materials, implements, or plant being returned to the Contractor or his representatives, or being allowed to be removed by him or them as aforesaid, Her Majesty the Queen shall not be in any way liable for any loss, diminution, wear and tear, or injury such materials, implements, or plant may have sustained during the completion of the work.

Contractor not to sublet Works to Persons previously objected to.—Bankruptcy, Insolvency, or Death

13. The Contractor shall not sublet any portion of the works to any person who shall have been previously objected to by the Engineer by notice in writing to the Contractor. If the Contractor become bankrupt or insolvent, or shall make an assignment of his estate for the benefit of his creditors, or shall die before the final completion of the contract, then it shall be lawful for the Minister for Public Works, on behalf of the Queen, summarily, and of his own authority, and without any process of law for that purpose, to take possession of the works, and to take them out of the hands of the Contractor, or of his executors or administrators, or of the assignees or trustees of his estate, and to employ persons for the execution and completion of the same, and that either after advertising for contractors or without doing so, as he shall think fit; and all the then remaining materials, implements, and plant aforesaid may be used in and applied for the purposes of the works; and on the final completion of the works, if it should be found that the balance of the contract-price remaining unpaid, if any, and the deposit-money and percentages aforesaid, together with the value of the remaining materials, implements, and plant as aforesaid, after being sold in any way that may appear to be most advisable to the Minister for Public Works, is not sufficient to meet the outlay incurred in completing the works in all respects, then the Contractor, his executors or administrators, shall be bound to pay to the Minister for Public Works the surplus expenditure above such balance, and other sums as aforesaid; and in the case of bankruptcy or insolvency, then Her Majesty the Queen shall rank as a creditor to the amount of such surplus. But if, on the other hand, the works shall be completed within the contract-price, then there shall be paid to the Contractor, or his executors, administrators, or assigns, such balance as may be due to him or them, including the deposit-money and percentages or retention-money, if any, but without any interest thereon; and the Engineer shall, within fourteen days after such balance has been ascertained to be due, grant authority to the Contractor or his representatives for the removal of all surplus material, implements, and plant belonging to him or them, and remaining on the works after their completion, if not sold as before mentioned. But it is herein expressly provided that, in the event of any materials, implements, or plant being returned to the Contractor or his representatives, or being allowed to be removed by him or them as aforesaid, Her Majesty the Queen shall not be in any way liable for any loss, diminution, wear and tear, or injury such materials, implements, or plant may have sustained during the completion of the work.

Liabilities of Contractor.

14. The exercise by the Minister for Public Works, or Engineer, of any of their respective powers shall not relieve the Contractor from any liability to which he may be subject for any breach of the contract.

Time of Completion.

15. Subject as herein provided, the Contractor shall complete the whole of the works of this contract on or before the first day of September, one thousand eight hundred and seventy-five, failing which the Minister for Public Works shall be entitled to deduct from the final balance due to the Contractor a sum calculated at the rate of £3 per cent. per annum on all moneys which shall have been paid to the Contractor under this contract, computed from the date on which the work ought to have been completed under this contract up to the date of the completion of the work: Provided that if the Minister for Public Works shall have taken over as completed any portion of the work, the cost of that portion shall not be included in the calculation last aforesaid. But in the event of the Contractor being prevented by earthquake, tempest, flood, or otherwise by the act of God, or by the act of the Queen's enemies, rebellion, restraint of princes, or otherwise by anything in the nature of *vis major*, or by reason of any strike amongst the workmen engaged upon the works, or by reason of any alterations, deviations, or additions, or extra works being required, or in case of any delay in furnishing any material to be supplied to the Contractor by the Governor, the Engineer shall allow such an extension of time as he shall think adequate for such enforced delay, or for such alterations, deviations, additions, or extra work; and at the expiration of the time so allowed the deductions or sets-off for delay shall come into operation.

Suspension of Works.

16. The Contractor, on receiving a written notice from the Engineer, shall suspend or stop the whole or any portion of the works as may be directed, and the Governor, on behalf of the Queen, shall make good to the Contractor any loss or damage he may sustain through such suspension or stoppage, to be ascertained, in case of non-agreement between the Contractor and the Minister, by arbitration, as hereinafter mentioned; and the Minister for Public Works shall in no case be bound to give the Contractor possession of the ground or work until thirty days after the signature of the contract by the Contractor; but a commensurate extension of time for completing the works will be allowed to the Contractor, such extension of time to be at the discretion of and to be decided by the Engineer.

Damages to be made Good, &c.

17. The Contractor shall also provide for effectually securing and covering the several walls and works from the weather, as occasion may require, or as the Engineer may direct; and if any damage or

loss should happen to any of the works, plant, or materials—whether from fire, theft, or weather, force of waves, or from any other cause—while the works and buildings are unfinished, or remain in possession of the Contractor, the Contractor must properly and immediately repair and make good the same at his own expense, and to the satisfaction of the Engineer; unless it can be shown that the damage arises from insufficient or imperfect designs, when the Contractor will not be held responsible, and, in case of dispute, the matter shall be settled by arbitration, as hereinafter provided.

Trespass.

18. The Contractor shall not enter upon any lands outside the line of fences for the construction of the works, or for any purpose whatever in connection with this contract, without the consent of the occupier or owner, except at his own cost and risk; and shall not, without the consent of the Engineer, remove any trees or buildings within the line of the railway fences, nor shall he open or throw down any part of a fence without making sufficient provision by temporary fences, to be erected and maintained at his cost, for keeping cattle, sheep, or other stock from straying from or into any enclosure affected thereby; and any legal process causing costs or damage to the Government for any trespass incurred by the act or negligence of the Contractor or his workmen shall be deducted from the contract price, and be taken as payment made on account of his contract.

Maintenance of Works.

19. The Contractor shall be bound to keep and maintain in good and sufficient repair the whole works executed under the contract, and shall provide all labour, materials, &c., necessary for such maintenance for a period of three months from and after the time when all the works under the contract have been fully completed; and the Contractor shall on the expiry of the said period of maintenance be bound to deliver up the whole works in good and sufficient condition, and to the satisfaction of the Engineer. The Contractor shall also be liable for any accident, damage, or injury whatsoever to the public or any private person which may be caused by his operations during the progress of the works or during their maintenance. He shall also maintain all night-lights and temporary footpaths required by any municipal or other authorities, or for the safety of the public, and shall make all necessary arrangements, by siding or otherwise, as required by the Engineer, to prevent stoppage of public traffic.

Land.

20. The Minister for Public Works will, free of all expense, put the Contractor in possession of all land required for the permanent works of the railway, including land required for side-cutting, ballasting, spoil-banks and road approaches, road diversions, and slips, and also from time to time, as occasion may require, but at the cost of the Contractor, and so far only as the parliamentary powers possessed by the Governor or the Minister for Public Works will extend to enable them so to do, of all such land as may be necessary for temporary purposes in connection with the works.

21. The Minister for Public Works shall, within thirty days after the signing of the contract by the Contractor, put the Contractor in possession of such parts of the land for the permanent works as may be necessary for the commencement thereof, and will from time to time, after fifteen days' notice in that behalf shall have been given by the Contractor to the Engineer, put the Contractor in possession of all such other parts of the lands required for the permanent works as may be necessary for the immediate prosecution thereof.

Delay in giving Possession of Land.

22. If any delay shall take place in giving to the Contractor the possession of any land required for the permanent works as aforesaid, such delay shall not be deemed to be a breach of the contract, but the Contractor shall be entitled to such reasonable extension of time for the completion of the works as shall be fixed by the Engineer, or, in case of dispute, by arbitration, as hereinafter provided.

Power to require Dismissal of any Workman.

23. The Engineer may require the dismissal within twenty-four hours by the Contractor of any agent, overseer, foreman, workman, or other person employed by him on the works, for incompetency or misconduct, and any man so dismissed shall not be again employed on the works.

Truck System not allowed.

24. The workmen, tradesmen, and labourers of every class employed on the works to which these conditions refer shall be paid their wages in full in money of the current coin of the colony, and no ticket or other system of payment by provisions, liquors, or goods will on any pretence be allowed, nor shall the Contractor or any person or persons employed by him, or in any way connected with him, establish any shop for the supply of liquors, provisions, or goods, nor shall the contractor oblige his workmen to take provisions, liquors, or goods of any kind from any person in particular. The workmen of every class shall be paid on the works if it be possible, or in some building adjoining, and in no case shall they be paid at a publichouse or other place where liquors or refreshments are sold.

Payments.

25. Payment will be made monthly, for each calendar month, as the works proceed, on the certificate in writing of the Engineer, at a rate not exceeding 90 per cent. on the value of the work actually done, as estimated by the Engineer, having due regard in such estimate to the actual value thereof, and at a rate not exceeding 50 per cent. on the value of such plant and materials on the ground as may be approved by the Engineer as fit and necessary for the work, as estimated by the Engineer, having due regard in such estimate to the actual value thereof, such certificates for work done, and materials and plant supplied, in each calendar month, to be delivered to the Contractor within fourteen days after the termination of such month, and the balance, less 5 per cent., together with the amount deposited as cash security, if any, in fourteen days, or as nearly as may be, after the Engineer shall have certified under his hand that the works have been finally and satisfactorily completed, and

that such balance, together with the cash security, is due to the Contractor. The said 5 per cent. will be retained for three months to insure the fulfilment of clause 19 of these conditions, and from which sums may be deducted the costs of any repairs or defects, failing the Contractor executing the same: Provided always that no sum or sums of money shall be considered to be due or owing to the Contractor, nor shall the Contractor make any claim for or on account of any work executed or maintained by him, or for or on account of plant or materials supplied by him, unless such certificate as aforesaid shall have been given by the Engineer as aforesaid; nor shall any sum or sums of money so certified be considered to be made payable to the Contractor until the expiration of fourteen days after such certificate shall have been presented to the Minister for Public Works; nor shall any omission to pay the amount of such certificate at the time the same shall be held payable be deemed or held to be a breach of or to vitiate the contract, but in case of such omission the Contractor shall be entitled to interest on the amount certified for, at the rate of £10 per centum per annum, for such time as such omission shall continue.

Neglect to certify.

26. In case the Engineer shall neglect or refuse to certify the amount due to the Contractor in respect of the work, or plant or materials, in manner and within the times mentioned in the foregoing condition, and shall continue such neglect or refusal for a period of fourteen days succeeding the fourteenth day after the end of the month in which the work was done, or the plant or materials supplied, as the case may be, the Contractor shall be entitled to measure and value the same, having due regard in his estimate to the actual value thereof, and the measure and value so estimated by the Contractor shall be temporarily accepted by the Governor so far as regards the progress payment to be made to the Contractor in respect thereof under the foregoing condition, and the payment provided by that condition shall be made accordingly, with interest thereon, at the rate of £10 per centum per annum, during the period of delay occasioned by the neglect or refusal of the Engineer: Provided always that in all cases in which a certificate shall, within the period or further period hereinbefore provided, as the case may be, have actually been delivered to the Contractor, such certificate shall, for the purpose of the progress payment to be made thereunder, be conclusive; and in case of any dispute between the Contractor and the Engineer as to the estimate therein made of value of work done, or plant or materials provided, as the case may be, of which dispute notice shall have been given by the Contractor to the Minister for Public Works within fourteen days after the delivery of the certificate to the Contractor, such dispute shall be referred to arbitration as hereinafter mentioned.

Progress Payments without Prejudice, &c.

27. No certificate given to the Contractor for the purpose of any progress payments shall prevent the Engineer, at any future time before the termination of the contract, from rejecting all unsound materials and improper workmanship discovered subsequently to the giving of the last previous certificate; and, notwithstanding the giving of any certificate that portions or the whole of the works have been satisfactorily performed, the Engineer may require the Contractor to remove and amend, at any future time previously to the final payment on account of the construction or maintenance of the works, any work that may be found not to be performed in accordance with the contract, and the Contractor must remove and amend, at his own cost, all such work when so required, notwithstanding any approval made or given by the Assistant Engineer or Inspector. The Minister for Public Works shall have power, on the report of the Engineer that the work approved of as aforesaid is not in accordance with the contract, to deduct from any moneys that may be due or that may become due to the Contractor the whole amount that has been paid on account of such work.

If, in the opinion of the Minister for Public Works, further inquiry is desirable or necessary before any certificate is paid, the Minister for Public Works shall have power to suspend the payment of all or any part of the amount mentioned in any such certificate for a period not exceeding one month from the date at which, in the ordinary course, the money would have been paid; and in such case, on payment of the amount payable, the Contractor shall be entitled to receive interest at the rate of £10 per centum per annum during such additional delay.

Stamps, License Fees, &c.

28. The Contractor shall bear and pay all costs, charges, and expenses of preparing, executing, and completing this contract, and all duty stamps, licenses, Building Surveyor's fees, or other charges or fees whatsoever lawfully demanded by the municipal or other authorities.

Customs and Wharf Duties, &c.

29. In the event of the Contractors being compelled to pay any Customs duties or wharf dues or fees on any goods imported into New Zealand by them for the purposes of the said works, or transhipped or carried by them from any port or place in New Zealand to any other place in New Zealand, the Queen shall and will repay the same to the Contractors after one month's notice in writing by the Contractor to the Minister demanding payment thereof, and giving details of such payment, and the production of vouchers or other proof of such payment.

Arbitration.

30. Should any dispute arise between the Contractor and the Engineer, or between the Contractor and the Minister for Public Works or the Government, relative to the force and intent and meaning of the specifications, drawings, or conditions, or to the mode of carrying on the works, or the nature or quality of materials used or supplied to be used, or workmanship of work done, or as to the maintenance of the works, or as to the expense of additional works, or of alterations or deviations from the specifications or plans, or as to any other matter connected with the execution of the works, or with the contract, specifications, drawings, or conditions, or as to any matter which by this contract it is expressly provided is to be settled, ascertained, or determined by arbitration, such dispute shall be referred in writing to the sole determination, arbitrament, and award of the Judge of the Supreme Court assigned to that judicial district of the Supreme Court within which the works relative to which

the dispute shall have arisen, have been or are to be executed, whose award shall be final, binding, and conclusive on all parties: Provided, however, that, before any such dispute as aforesaid shall be so referred, the Contractor shall give to the Minister for Public Works one calendar month's notice in writing of such dispute, and of the matter and cause whereof, and in such notice the Contractor's claim shall be explicitly stated; and, if such claim be for pecuniary compensation, the amount thereof shall also be stated.

JOHN CARRUTHERS.
JOHN BROGDEN AND SONS.

SPECIFICATION OF THE MANNER OF CONSTRUCTING THE AUCKLAND AND MERCER RAILWAY.

General Description.

1. The line of railway included under the title "Auckland and Mercer Railway," and to which this specification applies, begins at a point in the Town of Newmarket, and terminates at the wharf in the Township of Mercer, on the Waikato River, as delineated on the accompanying plans and sections; the total length of the contract being forty-one miles thirty-four chains or thereby, with an addition of two miles of sidings.

Drawings.

2. The drawings, including general plans and longitudinal sections, as shown on List A, accompany this specification. These show the character of the works to be executed. Further drawings of details will be issued from time to time as may be necessary.

The general plan is drawn to a scale of three chains to an inch, and shows the course of the railway, the centre line of which has been staked out on the ground, and is represented on the general plan by a red line.

The road and stream diversions are shown on the general plan.

The longitudinal section is drawn to a horizontal scale of three chains to the inch, and to a vertical scale of thirty feet to the inch. It represents the natural profile of the ground along the centre line of the railway. The red line shows the level of the bottom of the ballast. On the longitudinal section are shown the positions and sizes of the culverts and bridges described in this specification.

Alignment of Structures.

3. In the construction of bridges, culverts, road-crossings, and generally, it is to be understood that they are to intersect the line of railway at such angle or curve as may be necessary and approved in each case, although they may be shown on the drawings straight and at right angles; and in the interpretation of the drawings and schedules, and of this specification, it shall be distinctly understood that all works or materials necessary to the due and workmanlike completion of every erection are to be provided, whether specially described or not.

Contractor to provide Labour, Plant, and Materials.

4. The Contractor is to provide all labour, tools, implements, plant, and materials, and is well and substantially to construct and complete the railway in accordance with the plans and specifications, and to deliver the same complete, and is to maintain and keep the said railway, and all works connected therewith, in perfect order and repair for the space of three months from the delivery of the same to the Government.

The said railway shall be made in accordance with this specification, and with the plans and sections herein referred to, or with such modifications of the plans and sections as the Engineer shall order, provided such modifications shall not increase the cost of the work.

Felling, Clearing, and Grubbing.

5. The whole of the timber within one chain and a half of the centre line is to be felled. Of this extent the central chain is to be cleared by removing all logs and underbrush half a chain from the centre line, and to a greater distance where the formation requires it. Throughout all cuttings and along formations on the level all stumps and roots are to be grubbed out entirely and removed, so as to leave no loose timber whatever, and no stumps within two feet of formation level along centre or within one foot of the surface in the slopes.

The Contractor will be permitted to apply to his own use the timber which he has felled for the purpose of clearing the line.

Fencing.

6. Ten miles of the line are to be fenced on both sides; and wherever present fences are disturbed or interfered with they are to be made good at the expense of the Contractor. At all crossings of roads, and other places where cattle-stops are used, fences are to be completed across the line up to the cattle-stops.

The description of fencing used shall be that described in special fencing specification as Qualities Nos. 2 or 3, at the option of the Contractor.

Earthworks.

7. All flax, scrub, rushes, or Maori-heads growing on the line of the railway shall be cut down to the full width between the outside of the slopes.

No public or private road that crosses or intersects the railway or works thereof shall be obstructed by excavation or otherwise until the Contractors shall have provided such temporary roads as may be necessary for the traffic.

The cuttings are to have a base at formation level of 10 feet in rock, 11 feet in loose rock, and 13 feet elsewhere, and are to be made in accordance with plan and section attached; but should the Engineer require any of the cuttings or banks to be made with different slopes from those shown on Drawing No. 34, the difference in cost shall be added to or deducted from the contract sum. Such alteration to be ordered in writing.

A drain is to be cut along the bottom of slopes of cuttings, except in rock; this drain to average

5 cubic feet per lineal yard. Catchwater drains are to be dug above the top of one slope of cuttings, at a distance of from a quarter of a chain to a chain from the top of slopes; these ditches are to average 5 cubic feet per lineal yard, and are to be true and regular to the inclinations directed; no stumps or roots are to be left in them.

The embankments must be carried forward uniformly of the proper shape, with such an addition to the heights and widths as a due allowance for the shrinking of the material requires, so as to avoid as far as practicable the necessity for making subsequent additions either to the heights or widths of the embankments, to bring them to the correct levels and dimensions.

Whenever the foundation of an embankment is on sloping ground, the Contractor, if required, must at his own expense cut steps and benches under the base of the embankment.

The top of embankment at formation level is to be 10 feet wide; the slopes to be trimmed off to an inclination of one and a half horizontal to one vertical, and to be maintained full and true until the completion of the contract.

The Contractors shall, unless otherwise directed by the Engineer, take care not in any way to interfere with or divert the existing drainage areas, and shall leave such stops or stanks in the side cuttings, and take such other precautions, as the Engineer shall think necessary for that purpose.

Behind and around culverts and abutments of bridges the embankments shall be wheeled in and carefully rammed.

Ditches and Drains.

8. When the line crosses swamps of a peaty nature, catchwater drains are to be cut on the upper side of the line obliquely across the valleys, so as to tap the surface water. These ditches shall not exceed, on an average, one and one-third cubic yard per lineal yard, and are to be made at the commencement of the work, and cleaned out from time to time as may be ordered.

Stream Diversions.

9. All stream diversions are to be grubbed out as described for cuttings, and excavated with regular slopes and inclinations, as will be set out. The amount of earth cutting in stream diversions is not, however, to exceed 20,000 cubic yards, and the rock excavation is not to exceed 5,000 cubic yards.

Road Alterations.

10. At the places shown on the plan and section, and wherever necessary, the present roads are to be diverted.

All such diversions and road approaches to the level crossings are to be completed in a convenient, substantial, and proper manner, with the necessary drains, water-tables, and side slopes. Such approaches and road diversions are to be formed with an inclination not steeper than 1 in 30 for public roads, and 1 in 20 for private roads, except where the present inclination exceeds these rates, in which case the inclination of the new road shall not exceed that of the present road, unless, in the opinion of the Engineer, a steeper is unavoidable.

Public roads and approaches to first-class crossings are to be metalled with coarse river gravel or approved hard stone, laid on and spread as directed, so as to average 22 cubic yards per lineal chain of road. Private roads are to be metalled with coarse river gravel or broken stone of approved quality, laid on and spread as directed, so as to average 9 cubic yards per lineal chain. The whole of the metal is to be broken to pass through a 2½-inch ring.

Where Clarkson's Road requires to be diverted, a new bridge will be required for the road, similar in plan and materials to the existing bridge.

Twenty-two first-class, five second-class, and five third-class crossings, with two cattle-stops to each crossing, as per Drawing No. 30, shall be constructed at public and private roads where directed. They shall be carefully placed as to line and level, and finished in strict conformity with the drawing and the notes thereon. Each level crossing shall be metalled for a length of 66 feet on each side of the centre line, as above specified for the roads, and tile or timber box drains shall be put in the formation ditches where necessary for the drainage of the line or road.

Forty pairs of malleable iron tubular or other approved gates, 12 feet wide, hung to strong posts, and furnished with bolts and padlocks, shall be provided and hung at private crossings where directed.

Cattle-stops, as shown in Drawing No. 30, are to be put in where directed, not exceeding forty in number, besides those at level crossings.

Materials.

11. Except where otherwise specified, all the materials used under this contract shall be of the following kinds and descriptions:—

Concrete shall be composed of three parts, by measure, of broken stone, two parts of sharp sand, and one part of fresh Portland cement; or, two parts of broken stone, two parts of gravel, and one part of sand, and one part of fresh Portland cement. The stone may consist of scoria, volcanic rock, or hard sandstone, broken to 2½-inch gauge. The cement shall be of approved brands, and subject to such tests as the Engineer may from time to time direct. The concrete shall be laid in 12-inch layers, and well rammed as the work progresses.

Cement mortar shall consist of three parts, by measurement, of sharp clean sand to one part of Portland cement.

Lime mortar shall consist of two parts of sharp clean sand to one part of lime, mixed and prepared as may be directed.

Bricks shall be of the best quality of hard-burned kiln bricks, and approved by the Engineer.

All masonry, except archwork, coping, and string-courses, to be of rubble laid in cement mortar. Bond stones, 2 feet long, to be put in every square yard of both face and back of work. All spalls are

to be set in mortar, and not laid dry, and afterwards grouted. Facework must have no stone containing less than one-quarter of a cubic foot. The work shall be grouted every foot in height; archwork shall be of brick, set in cement mortar; but where flat-bedded stone exists, approved by the Engineer, the Contractor may use it for arches, but he must in that case increase the thickness of the arches 25 per cent. beyond that shown on drawings. All wingwalls, parapets, and abutments shall be finished with a coping of brick on edge, one brick wide, set in cement. The coping is not generally shown on drawings. The whole of the masonry is to be neatly pointed.

A layer of puddle, 9 inches thick, to be put over the arches of culverts.

All timber shall be of kauri or totara, or other timber specially approved; it shall be heart-wood, except as shown on Drawing No. 36, and shall be straight and sound, free from shakes, large knots, and other imperfections.

The whole of the straps and bolts shall be made of B.B. Crown iron, or other iron of equal quality, of the dimensions shown; the whole to be finished and fixed in a workmanlike manner.

Bolts shown or specified shall have a square head, of which the thickness shall be equal to the diameter of the bolt, and the width twice the diameter of the bolt. They are to be tapped with a good clean thread, and shall have a nut equal in size to the head of the bolt, and shall be provided with one or more washers 3 inches in diameter.

Bridges and Timber Openings.

12. Bridges, as per detail drawings, shall be erected where shown on longitudinal section.

All joints, shoulders, and sides of tenons and scarfs to be worked perfectly true, and to fit accurately, and to be covered with red lead before being put together. Tenons generally to be 5 inches long, and to be draw-bored to receive trenails of hard wood made with hollow auger or trenailing machine. All trenails to be well seasoned and kept dry, and to be one-sixteenth of an inch more in diameter than the hole bored for them, and to be covered with red lead before being driven. All capsills and mudsills to be mortised on to posts or piles. All string pieces to be accurately notched down to capsills or floor-beams by notching $\frac{3}{4}$ inch from each, to be scribed and accurately fitted. Diagonal braces, where placed inside the panel, are to be notched together as described for string-pieces.

All piles are to be rung before driving with a 3-inch by $\frac{3}{4}$ -inch round hoop. The piles are to be shod with a substantial iron shoe weighing not less than 30 lb., securely fixed; the point of the pile to be cut true, and to be squared off at the end to 3 inches square, and to have true bearing against the shoe. No pile-driving is to be commenced at any bridge, opening, or other work, without giving six days' notice previously to the Engineer in charge of the works.

The Contractor shall provide all proper rods and gauges for setting out and testing the dimensions of bridges and timber openings that the Engineer may require.

Culverts and Drains.

13. Timber culverts shall be erected where shown on longitudinal section.

The frames shall be accurately mortised and tenoned, and pinned; the planking to be securely spiked on to the frames, the whole of the timber to be heart of totara or matai; the outer side of the planking need not be reduced to the dimensions given, but there must in every case be the full thickness specified of heart timber; the edges of the planking must fit truly for the whole thickness, and the planks must extend over at least two panels, and break joints as much as possible.

Masonry culverts shall be erected where shown on longitudinal section. They shall be of rubble masonry, set in cement mortar, with coping of brick on edge.

Sufficient catchwater and outfall drains are to be dug at culverts, and all stumps and roots occurring in the line of ditch to be taken out.

Ballasting and Permanent-way.

14. The ballast is to consist of shingle, scoria, broken stones, or sand previously approved of, and is to be disposed as shown in Drawing No. 34. In all cases the embankments and cuttings are to be cleared from mud, and brought to a uniform formation level before the ballast is laid on.

The permanent-way is to consist of a single line of rails laid to a gauge of 3 feet 6 inches, and sidings provided and laid where directed, amounting in all to three miles of sidings.

The Contractor is to provide and have upon the ground at all points when the work is proceeding a sufficient supply of all such templates, tools, gauges, and other implements as are necessary and are usually required in the laying of permanent-way, or as may be required by the Engineer.

About three thirty-seconds of an inch of space is to be left between the ends of the rails when fixed in place, or such other space as the Engineer may direct, according to the season.

For the curves the rails will require bending. This, as well as the straightening of all bent rails, must be effected by a press, or by striking with wooden hand-beetles on wooden blocks. In all cases, whether of straightening of bent rails or of bending rails to the necessary curves, the rails must be set permanently to the form required before being laid, and no temporary bending, springing, or straightening, either by dragging with a lever and hook, or by any other means of a like character, will on any account be permitted.

Great care must be taken to lay all the sleepers square to the rails on straights, and as near as may be on curves. Where the line is straight the rails will be level across the line; but where the line is curved the rails will be canted, the difference of level between the two rails being such as the Engineer shall order.

When suitable material for ballast is not found immediately on the line, the sleepers may be laid on formation, being carefully tamped with dry earth. The Contractor will be permitted to run ballast and material trains over the line thus laid at a speed not exceeding ten miles an hour, but the ballasting and lifting must be proceeded with with all possible despatch.

The changes of gradients shall be made by a gradual curve.

There are to be 2,050 sleepers per mile, to be spaced as directed. The following timbers to be used to the extent of not less than 75 per cent. of the whole: Totara, jarrah, Oregon pine, kauri, or puriri. The remaining 25 per cent. may be of matai (*Podocarpus spicata*) or birch (*Fagus fusca* or *Solandri*). They shall be 7 feet long, and 7 inches by 5 inches, all of heart. They are to be flatted top and bottom, true and out of wind; but any extra width beyond 7 inches need not be removed. The rail seats are to be accurately adzed to a correct bevel.

The rails will weigh 40 lb. to the yard; they will be jointed with Ibbotson's patent steel clip-joint, weighing about 12 lb. each joint, and fastened to the sleepers by six fang-bolts to each rail, and two spikes to each sleeper where fang-bolts are not used. The rails and fastenings will be delivered to the Contractor at the ship's side at Auckland, and he shall be responsible for all materials delivered to him.

Use of Permanent-way Materials by Contractor.

15. Permanent-way materials shall not be laid down or employed, without the permission of the Engineer, within 100 yards of the face of any excavation or the end of any embankment, nor used for hauling earthwork before the ballast is laid. When the Contractor shall have complied with the above requirements he may use the rails and other permanent-way materials for the purpose of hauling earthwork or materials on parts of the line.

Sidings.

16. The Contractor shall construct at his own cost, at such points as may be indicated by the Engineer, two miles of sidings, including ten thousand cubic yards of earthwork and the necessary ballast, sleepers, and laying of permanent-way, similar to that of the main line, without the points and crossings. He shall also make and construct, wherever required, such station-grounds, buildings, points, crossings, extra sidings, telegraph and other things required for station accommodation, and shall furnish the Engineer monthly with a detailed statement showing their actual cost, exclusive of all cost of management, properly supported by vouchers or as otherwise directed, and to this cost a sum equal to £10 per centum shall be added for Contractor's profits, and this amount shall be in addition to the contract sum.

Telegraph.

17. A single-wire telegraph will be constructed and paid for as for station accommodation, and the use of it allowed to the Contractor during construction of the works. During the period of maintenance the Government will transmit, free of charge, all messages sent by the Contractor on the business of the railway.

Rolling-stock.

18. The Contractors shall take delivery from the ship's side at Auckland of the articles of rolling-stock enumerated below, and shall land, erect, and place the same on the line in working order, and bear all cost of the same.

List of Rolling-stock.—3 locomotives, 11 carriages and brake-vans, 66 wagons; 3 weigh-bridges, landing only.

Use of Rolling-stock.

19. The Government will furnish the Contractor with such locomotives and rolling-stock as they may have on the line, the Contractor to pay the wages of the engine-drivers and stokers, who must be approved by the Engineer, and to furnish fuel, water, oil, grease, waste, &c., at his own expense. The Contractor shall also return such rolling-stock as may be lent to him in as good order as when received by him—reasonable tear and wear excepted. In the event of the Government being unable to supply locomotives and rolling-stock when needed by the Contractor, an extension of time will be granted for the completion of the contract; such extension of time to be fixed by the Engineer.

The under-mentioned drawings are attached to and form part of this specification, viz. :—

1. Bridge at Ann's Creek.	19. Bridge at 33 m. 72 ch.
1A. " " Canal Creek.	20. " " 33 m. 78 ch.
2. " " Craig's Creek.	21. " " 34 m. 7 ch.
3. " " 14 m. 13 ch.	22. { " " 34 m. 39 ch. and
4. " " 18 m. 19 ch.	{ " " 39 m. 18 ch. Design suits
5. " " 18 m. 34 ch.	both bridges.
6. " " 18 m. 37 ch.	23. " " 38 m. 3 ch.
7. " " 19 m. 15 ch.	24. " " 38 m. 43 ch.
8. " " 19 m. 27 ch.	25. { " " 39 m. 9 ch. and
9. " " 20 m. 25 ch.	{ " " 39 m. 34 ch.
10. " " 20 m. 31 ch.	26. " " Maungatawhiri Creek.
11. " " 20 m. 74 ch.	27. " " 41 m. 1 ch.
12. " " 23 m. 47 ch.	28. Wood Culverts.
13. " " 24 m. 1 ch.	29. Stone Culverts.
14. " " 26 m. 16 ch.	30. Level Crossings and Cattle Guards.
15. " " 27 m. 57 ch.	31. General Plan and Section, consisting of
16. " " 30 m. 14 ch.	32 sheets, numbered 1 to 32.
17. { " " 30 m. 58 ch. and	34. Cross-section of Roadway.
{ " " 31 m. 17 ch.	35. Cross-sections of Ground Surface, 27
17A. " " 32 m. 54 ch.	sheets.
18. " " 33 m. 51 ch.	

Bridge Repairs.

The repairs of bridges from the beginning of the contract to 4 miles 67 chains shall be paid for extra, in the manner provided for station accommodation.

JOHN CARRUTHERS.
JOHN BROGDEN AND SONS.

GENERAL FENCING SPECIFICATION.

The fencing to be used shall be of three kinds, to be known as Qualities Nos. 1, 2, and 3.

Quality No. 1.—Quality No. 1 shall consist of a sod wall, 3 feet 3 inches broad at base, 1 foot 3 inches broad at top, and 4 feet 6 inches high. It shall be carefully built in uniform layers from 8 to 10 inches thick, and bonded together. A ditch, at least 2 feet 6 inches wide and 1 foot 6 inches deep, shall be dug on each side, and carried through the wall where necessary for the drainage of the line or adjoining land. The wall is to be carried over such ditches on sound totara timber 3 inches thick.

Quality No. 2.—Quality No. 2 shall consist of post, ditch, mound, three wires, and top-rail.

Quality No. 3.—Quality No. 3 shall consist of post, five wires, and top-rail.

The timber used in Qualities Nos. 2 and 3 shall be totara, matai, kauri, or manuka, or other specially approved timber.

The posts to be of split timber, cut square at ends, mortised for rails, and well rammed when in their places. A straining post, 9 feet long, 6 inches in diameter, and well stayed, shall be put in at intervals of not more than 5 chains, and at each crossing of existing fences.

The top-rails shall also be of split timber, scarfed at ends, neatly fitted into mortise holes cut in the posts, and securely fixed with wedges.

The wires shall consist of the best black annealed wire, of No. 5 Birmingham gauge, and shall be fastened to outside of posts with suitable staples.

The mound, in fencing Quality No. 2, shall be of tough firm sods, as specified for sod wall. It shall be 3 feet wide at base, 2 feet wide at top, and 1 foot 6 inches high.

Existing fences crossed and cut down shall be connected with the railway fences, and left in a condition at least equal to that in which they were found.

The Contractor shall provide temporary slip-rails or panels in the permanent fencing where required for the accommodation of occupiers, and will give every other facility of access to their lands across the line until the permanent crossings and roads are constructed.

JOHN CARRUTHERS.

JOHN BROGDEN AND SONS.

MEMORANDUM.

Contracts for the construction of other railways—viz., from Napier to Pakipaki, Wellington to Hutt, Picton to Blenheim, Dunedin to Clutha (Tuieri contract), and Invercargill to Mataura—of very similar tenor to the above, were also entered into on the same date. These are not set out here, but copies for reference have been deposited in the General Assembly Library.

THE RAILWAY MATERIAL CONTRACT.

Extract from Appendix to the Journals of the House of Representatives, D.—19A, 1872.

ARTICLES OF AGREEMENT BETWEEN THE GOVERNOR OF NEW ZEALAND AND MESSRS. BROGDEN RELATIVE TO THE PURCHASE OF RAILWAY MATERIAL.

ARTICLES OF AGREEMENT made and entered into this tenth day of August, one thousand eight hundred and seventy-two, between the Governor of New Zealand, in the name and on behalf of Her Majesty the Queen, of the one part, and Alexander Brogden, Henry Brogden, and James Brogden, all of Queen's Square, in the City of Westminster, in England, Railway Contractors (hereinafter referred to as "the Contractors"), of the other part.

WHEREAS by articles of agreement made and entered into on the eighteenth day of December last between the parties hereto, it was stipulated and agreed that, in the event of the Contractors entering into contracts as therein provided for the construction by them of lines of railway to be specified by the said Governor as therein mentioned, at prices agreed upon between the Governor and the Contractors, amounting in the aggregate to a sum not less than seven hundred thousand pounds (£700,000), the several contracts for which railways were in the articles of agreement now in recital, and are in these presents referred to as Contract No. 3, that a certain other contract previously made and entered into between the said Governor and the Contractors for the construction of railways (which said other contract was in the articles of agreement now in recital, and is in these presents referred to as Contract No. 2) should be annulled, cancelled, and of no effect: And whereas the Governor has, on behalf of the Queen, specified to the Contractors certain railways which, subject to the provisions of the said agreement of the eighteenth day of December, one thousand eight hundred and seventy-one, are to be constructed under Contract No. 3: And whereas the price of iron rails and other materials for the permanent-way of such railways, and of rolling-stock for the same, which would be procured for the same by the Contractors from England for the purposes of such railways, is subject to such fluctuations, and is so uncertain, that it is expedient that the supply thereof should not be included in the contracts for such railways, but that, in lieu thereof, the same should be provided by the Governor on behalf of the Queen: And whereas it is expedient that the Contractors should advise and assist the Governor in purchasing the same, to the extent and subject to the conditions hereinafter set forth: Now these presents witness that the Governor, on behalf of Her Majesty the Queen, her heirs and successors (all of whom are hereinafter included in the term "the Queen"), and so far as the covenants hereinafter contained are to be performed or observed on her or their parts respectively, doth hereby covenant with the Contractors, their executors, administrators, and assigns (all of whom are hereinafter included in the expression "the Contractors"), and the Contractors and each of them for themselves and himself, and their respective heirs, executors, administrators, and assigns (so far as such covenants hereafter contained are to be performed or observed on their parts), do and doth hereby covenant with the Governor, on behalf of the Queen, her heirs and successors, in manner hereinafter appearing, that is to say,—

1. The Contractors agree that if and whenever the Agent-General in England for the time being of New Zealand shall deliver to them in England the particulars, plans, or specifications of any rails or other materials for permanent-way, or of any rolling-stock which the Governor, on behalf of the Queen, shall have agreed to supply to the Contractors for the purposes of any of the said specified railways in respect of which a contract for construction shall have been entered into as aforesaid, and require them to call for tenders for the supply of the same, the Contractors will, within such time as shall from time to time be fixed by such Agent-General, at the expense of such Agent-General, and subject to terms and conditions approved of by him, but in their own names, call upon such person or companies as shall for the purpose be previously approved of by such Agent-General and the Contractors to tender for the supply of such materials and rolling-stock as aforesaid: Provided, however, that the total amount which the Contractors may require to be expended under the present agreement in the purchase of such materials and rolling-stock as aforesaid shall not exceed in the aggregate the sum of two hundred and fifty thousand pounds (£250,000).

2. That the Contractors will, at such time and place as such Agent-General shall from time to time fix and determine, and in the presence of such Agent-General, open such tenders, and deliver the same to such Agent-General; and thereupon will give to such Agent-General their advice in the selection and determination of which (if any) of such tenders it shall appear expedient to accept.

3. Only such of the said tenders as shall be approved of by such Agent-General shall be accepted by the Contractors.

4. The Governor, for and on behalf of the Queen, her heirs and successors, agrees with the Contractors that the Agent-General will, within the longest period fixed in such contracts as may be entered into by the Contractors for the construction of the specified railways or any of them as aforesaid, take the necessary steps under this present agreement for enabling the Contractors to call for tenders for such materials and rolling-stock as aforesaid, to the full extent of two hundred and fifty thousand pounds (£250,000) at the least.

5. The Governor may, as he thinks fit, cause any materials or rolling-stock for which any such tenders may be accepted to be appropriated to or used in the construction of or in connection with any railway or railways constructed for the Queen by the Contractors, either under the said Contract No. 3, or the said Contract No. 2, or any other contract: Provided, however, that, in the event of the said Contract No. 3 not being entered into, the Contractors shall, if the Governor from time to time require them so to do, accept from the Governor, acting on the part of the Queen, such of the said materials and rolling-stock as the Governor may appropriate to and require to be used in the construction of or in connection with any of the railways constructed under the said Contract No. 2, and shall forthwith, after the cost of any such railway is agreed on for the purposes of the said Contract No. 2, refund to the Governor all moneys paid and disbursed on or about the purchase of such proportion of the said materials and rolling-stock, and the carriage, shipment, and conveyance thereof to the colony, and all percentages paid to the Contractors on account thereof under this agreement.

6. The Queen contracts that such Agent-General will, on behalf of the Queen, pay to the Contractors in England five pounds for every hundred pounds' worth of material and rolling-stock as aforesaid comprised in any accepted tender, such percentage to be paid within thirty days after the acceptance of each such tender: Provided always that, if from any cause whatever any such materials or rolling-stock as aforesaid included in any such accepted tender, and in respect of which such commissions as aforesaid shall have been paid to the Contractors, be not delivered in accordance with the terms of such tender, the Contractors shall and will, on being requested so to do by the said Agent-General, and without charge for commission therefor, but at the expense of the said Agent-General, call for fresh tenders for materials and rolling-stock similar to such materials and rolling-stock as shall be so undelivered, and shall, in relation to such fresh tenders and such materials and rolling-stock, do and perform, without any charge therefor, all such acts, matters, and things as by this agreement they are bound to do in relation to the original tenders, and the material and rolling-stock comprised therein; and the Contractors will so on from time to time, whenever any materials or rolling stock comprised in any fresh tender shall not be delivered, and if the Contractors be required by the said Agent-General so to do, call for tenders, and give their advice and assistance in relation thereto without charge until materials and rolling-stock shall have been delivered to an amount in cost equal to the amount on which commission shall have been paid to them under this agreement.

7. The Contractors agree that, except as aforesaid, they will not take or accept on their own accounts any profit or proportion of profit, or any commission, discount, or allowance from the tenderer, manufacturer, vendor, or any other person for or in respect of any such materials or rolling-stocks as aforesaid agreed to be supplied under any such accepted tender; and that any profit or proportion of profit, commission, discount, or allowance received or recoverable, or paid or payable, for or in respect of any such materials and rolling-stock as aforesaid, shall be the property of the Queen, and be paid to such Agent-General on her behalf, and, if paid or payable to the Contractors, they will, on receiving the same, pay the same over to such Agent-General.

8. Whereas the materials and rolling-stock intended to be purchased under the terms of this present agreement would, under the said Contract No. 3, have been supplied by the Contractors, and the cost thereof would have formed part of the sum of seven hundred thousand pounds (£700,000), contracts to the amount of which it was agreed by the said Contract No. 3 should be entered into before the said Contract No. 2 was annulled: And whereas the commission to be paid as aforesaid to the Contractors in respect of the advice and assistance given by them in the matters aforesaid is at the rate of five pounds per centum in lieu of the estimated profit of ten pounds per centum, which the Contractors assure the Government they expected to have earned had the terms of the said Contract No. 3 been adhered to: It is agreed by and between the parties hereto as follows: The said sum of seven hundred thousand pounds (£700,000) shall be reduced by one hundred and twenty-five thousand pounds (£125,000), being one-half of the said sum of two hundred and fifty thousand pounds (£250,000) to be expended as aforesaid; and it is hereby agreed that, upon the parties hereto entering into contracts for the construction of specified railways to the extent of not less than five hundred and

seventy-five thousand pounds (£575,000), exclusive of the cost of such materials and rolling-stock as aforesaid, the said Contract No. 2 shall be annulled, cancelled, and of no effect.

In witness whereof Sir George Ferguson Bowen, Knight Grand Cross of the Most Distinguished Order of Saint Michael and Saint George, the Governor of the said Colony of New Zealand, hath, in the name and on behalf of Her Majesty the Queen, hereunto set his hand, and hath caused the Seal of the said Colony to be hereunto affixed; and James Brogden hath, under and by virtue of a power of attorney from the said Alexander Brogden, James Brogden, and Henry Brogden, dated the tenth day of August, one thousand eight hundred and seventy-two, hereunto set their hands and seals the day and year firstly hereinbefore written.

Signed by Sir George Ferguson Bowen,
Governor of the Colony of New Zealand, and
the Seal of the Colony affixed hereto in the
presence of

J. D. ORMOND.

Witness—

WILLIAM FOX.

G. F. BOWEN,
Governor.

Signed, sealed, and delivered by the said
Alexander Brogden, James Brogden, and Henry
Brogden, by their attorney, the said James
Brogden, in the presence of

ALEXANDER BROGDEN,
By his Attorney, James Brogden.
(Seal.)

HENRY BROGDEN,
By his Attorney, James Brogden.
(Seal.)

JAMES BROGDEN.
(Seal.)

FURTHER CORRESPONDENCE PRELIMINARY TO RAILWAY CONTRACTS.

Extract from Appendix to the Journals of the House of Representatives, D.-19c, 1872.

MESSRS. TRAVERS AND OLLIVIER to the HON. the MINISTER for PUBLIC WORKS.

SIR,—

Wellington, 15th March, 1872.

Some few days ago the Messrs. Brogden placed in our hands the general conditions upon which the Government proposed that they should tender for the construction of the lines of railway submitted to them under Contract No. 3. We were informed by Mr. Brogden that, immediately on receiving those conditions from you, he intimated that he could not tender under them, and he has instructed us to forward you a draft of conditions, &c., in a form which he conceives to be reasonable as between both parties, and under which he will be prepared, when supplied with the necessary data, as provided by the contract, to tender for the construction of the proposed works. As matters of this kind ordinarily come under the consideration of engineers, we would suggest that the Engineer-in-Chief should be placed in communication with Mr. Brogden respecting them, in order to avoid unnecessary delay in adjusting any disputed points. We may state, however, that the accompanying conditions have been prepared from conditions settled by eminent engineers in England in connection with both home and foreign railways.

We have, &c.,

The Hon. the Minister for Public Works.

TRAVERS AND OLLIVIER.

MEMORANDUM by ENGINEER-IN-CHIEF and ATTORNEY-GENERAL.

It is found that to several of the general conditions hitherto introduced into railway contracts here Mr. Brogden objects, and it is necessary that the Government shall determine what is to be done as to his objections, and say whether the printed conditions are to be altered to meet his objections or not. The following are the more important:—

1. Mr. Brogden wants an arbitration clause providing for the appointment of three arbiters; but would agree to an arbiter being named in the contract.

2. Mr. Brogden objects to the power granted, in clause 12 of printed conditions, to the Minister, to determine absolutely the contract in case of breach, consenting only to the alternative provided, that the Minister may take the work out of the Contractors' hands.

3. Objects to the Government having power to omit works without paying him 10 per cent. anticipated profits.

4. Objects to making good damage done by floods and force of waves, unless bad workmanship or bad arrangements should have caused it.

5. Objects to truck-system clause.

6. Objects to Minister being able to suspend payments for a month to make inquiry.

7. Proposes that Minister shall be able to pay for extra work done without written authority, but which Engineer approves in writing within one month.

8. Objects generally to the Engineer being the arbiter.

Until these are determined, the Engineer-in-Chief and the Attorney-General are unable to settle the general conditions.

JOHN CARRUTHERS,
Engineer-in-Chief.

Public Works Office, 25th March, 1872.

JAMES PRENDERGAST.

MEMORANDUM by ENGINEER-IN-CHIEF on Mr. BROGDEN'S Objections to Printed Conditions.

Objections.

1. It is unusual not to make the Engineer sole arbiter as regards quality and quantity of work, explanation of plans, settlement of prices for work not mentioned in schedule of prices, or extra to the contract; and I think it is undesirable to leave these matters to arbitration.

2. Contract No. 2 gives the power of taking work out of Contractor's hands for breach, but not of absolutely determining contract. This is also in accordance with custom, but there are numerous precedents for the Government retaining the power of absolute determination of contract.

3. I do not think this will be an important item. As far as my experience goes, it is always provided that work may be taken out of contract without paying anticipated profits.

4. Mr. Brogden says that damage by floods was, after long discussion, arranged in Contract No. 2 to be borne by Government. If the Government agree to this alteration, it should only be in case of great and unusual flood. As to force of waves, I think it might be conceded, the Engineer being the sole judge as to whether it was by default of Contractor that work was injured.

5. In remote parts of works it will be almost necessary for Messrs. Brogden to open stores for workmen.

6. This is an unusual clause, and I think it should be conceded.

7. This I think reasonable, as work in case of emergency may be done which, had there been time, would have been ordered.

8. Generally the Engineer is made sole arbiter in all cases of dispute: this I think undesirable, as giving too much power to the Engineer. In cases mentioned above I do not see how it can be avoided.

JOHN CARRUTHERS,
Engineer-in-Chief.

MEMO.—I concur in all the observations by the Engineer-in-Chief, except that I doubt the expediency of having any arbiter except the Engineer-in-Chief.

Public Works Office, Wellington, 25th March, 1872.

JAMES PRENDERGAST.

Messrs. BROGDEN to the Hon. the MINISTER for PUBLIC WORKS.

SIR,—

Wellington, 26th March, 1872.

We find that there is likely to be some further delay in the settlement of the general conditions which are sought to be attached to our contract, on account of the absence of yourself and the Ministry from Wellington.

That no more time may be lost by us, our Mr. James Brogden and Mr. Henderson leave to-night for the South, in order to gain what preparatory information in reference to the named railways they may be able to obtain.

Our attorney, Mr. Travers, is empowered to act for us during our absence.

We have, &c.,

The Hon. the Minister for Public Works.

JOHN BROGDEN AND SONS.

MR. TRAVERS to the Hon. the MINISTER for PUBLIC WORKS.

SIR,—

Wellington, 2nd April, 1872.

On Thursday last I was favoured with an interview with the Hon. the Attorney-General and Mr. Carruthers, in reference to the discussion between yourself and Messrs. Brogden as to the form of conditions on which they would be required to tender for the construction of railways under Contract No. 3. If I rightly apprehended on that occasion, the Government insisted—

(1.) That in all cases in which arbitration would be necessary, and in which no special provision was made in the conditions for the settlement of disputed questions, the Engineer-in-Chief was to be the sole referee.

(2.) That Condition No. 12 should be adhered to.

(3.) That the power to omit any part of the works should be adhered to.

Upon this point the Attorney-General and Mr. Carruthers intimated that the Government might possibly agree to limit the extent to which this power would be exercised, as, say, to 20 per cent. on the total contract price.

(4.) That the Contractor should be liable to make good damage from floods, &c., until completion of works.

Upon this point I understood that this liability would not be insisted upon during the period of maintenance.

(5.) That the clause against trucks should be retained.

I communicated these matters to Mr. Brogden by telegram, and he has instructed me to ask you to be good enough to inform me whether I rightly understood the wishes of the Government, and whether they will insist absolutely on these conditions.

I have, &c.,

The Hon. the Minister for Public Works.

WM. THOS. LOCKE TRAVERS.

MR. CARRUTHERS to MR. TRAVERS.

SIR,—

Wellington, 2nd April, 1872.

I have just received a telegram from Mr. Ormond, in which he states that he will return to Wellington by first steamer after the Governor's visit; this will be the "Nevada." Will you please let Mr. Brogden know.

It is of course very desirable that Mr. Brogden should meet Mr. Ormond, to arrange, if possible, the general conditions of contract, and Mr. Ormond is anxious to let Mr. Brogden know that he is coming to Wellington, so that they may meet.

I have, &c.,

J. CARRUTHERS,
Engineer-in-Chief.

W. T. L. Travers, Esq., Wellington.

Mr. TRAVERS to Mr. CARRUTHERS.

SIR,—

Wellington, 3rd April, 1872

I will telegraph the substance of your note to Mr. Brogden, but before doing so I wish to have a reply to my letter of yesterday's date, addressed to the Minister for Public Works. Mr. Brogden leaves for Christchurch on Friday morning, so that I can telegraph to him up to Thursday night.

I have, &c.,

J. Carruthers, Esq., Engineer-in-Chief.

WM. THOS. LOCKE TRAVERS.

Mr. CARRUTHERS to Mr. TRAVERS.

SIR,—

Wellington, 3rd April, 1872.

I am of course unable to give you any information as to any reply to your letter addressed to Minister for Public Works. He will I suppose reply in due course, and the purport of your letter has been telegraphed to him.

I have, &c.,

W. T. L. Travers, Esq.

JOHN CARRUTHERS.

MEMORANDUM of the Heads of an Agreement entered into by Messrs. Brogden and Co. and the Government (represented by Mr. Reeves), on the 10th April, 1872, the subject of the conference being the differences which have arisen in respect to the General Conditions hitherto in force with regard to the construction of Railways in New Zealand.

1. On the subject of arbitration it was decided that, in case the Governor or Minister for Public Works, as the case may be, and the Contractors shall not agree, the matter shall be determined by arbitration; and every such matter as to which they shall not agree, dispute or difference shall be settled by arbitration, to be conducted by reference to the sole decision of the Judge of the Supreme Court in New Zealand within whose district the cause of difference or dispute may have arisen. This submission to arbitration may be made a rule of the Supreme Court of New Zealand, or of any of the superior Courts of Westminster, as the case may be or required. The costs of and attending the arbitration and award shall be in the discretion of the arbitrators.

2. It was agreed that clause 12 should be allowed to remain, subject to the understanding that the right of the Contractors to appeal to arbitration on all points included in the clause should not be prejudiced.

That clause 6 shall be retained, but that an allowance of 10 per cent. shall be made to the Contractors on any saving of expenditure which may result from their recommendations.

That clause 18 (against floods) can be retained, if the Government consider it advisable to do so.

That clause 23 (against the truck-system) shall be retained, omitting the words "at least once in every fortnight."

W. REEVES.

Subject to approval by other Ministers of employment of Judges as arbitrators in their several districts.

JAMES BROGDEN.

The Hon. W. GISBORNE to the JUDGES of the SUPREME COURT.

SIR,—

Public Works Office, Wellington, 27th April, 1872.

I have the honour to forward you a copy of the general conditions which, subject to some modifications, are to form part of certain contracts proposed to be entered into between the Government and Messrs. Brogden and Sons for the construction of railway works in New Zealand.

Messrs. Brogden object to leaving to the Engineer-in-Chief or the Minister the decision of matters which, by the conditions numbered from 1 to 30, both inclusive, are left to the determination of the Engineer or Minister, as the case may be.

It has been proposed that the conditions should provide for giving an appeal from the decision of the Engineer or the Minister, as the case may be, to the Judge of the Supreme Court of the judicial district in which the works are being carried on, and that the same Judge should be the arbiter referred to in the 31st clause of the conditions.

I shall feel obliged by your informing me whether you are willing to accept the duties of arbitrator in the cases proposed; or if your Honour should entertain an objection to acting as arbitrator on matters arising under some of the conditions, and not as to others, will you be so good as to state which of the matters you would be willing to undertake the decision of as arbiter.

I have, &c.,

W. GISBORNE.

**THE GOVERNMENT CONTRACTORS ARBITRATION ACT,
1872.**

The Bill as originally drawn, and sent to the Government Printer for printing on the 25th July, 1872.

GOVERNMENT CONTRACTORS' DISPUTES SETTLEMENT.

ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. Interpretation. 3. Disputes between Government and Contractors to be referred to decision of Judge of the Supreme Court. 4. Statement of matter in dispute to be settled and signed. 5. Procedure thereon. 6. Judge to fix day and place of proceeding with reference. 7. Either party refusing or neglecting to state case, Judge may proceed <i>ex parte</i>. 8. Where dispute between Engineer and Contractor, to be referred to the Minister. Notice to Minister. 9. Judge may direct how inquiry to be carried on. 10. Judge may adjourn hearing.</p>	<p>11. Judge may hear evidence. Require production of plans, &c. 12. Judge may direct inspections by skilled persons. 13. May obtain opinions of engineers, &c. 14. Parties not attending, Judge may proceed <i>ex parte</i>. 15. Parties may appear by counsel or solicitor. 16. If Judge thinks fit, he may direct facts to be found by a special jury. 17. Judge to give a certificate of his decision. 18. What may be stated in certificate. 19. Certificate to be filed in Court. 20. Effect of certificate. Execution may issue thereon. 21. Costs. 22. Penalty for non-attendance as witness, or for neglect to obey order of Judge. 23. Procedure of Supreme Court to be applicable. 24. No appeal from Judge's decision.</p>
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A BILL INTITULED

AN ACT for settling Disputes occurring between Contractors and the Government of the Colony, and for giving Jurisdiction therein to the Supreme Court in certain cases. Title.

WHEREAS under the provisions of certain statutes that now are and may hereafter be in force, authorizing the construction, erection, and maintenance of public works in the Colony of New Zealand, disputes may arise between the Government of the colony and the persons contracting for or undertaking the construction, erection, or maintenance thereof, and it is expedient that provision should be made for summary and final settlement thereof : Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows :—

1. The Short Title of this Act shall be "The Government Contractors' Disputes Settlement Act, 1872," and it shall come into operation on the passing thereof. Short Title.

2. In the interpretation of this Act the following words and expressions shall be deemed to have the meanings hereby assigned to them, unless it shall appear from the context that some other meaning should be assigned thereto :— Interpretation.

The word "Minister" shall mean and include not only the Minister for Public Works appointed under the Act hereinafter mentioned, but also any person for the time being acting as such Minister, or on behalf of such Minister :

The words "Chief Engineer" shall mean and include not only the officer styled the Chief Engineer, but also the Assistant Engineer or any other officer for the time being acting for the Chief Engineer, or in the like capacity :

The word "Contractor" shall mean any person who shall undertake or contract for the construction, erection, or maintenance of any railway or other works, or of any public work whatsoever, authorized under the terms of the Acts hereinafter mentioned, and also the Foreman, Engineer, or other the person or persons having the supervision or management of any such works.

The word "contract" shall mean any contract, undertaking, or engagement whatsoever entered into by any "Contractor," as hereinbefore defined, whether the same shall be made between Her Majesty the Queen or by the Governor of the colony on her behalf or otherwise, under the said Act, and all specifications, conditions, plans, or drawings connected therewith, and whether such contract shall have been entered into or executed before the passing of this Act or not :

The expression "the said Acts" shall mean and include "The Immigration and Public Works Act, 1870," "The Immigration and Public Works Act Amendment Act, 1871," "The Railways Act, 1870," and "The Railways Act Amendment Act, 1871;" and also any other Act or Acts passed for the purpose of amending or continuing the said Acts or any of them, or passed for any like purposes, and whether passed under the provisions of the said Acts or as distinct and separate Acts.

3. In any case where, under the provisions of any contract entered into under any of the provisions of the said Acts, it may be provided that if any dispute or difference shall arise between the parties thereto that such dispute shall be referred to the arbitrament and decision of any person or persons either named therein or to be appointed and named under the provisions of such contract : or where in any such contract disputes shall arise as to the meaning or construction of any such contract, or as to the mode of carrying on or executing the same, or as to any other matter or thing in the said contract mentioned or referred to, and which by the terms of such contract is or may be referred to the decision of any person or persons as aforesaid, then and in any such case such dispute or difference shall be referred to the decision of a Judge of the Supreme Court in the manner hereinafter provided.

4. If any dispute shall arise between either of the parties to any contract as hereinbefore mentioned upon any matter or thing which according to the terms thereof ought or might be referred to arbitration as aforesaid, the parties in dispute shall state and sign a case setting forth in a concise manner the particular matter in dispute, and which shall be alleged by the party proposing to proceed to a reference, and the ground of objection to such allegation by the other of the said parties, and such case shall be signed by the parties or by their respective counsel or solicitors, and the procedure thereon shall be as follows.

5. Upon the case being settled and signed as aforesaid, the same shall forthwith be filed in the office of the Registrar of the Supreme Court, at the place where, according to the provisions hereof, such matter shall be adjudicated on ; and the party who shall have proposed a reference shall, as soon as conveniently may be after the filing thereof, apply to the Judge of the Supreme Court within whose judicial district the dispute has arisen, or in which the particular contract or work is to be performed, to fix a day, time, and place for proceeding in the matters to be referred to him as aforesaid.

6. Such Judge shall, subject to the provisions of this Act, fix a day, time, and place for proceeding in the matters in the case mentioned and referred to him, and shall direct what notice thereof shall be given to the other of the parties in dispute ; and on such day, and at the time and place appointed by the Judge, the parties, by themselves, their counsel or solicitors, shall attend before the Judge for the purpose of proceeding in the inquiry.

7. If either of the parties shall, on being required to do so by the other of them, refuse or neglect for a period of seven days after being so required to sign such a statement as aforesaid, it shall be lawful for the party desirous of proceeding to a reference under this Act to apply to the Judge in an *ex parte* manner, and such Judge, upon hearing the facts and on proof thereof, shall proceed in the reference *ex parte*.

Disputes between Government and Contractors to be referred to decision of Judge of the Supreme Court.

Statement of matter in dispute to be settled and signed.

Procedure thereon.

Judge to fix day and place of proceeding with reference.

Either party refusing or neglecting to state case, Judge may proceed *ex parte*.

8. Whenever any such dispute shall have arisen between the Chief Engineer and the Contractor, the matter in dispute shall be referred to the Minister for his decision; and in case he shall decide against the Contractor, then the latter shall be entitled to proceed to a reference, but not otherwise: Provided that, before any dispute shall be so referred as aforesaid by any Contractor under the powers herein contained, the Contractor shall give to the Minister one month's notice in writing of such dispute, and of the matter and cause thereof; and in such notice the Contractor's claim shall be explicitly stated, and, if such claim be for pecuniary compensation, the amount thereof shall also be stated.
9. Every such reference shall be carried on in such manner as the Judge shall direct; and he shall have power to direct what notices thereof shall be served, and on whom and in what manner such notices shall be served, and shall give such other directions concerning the conduct of the inquiry as to him may seem fit.
10. The Judge may adjourn such reference and the proceedings thereon from time to time as he shall see fit, and either for a fixed period or without fixing a day for further proceeding therein, but no such adjournment shall continue for a longer period than _____ months.
11. It shall be lawful for such Judge, at such time and place within his judicial district as aforesaid, and whether in open Court or in Chambers, and, upon such proof of notice to parties interested as to the Judge shall seem sufficient, to take and hear evidence, upon oath or affirmation, in support of or in opposition to the several matters so referred to him in manner aforesaid.
- And for all or any of the purposes aforesaid may require any of the parties to produce or cause to be produced before him thereon all plans, papers, contracts, specifications, and writings whatsoever touching or concerning all or any of the matters aforesaid.
12. For the purpose of arriving at a clear understanding of all or any of such matters, it shall be lawful for the Judge to make or cause to be made an inspection of all works or materials or of any other thing that may be the object of dispute as aforesaid, and capable of being inspected, and for that purpose may require one or more skilled and competent persons to conduct and make such inspection, and may fix a time within which such inspection shall be made, and within which a report shall be made to such Judge of the matters so required to be inspected as aforesaid; and the report or certificate in writing of any such persons whom the Judge may direct or require to do any of the things herein provided for shall and may be taken and received by such Judge, and acted upon as effectually as if he had taken the evidence of such person *vivâ voce*.
13. If it shall become necessary, whether in the course of the proceedings or at any time thereafter, before the Judge shall finally have decided on the matters so referred to him as aforesaid, it shall be lawful for him to call before him such engineers, accountants, and other skilled persons as may seem to him requisite or necessary for the purpose of obtaining from them or any of them an opinion upon any question or questions in respect of such reference upon which he may desire the same on any of the matters to be so submitted to him as aforesaid.
14. If either of the said parties shall not attend at such hearing or inquiry, or shall neglect to attend in pursuance of any notice so to attend, or shall fail or neglect to produce any plans, contracts, papers, or writings as aforesaid after having been lawfully required to do so in manner aforesaid, it shall be lawful for the said Judge to proceed with the subject-matter of such inquiry *ex parte*.
15. Either of the said parties may appear by counsel or solicitor, and shall be entitled to examine, cross-examine, and re-examine witnesses who may be examined by or before such Judge.
16. If the Judge before whom any such inquiry shall be commenced shall, from the circumstances connected therewith, think it desirable that any facts should be ascertained by a jury, it shall be lawful for him to cause a special jury to attend before him, at a convenient time and place to be by him fixed, to hear the evidence in support of any matter or thing in the case to be submitted

Where dispute between Engineer and Contractor, to be referred to the Minister.

Notice to Minister.

Judge may direct how inquiry to be carried on.

Judge may adjourn hearing.

Judge may hear evidence.

Require production of plans, &c.

Judge may direct inspections by skilled persons.

May obtain opinions of Engineers, &c.

Parties not attending, Judge may proceed *ex parte*.

Parties may appear by counsel or solicitor.

If Judge thinks fit, he may direct facts to be found by a special jury.

to him which it shall be deemed desirable to have decided by the verdict of a jury, and it shall be lawful for such jury, subject to the direction of the Judge before whom the evidence is taken as to the legal effect of such evidence, by special verdict to bind or negative the existence of the facts so stated ; and if a special jury shall be directed to be summoned it shall be struck and summoned in like manner as special juries are struck and examined in civil actions in the Supreme Court.

Judge to give a certificate of his decision.

17. The Judge before whom such evidence shall be taken or facts found as aforesaid shall, by a certificate under his hand and the seal of the Supreme Court, addressed to the Governor of the Colony, report or certify to him the conclusion at which he shall have arrived upon the matters referred to him, and, if any facts shall have been found by a jury as provided in the last preceding section, shall also state the verdict of such jury on such facts.

What may be stated in certificate.

18. In and by any such certificate, or by an independent instrument in writing under his hand and sealed as aforesaid, the Judge may order the payment of money by one of the parties to the other of them, whether as damages or costs, and in and by any such certificate prescribe and direct what shall be done and performed by either of the said parties or both of them, or what shall be refrained from being done by either of them, whether such direction or performance shall have reference to the subject-matter of any such contract and specified or referred to therein, or as to any act, matter, or thing connected with or arising out of such contract, as the proceedings had on any such reference.

Certificate to be filed in Court.

19. A copy of the certificate so to be made as aforesaid shall be forthwith recorded in the Supreme Court at the place where the same shall be made, and any of the parties shall have the right of making copies thereof or taking extracts therefrom on payment of the usual and customary fees in such cases prescribed by the practice of the Supreme Court.

Effect of certificate.

20. The effect of every such certificate shall be similar to that of a judgment or decree of the Supreme Court in its ordinary jurisdiction, and upon such certificate the person lawfully entitled to do so may issue execution to recover moneys due or payable to him thereunder out of any moneys which may have been appropriated by the Legislature for all or any of the purposes to which such inquiry shall have had relation : Provided that, to entitle any person so to issue execution as aforesaid, it must appear in such certificate what moneys have been appropriated to that purpose by the General Assembly, and that the same are legally available for the purpose of satisfying any claims made thereunder by virtue thereof.

Execution may issue thereon.

Costs.

21. The costs, charges, and expenses, of whatsoever nature, of and attending such reference, and of all proceedings consequent upon or incidental thereto, and of all necessary acts, matters, and things which shall or may be had, made, done, or performed by any such Judge under the powers hereof, or by either of the parties shall be borne and paid by and between the said parties in such proportions as to the Judge shall seem meet or as he shall in his discretion think fit, and the allowance or award of such costs, and the direction by and to whom the same shall be paid, shall be included in and form part of the certificate so to be made as aforesaid.

Penalty for non-attendance as witness, or for neglect to obey order of Judge.

22. If any person having been duly summoned to attend on any such reference as aforesaid, whether for the purpose of giving evidence in any matter connected therewith, or to produce any plan, contract, paper, writing, or instrument whatsoever, or for the purpose of being examined on any matter of opinion which the Judge shall desire to submit to such person, or if any party to such inquiry shall refuse or neglect to comply with any direction or order made by such Judge in relation thereto and under the powers herein contained, every such person shall be liable to the like penalties which by the practice of the Supreme Court would attach to such person for or by reason of any non-attendance as such witness on non-compliance with any such rule or order as aforesaid in a civil action in the Supreme Court.

Procedure of Supreme Court to be applicable.

23. In the summoning of witnesses, and in the holding of and in all proceedings relating to any reference, and in the taking of evidence as aforesaid, the practice and procedure of the Supreme Court for the time being relating to

civil actions shall be followed, so far as they may be found or made applicable to such proceedings; and jurors and witnesses summoned to attend such reference, and parties thereto, shall be subject to the same liabilities as jurors, witnesses in, and parties concerned in, the trial of an action in the Supreme Court would be subject to in like cases: Provided that nothing in this or the preceding section contained shall be held or construed to render any witness, juror, or party liable to any penalty or proceeding in any of the cases therein mentioned, unless such witness, juror, or party shall have been duly summoned, or had notice to attend such reference, or may have been required to do or omit to do some act in the like manner in which he would have been summoned or required to attend as a witness or juror in a civil action in the Supreme Court as aforesaid, or required to do or omit to do some acts in any such action as aforesaid.

24. No appeal shall lie from any decision of a Judge given under or in accordance with the provisions of this Act, either to the Supreme Court, or to the Court of Appeal, or to any other Court or tribunal, but every such decision shall be binding, final, and conclusive on the parties concerned in or affected by any such reference. No appeal from Judge's decision.

The Bill as revised (called the First Revise), and sent to the Government Printer for amendment and reprint on the 29th July, 1872.

GOVERNMENT CONTRACTORS ARBITRATION.

ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. Interpretation. 3. Disputes between Government and Contractors to be referred to decision of Judge of the Supreme Court. 4. Where dispute between Chief Engineer and Contractor, to be referred to the Minister. Notice to Minister. 5. Statement of matter in dispute to be settled and signed. 6. Either party refusing or neglecting to state case, Judge may proceed <i>ex parte</i>. 7. Procedure thereon. 8. Judge to fix day and place of proceeding with reference. 9. Judge may direct how reference to be carried on.</p>	<p>10. Judge may hear evidence, and may require production of plans, &c. 11. Judge may direct inspections by skilled persons. 12. May obtain opinions of Engineers, &c. 13. Parties not attending, Judge may proceed <i>ex parte</i>. 14. Parties may appear by counsel or solicitor. Judge may adjourn proceedings. 15. Notices, &c., how to be served. 16. Judge to give a certificate of his decision, and what may be stated in certificate. 17. Certificate to be filed in Court. 18. Effect of certificate. 19. Costs. 20. Penalty for non-attendance as witness, or for neglect to obey order of Judge. 21. Procedure of Supreme Court to be applicable. 22. No appeal from Judge's decision.</p>
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A BILL INTITULED

AN ACT for referring Disputes occurring between Contractors and the Government of the Colony to the Decision of a Judge of the Supreme Court, and for giving Jurisdiction to such Judge in certain cases therein. Title.

WHEREAS certain statutes now are in force within the Colony of New Zealand authorizing the construction, erection, and maintenance of railways and other public works in the said colony: And whereas other statutes may from time to time hereafter be in force for such and other like purposes: And whereas disputes may arise between the Government of the colony and the persons contracting for or undertaking the construction, erection, or maintenance of such railways and other public works, under the provisions of such statutes, and it is expedient that provision should be made for summary and final settlement of such disputes: Preamble.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

Short Title.

1. The Short Title of this Act shall be "The Government Contractors Arbitration Act, 1872," and it shall come into operation on the passing thereof.

Interpretation.

2. In the interpretation of this Act the following words and expressions shall be deemed to have the meanings hereby assigned to them, unless it shall appear from the context that some other meaning should be assigned thereto:—

The word "Minister" shall mean and include not only the Minister for Public Works appointed under the Acts hereinafter mentioned, but also any person for the time being acting as such Minister, or on behalf of such Minister :

The words "Chief Engineer" shall mean and include not only the officer styled the Chief Engineer, but also the Assistant Engineer or any other officer for the time being acting for the Chief Engineer, or in the like capacity :

The word "Contractor" shall mean any person or persons, or any body of persons (whether a corporate body or not), who shall undertake or contract for the construction, erection, or maintenance of any railway works, or of any public work whatsoever, authorized under the terms of the Acts hereinafter mentioned, and also the Foreman, Engineer, or other the person or persons having the supervision or management of any such works :

The term "public work" shall mean and include any railway, tramway, road, bridge, building, erection, or structure whatsoever, and also all works of whatsoever nature connected with or relating to any such railway, tramway, road, bridge, building, erection, or structure, and erected or constructed or intended to be erected or constructed under the provisions of the Acts mentioned in the last clause of this section :

The word "contract" shall mean any contract, undertaking, or engagement whatsoever entered into by any "Contractor" as hereinbefore defined, whether the same shall be made with Her Majesty the Queen, or with the Governor of the colony, or by any other person on her behalf or otherwise, under the said Acts, and all specifications, conditions, plans, or drawings connected therewith, and shall include any contract which shall or may have been entered into, signed, or executed before the passing of this Act :

The term "the parties" shall mean the "Contractor," and the "Minister" or the "Chief Engineer" hereinbefore referred to, and whenever throughout this Act the term "parties" is used the same shall, in so far as it affects the Government of the colony, be deemed to mean the said Minister or Chief Engineer :

The expression "the said Acts" shall mean and include "The Immigration and Public Works Act, 1870," "The Immigration and Public Works Act Amendment Act, 1871," "The Railways Act, 1870," and "The Railways Act Amendment Act, 1871;" and also any other Act or Acts passed for the purpose of amending or continuing the said Acts or any of them, or passed for any like purposes, and whether passed under the provisions of the said Acts or as distinct and separate Acts.

3. In any case where, under the provisions of any contract entered into under any of the provisions of the said Acts, it may be provided that if any dispute or difference shall arise between the parties thereto, or between the Chief Engineer and the Contractor, that such dispute or difference shall be referred to the arbitrament and decision of any person or persons named or referred to therein or to any person or persons to be appointed under the provisions of such contract, or where disputes shall arise as to the meaning or construction of any such contract or of any public work therein mentioned, or as to the mode of carrying on or executing the same, or as to any other matter or thing in the said contract mentioned or referred to, and which by the terms of such contract ought to be or might be referred to the decision of any person or persons as aforesaid, then and in any such case such dispute or difference shall be referred to the decision of a Judge of the Supreme Court in the manner hereinafter provided.

Disputes between Government and Contractors to be referred to decision of Judge of the Supreme Court.

4. Whenever any such dispute or difference shall have arisen between the Chief Engineer and the Contractor, the matter in dispute shall be referred to the Minister for his decision; and in case the decision of the Minister shall be adverse to the Contractor, then the latter shall be entitled to avail himself of the provisions for a settlement of such difference hereinafter contained, but not otherwise: Provided that, before any dispute or difference shall be referred by any Contractor under the powers herein contained, the Contractor shall give to the Minister one calendar month's notice in writing of such dispute, and of the matter and cause thereof; and in such notice the Contractor's claim shall be explicitly stated, and if such claim be for pecuniary compensation the amount thereof shall also be stated.

Where dispute between Chief Engineer and Contractor, to be referred to the Minister.

Notice to Minister.

5. If any dispute shall arise between either of the parties to any contract as hereinbefore mentioned upon any matter or thing which according to the terms thereof ought to be or might be referred to arbitration as aforesaid, then the party having to proceed to a reference under this Act shall, subject to the provisions of the last preceding section, prepare a statement in writing, setting forth in a concise manner the particular matter in dispute, and which shall be alleged by the party proposing to proceed to a reference, and the ground of objection to such allegation by the other of the said parties. A copy of such statement shall be served by the parties so proposing to proceed to a reference as aforesaid upon the other of them, together with a notice requiring such last mentioned party, within a period of _____ days from such service, to agree to and settle the matters set forth in such statement, and if such case shall be agreed to by the parties then the same shall be signed by them or by their respective counsel or solicitors, and shall be filed in the Supreme Court as hereinafter directed.

Statement of matter in dispute to be settled and signed.

6. If either of the parties shall, on being required to do so by the other of them, refuse or neglect for a period of seven days after the expiration of such period of _____ days as mentioned in the last preceding section within which he or they shall be required to sign such a statement as aforesaid, it shall be lawful for the party desirous of proceeding to a reference under this Act to apply to the Judge in a summary manner, and such Judge, upon hearing the facts and on proof thereof, shall proceed to state and settle the matter so to be referred to him as aforesaid, and every such statement so settled by the Judge shall be as binding on the party so neglecting or refusing to sign the same as if he or they had in fact signed the same, and the Judge shall sign the same on the part of the party so neglecting or refusing to sign the same, and all subsequent proceedings thereon shall be valid and effectual to all intents and purposes.

Either party refusing or neglecting to state case, Judge may proceed *ex parte*.

7. Upon the statement being settled and signed in either of the modes hereinbefore mentioned, the same shall forthwith be filed in the office of the Registrar of the Supreme Court in the chief town of the province where, under the provisions of this Act, such reference may lawfully be had; and the party who shall have proposed a reference shall, as soon as conveniently may be after the filing thereof, apply to the Judge of the Supreme Court within whose judicial district the dispute has arisen, or in which the particular contract or work is to be performed, to fix a day, time, and place for proceeding in the matters so to be referred to him as aforesaid. Notice of the filing of such statement shall in all cases be given to the other of the said parties.

Procedure thereon.

8. Such Judge shall, subject to the provisions of this Act, fix a day, time, and place for proceeding in the matters in the case mentioned and referred to him, and shall direct what notice thereof shall be given to the other of the parties in dispute; and on such day, and at the time and place appointed by the Judge, the parties, by themselves or by their counsel or solicitors, shall attend before the Judge for the purpose of proceeding in the reference.

Judge to fix day and place of proceeding with reference.

9. Every such reference shall be conducted in such manner as the Judge shall direct; and he shall have power to direct what notices thereof shall be served, and on whom and in what manner such notices shall be served, and shall give such other directions concerning the conduct of the reference as to him may seem fit.

Judge may direct how reference to be carried on.

Judge may hear evidence, and may require production of plans, &c.

10. It shall be lawful for such Judge, at such time and place within his judicial district as aforesaid, and whether in open Court or in Chambers, and upon such proof of notice to parties interested as to the Judge shall seem sufficient, to take and hear evidence upon oath or affirmation in support of or in opposition to the several matters so referred to him in manner aforesaid.

And for all or any of the purposes aforesaid may require any of the parties to produce or to cause to be produced before him thereon all plans, papers, contracts, specifications, and writings whatsoever touching or concerning all or any of the matters aforesaid.

Judge may direct inspections by skilled persons.

11. For the purpose of arriving at a clear understanding of all or any of such matters, it shall be lawful for the Judge to make or cause to be made an inspection of any public work in respect of which any such reference shall be had and referred to him as aforesaid, or of any part thereof, or any materials composing the same or any part thereof, or of any other thing that may be the subject of dispute as aforesaid and capable of being inspected, and for that purpose may require one or more skilled and competent persons to conduct and make such inspection, and may fix a time within which such inspection shall be made, and within which a report shall be made to such Judge of the public work or materials so required to be inspected as aforesaid; and the report or certificate in writing of any such persons whom the Judge may direct or require to do any of the things herein provided for shall and may be taken and received by such Judge, and acted upon by him as effectually as if he had taken the evidence of such person *visâ voce*.

May obtain opinions of Engineers, &c.

12. If it shall become necessary whether in the course of the proceedings or at any time thereafter, before the Judge shall finally have decided on the matters so referred to him as aforesaid, it shall be lawful for him to call before him such engineers, accountants, and other skilled persons as may seem to him requisite or necessary for the purpose of obtaining from them or any of them an opinion upon any question or questions in respect of matter or thing arising out of or in relation to the subject of such reference, and upon which he may desire the same on any of the matters to be so submitted to him as aforesaid.

Parties not attending, Judge may proceed *ex parte*.

13. If either of the said parties shall fail or neglect to attend at such reference, after having been lawfully required to attend in pursuance of any notice so to attend, or who shall fail or neglect to produce any contract, plans, papers, or writings as aforesaid, after having been lawfully required to do so in manner aforesaid, it shall be lawful for the said Judge to proceed with the subject-matter of such reference *ex parte*.

Parties may appear by counsel or solicitor.

14. Either of the said parties may appear by counsel or solicitor, and shall be entitled to examine, cross-examine, and re-examine witnesses who may be examined by or before such Judge.

Judge may adjourn proceedings.

The Judge may adjourn such reference and the proceedings thereon from time to time as he shall see fit, and either for a fixed period or without fixing a day for further proceeding therein, but no such adjournment shall continue for a longer period than months.

Notices, &c., how to be served.

15. Any notice or other instrument which it may be necessary or requisite to serve upon the Minister under this Act may be served at the office of the Public Works Department at Wellington, by leaving the same with the Chief Engineer or the Secretary for Public Works; and any notice or other instrument which it may be necessary or requisite to serve upon the Contractor may be served upon him either personally or by leaving the same at his last known place of business or abode in the judicial district of the Supreme Court in which any such contract may be or have been executed or carried on. All notices served as and in manner herein provided shall, on proof thereof to the satisfaction of the Judge, be deemed to have been effectually served upon the party affected or intended to be affected thereby.

Judge to give a certificate of his decision, and what may be stated in certificate.

16. The Judge before whom such evidence shall be taken upon or under any such reference as aforesaid shall, by a certificate under his hand, and the seal of the Supreme Court, addressed to the Governor of the colony, report or certify to him the decision at which he shall have arrived upon the matters so referred to him.

In and by any such certificate, or by a separate instrument in writing under his hand, and sealed as aforesaid, the Judge may order the payment of money by one of the parties to the other of them, whether as damages or costs, and in and by any such certificate prescribe and direct what shall be done and performed by either of the said parties or both of them, or what shall be refrained from being done by either of them, whether such direction or performance shall have reference to the subject-matter of any such contract and specified or referred to therein, or as to any act, matter, or thing connected with or arising out of such contract, as the proceedings had on any such reference.

17. A copy of the certificate so to be made as aforesaid shall be forthwith recorded in the Supreme Court at the place where the proceedings in the reference shall have been conducted, and either of the parties shall have the right of making copies thereof or taking extracts therefrom on payment of the usual and customary fees in such cases prescribed by the practice of the Supreme Court.

Certificate to be filed in Court.

18. The effect of every such certificate shall be similar to that of a judgment or decree of the Supreme Court in its ordinary jurisdiction, and upon such certificate the person lawfully entitled to do so may issue execution to recover moneys due or payable to him thereunder, subject, however, to the following terms and conditions, that is to say,—Whenever by any such certificate it shall appear that money, whether as damages or costs, is made payable to the Government of the colony, proceedings to recover the same may be had as upon a debt due to the Crown, and all the provisions of “The Crown Debts Act, 1866,” as to the recovery of debts due to the Crown and to the issue of process thereunder, shall be deemed to apply to any such certificate as aforesaid; and whenever by any such certificate it shall appear that any money, whether as damages or costs, shall be paid to any Contractor, he shall be entitled to have the same satisfied in the manner provided by “The Crown Redress Act, 1871,” and the provisions of the sixth and seventh sections of that Act shall be deemed to be incorporated herein so far as applicable, and subject to the provisions of this Act: Provided that to entitle any person so to issue execution as aforesaid it must appear by the certificate to be given by the Judge under this Act what moneys (if any) have been appropriated by the General Assembly for the purpose of satisfying any claims or demands under this Act, and that the same are legally available for the purpose of satisfying any claims made thereunder by virtue of such certificate.

Effect of certificate.

19. The costs, charges, and expenses, of whatsoever nature, of and attending such reference, and of all proceedings consequent upon or incidental thereto, and of all necessary acts, matters, and things which shall or may be had, made, done, or performed by any such Judge under the powers hereof, or by either of the parties, shall be borne and paid by and between the said parties in such proportions as to the Judge shall seem meet or as he shall in his discretion think fit, and the allowance or award of such costs, and the direction by and to whom the same shall be paid, shall be included in and form part of the certificate so to be made as aforesaid.

Costs.

20. If any person having been duly summoned to attend on any such reference as aforesaid, whether for the purpose of giving evidence in any matter connected therewith, or to produce any plan, contract, paper, writing, or instrument whatsoever, or for the purpose of being examined on any matter of opinion which the Judge shall desire to submit to such person, or if any party to such inquiry shall refuse or neglect to comply with any direction or order made by such Judge in relation thereto and under the powers herein contained, every such person shall be liable to the like penalties which by the practice of the Supreme Court would attach to such person for or by reason of any non-attendance as such witness on non-compliance with any such rule or order as aforesaid in a civil action in the Supreme Court.

Penalty for non-attendance as witness, or for neglect to obey order of Judge.

21. In the summoning of witnesses, and in all proceedings relating to any reference held under this Act, and in the taking of evidence as aforesaid, the practice and procedure of the Supreme Court for the time being relating to civil actions shall be followed, so far as they may be found or made applicable

Procedure of Supreme Court be applicab^l

to such proceedings; and witnesses summoned to attend such reference, and parties thereto, shall be subject to the same liabilities as witnesses in and parties concerned in the trial of an action in the Supreme Court would be subject to in like cases: Provided that nothing in this or the preceding section contained shall be held or construed to render any witness or party liable to any penalty or proceeding in any of the cases therein mentioned, unless such witness or party shall have been duly summoned or had notice to attend such reference, or may have been required to do or omit to do some act in the like manner in which he would have been summoned or required to attend as a witness in a civil action in the Supreme Court as aforesaid, or if a party might be required to do or omit to do some act in any such action as aforesaid.

No appeal from
Judge's decision.

22. No appeal shall lie from any decision of a Judge given under or in accordance with the provisions of this Act, either to the Supreme Court, or to the Court of Appeal, or to any other Court or tribunal, but every such decision shall be binding, final, and conclusive on the parties concerned in or affected by any such reference.

The Bill as further revised (called the Second Revise), and sent to the Government Printer for amendment and reprint on the 1st August, 1872.

GOVERNMENT CONTRACTORS ARBITRATION.

ANALYSIS.

Title.	10. Judge may hear evidence, and may require production of plans, &c.
Preamble.	11. Judge may direct inspections by skilled persons.
1. Short Title.	12. May obtain opinions of Engineers, &c.
2. Interpretation.	13. Parties not attending, Judge may proceed <i>ex parte</i> .
3. Disputes between Government and Contractors to be referred to decision of Judge of the Supreme Court.	14. Parties may appear by counsel or solicitor. Judge may adjourn proceedings.
4. Where dispute between Chief Engineer and Contractor, to be referred to the Minister. Notice to Minister.	15. Notices, &c., how to be served.
5. Statement of matter in dispute to be settled and signed.	16. Judge to give a certificate of his decision, and what may be stated in certificate.
6. Either party refusing or neglecting to state case, Judge may proceed <i>ex parte</i> .	17. Certificate to be filed in Court.
7. Procedure thereon.	18. Effect of certificate.
8. Judge to fix day and place of proceeding with reference.	19. Costs.
9. Judge may direct how reference to be carried on.	20. Penalty for non-attendance as witness, or for neglect to obey order of Judge.
	21. Procedure of Supreme Court to be applicable.
	22. No appeal from Judge's decision.

A BILL INTITULED

Title.

AN ACT for referring Disputes occurring between Contractors and the Government of the Colony to the decision of a Judge of the Supreme Court, and for giving Jurisdiction to such Judge in certain cases therein.

WHEREAS certain statutes now are in force within the Colony of New Zealand authorizing the construction, erection, and maintenance of railways and other public works in the said colony: And whereas other statutes may from time to time hereafter be in force for such and other like purposes: And whereas disputes may arise between the Government of the colony and the persons contracting for or undertaking the construction, erection, or maintenance of such railways and other public works, under the provisions of such statutes, and it is expedient that provision should be made for summary and final settlement of disputes:

IT THEREFORE ENACTED by the General Assembly of New Zealand, in Parliament assembled, and by the authority of the same, as follows:—

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1. The Short Title of this Act shall be "The Government Contractors Arbitration Act, 1872," and it shall come into operation on the passing thereof. Short Title.

2. In the interpretation of this Act the following words and expressions shall be deemed to have the meanings hereby assigned to them, unless it shall appear from the context that some other meaning should be assigned thereto:— Interpretation.

The word "Minister" shall mean and include not only the Minister for Public Works appointed under the Acts hereinafter mentioned, but also any person for the time being acting as such Minister, or on behalf of such Minister :

The words "Chief Engineer" shall mean and include not only the officer styled the Chief Engineer, but also the Assistant Engineer, or any other officer for the time being acting for the Chief Engineer, or in the like capacity :

The word "Contractor" shall mean any person or persons, or any body of persons (whether a corporate body or not), who shall undertake or contract for the construction, erection, or maintenance of any railway works, or of any public work whatsoever, authorized under the terms of the Acts hereinafter mentioned, and also the Foreman, Engineer, or other the person or persons having the supervision or management of any such works :

The term "public work" shall mean and include any railway, tramway, road, bridge, building, erection, or structure whatsoever, and also all works of whatsoever nature connected with or relating to any such railway, tramway, road, bridge, building, erection, or structure, and erected or constructed or intended to be erected or constructed under the provisions of the Acts mentioned in the last clause of this section :

The word "contract" shall mean any contract, undertaking, or engagement whatsoever entered into by any "Contractor" as hereinbefore defined, whether the same shall be made with Her Majesty the Queen, or with the Governor of the colony, or with any other person on her behalf or otherwise, under the said Acts, and all specifications, conditions, documents, plans, or drawings connected therewith, and shall include any contract which shall or may have been entered into, signed, or executed before the passing of this Act :

The term "the parties" shall mean the "Contractor" of the one part, and the "Minister" of the other part, and whenever throughout this Act the term "parties" is used the same shall, in so far as it affects Her Majesty the Queen, the Governor, or the Government of the colony, be deemed to mean the said Minister :

The expression "the said Acts" shall mean and include "The Immigration and Public Works Act, 1870," "The Immigration and Public Works Act Amendment Act, 1871," "The Railways Act, 1870," and "The Railways Act Amendment Act, 1871;" and also any other Act or Acts passed for the purpose of amending or continuing the said Acts or any of them, or passed for any like purposes, and whether passed under the provisions of the said Acts or as distinct and separate Acts.

3. In any case where, under the provisions of any contract entered into under any of the provisions of the said Acts, it may be provided that if any dispute or difference shall arise between the parties thereto, or between the Chief Engineer and the Contractor, that such dispute or difference shall be referred to the arbitrament and decision of any person or persons named or referred to therein or to any person or persons to be appointed under the provisions of such contract, or where disputes shall arise as to the meaning or construction of any such contract, or of any public work therein mentioned, or as to the mode of carrying on or executing the same, or as to any other matter or thing in the said contract mentioned or referred to, and which by the terms of such contract ought to be or might be referred to the decision of any person or persons as aforesaid, then and in any such case such dispute or difference shall be referred to the decision of a Judge of the Supreme Court in the manner hereinafter provided.

Disputes between
Government and
Contractors to be
referred to decision
of Judge of the
Supreme Court.

Where dispute between Chief Engineer and Contractor, to be referred to the Minister.

4. Whenever any such dispute or difference shall have arisen between the Chief Engineer and the Contractor, the matter in dispute shall be referred to the Minister for his decision; and in case the decision of the Minister shall be adverse to the Contractor, then the latter shall be entitled to avail himself of the provisions for a settlement of such difference hereinafter contained, but not otherwise: Provided that, before any dispute or difference shall be referred by any Contractor under the powers herein contained, the Contractor shall give to the Minister one calendar month's notice in writing of such dispute, and of the matter and cause thereof; and in such notice the Contractor's claim shall be explicitly stated, and, if such claim be for pecuniary compensation, the amount thereof shall also be stated.

Notice to Minister.

Statement of matter in dispute to be settled and signed.

5. If any dispute shall arise between either of the parties to any contract as hereinbefore mentioned upon any matter or thing which according to the terms thereof ought to be or might be referred to arbitration as aforesaid, then the party desiring to proceed to a reference under this Act shall prepare a statement in writing, setting forth in a concise manner the particular matter in dispute, and what shall be alleged by the party proposing to proceed to a reference, and the ground of objection to such allegation by the other of the said parties, and all such other necessary particulars as may be requisite to show what the actual matters in dispute are. A copy of such statement shall be served by the parties so proposing to proceed to a reference as aforesaid upon the other of them, together with a notice requiring such last-mentioned party, within a period of days from such service, to agree to and settle the matters set forth in such statement, and if such case shall be agreed to by the parties then the same shall be signed by them or by their respective counsel or solicitors, and shall be filed in the Supreme Court as hereinafter directed: Provided that where any Contractor shall desire to proceed to a reference under this Act he shall give to the Minister a like notice in writing as is provided in the last preceding section.

Either party refusing or neglecting to state case, Judge may proceed *ex parte*.

6. If either of the parties shall, on being required to do so by the other of them, refuse or neglect for a period of seven days after the expiration of such period of days as mentioned in the last preceding section within which he or they shall be required to sign such a statement as aforesaid, it shall be lawful for the party desirous of proceeding to a reference under this Act to apply to the Judge in a summary manner, and such Judge, upon hearing the facts as to the refusal of the other of the said parties to sign such statement as aforesaid, and on proof thereof, shall proceed to state and settle the matter so to be referred to him as aforesaid, and every such statement so settled by the Judge shall be as binding on the party so neglecting or refusing to sign the same as if he or they had in fact signed the same, and the Judge shall sign the same on the part of the party so neglecting or refusing to sign the same, and such signature by the Judge shall be binding on the party so neglecting or refusing to settle such case, and all subsequent proceedings thereon shall be valid and effectual to all intents and purposes.

Procedure thereon.

7. Upon the statement being settled and signed in either of the modes hereinbefore mentioned, the same shall forthwith be filed in the office of the Registrar of the Supreme Court in the chief town of the province or county where, under the provisions of this Act, such reference may lawfully be had; and the party who shall have proposed a reference shall, as soon as conveniently may be after the filing thereof, apply to the Judge of the Supreme Court within whose judicial district the dispute has arisen, or in which the particular contract or work is to be performed, to fix a day, time, and place for proceeding in the matters so to be referred to him as aforesaid. Notice of the filing of such statement shall in all cases be given to the other of the said parties.

Judge to fix day and place of proceeding with reference.

8. Such Judge shall, subject to the provisions of this Act, fix a day, time, and place for proceeding in the matters in the case mentioned and referred to him, and shall direct what notice thereof shall be given to the other of the parties in dispute; and on such day, and at the time and place appointed by the Judge, the parties, by themselves, or by their counsel or solicitors, shall attend before the Judge for the purpose of proceeding in the reference.

9. Every such reference shall be conducted in such manner as the Judge shall direct; and he shall have power to direct what notices thereof shall be served, and on whom and in what manner such notices shall be served, and shall give such other directions concerning the conduct of the reference as to him may seem fit.

Judge may direct how reference to be carried on.

10. It shall be lawful for such Judge, at such time and place within his judicial district as aforesaid, and whether in open Court or in Chambers, and upon such proof of notice to parties interested as to the Judge shall seem sufficient, to take and hear evidence, upon oath or affirmation, in support of or in opposition to the several matters so referred to him in manner aforesaid.

Judge may hear evidence, and may require production of plans, &c.

And for all or any of the purposes aforesaid may require any of the parties to produce or cause to be produced before him on such reference all plans, drawings, contracts, specifications, papers, and writings whatsoever touching or concerning all or any of the matters aforesaid.

11. For the purpose of arriving at a clear understanding of all or any of such matters, it shall be lawful for the Judge to make or cause to be made an inspection of any public work in respect of which any such reference shall be had and referred to him as aforesaid, or of any part thereof, or any materials composing the same or any part thereof, or of any other thing that may be the subject of dispute as aforesaid and capable of being inspected, and for that purpose may require one or more skilled and competent persons to conduct and make such inspection, and may fix a time within which such inspection shall be made, and within which a report shall be made to such Judge of the public work or materials so required to be inspected as aforesaid; and the report or certificate in writing of any such persons whom the Judge may direct or require to do any of the things herein provided for shall and may be taken and received by such Judge, and acted upon by him as effectually as if he had taken the evidence of such person *vidé voce*.

Judge may direct inspections by skilled persons.

12. If it shall become necessary, in the opinion of the Judge, whether in the course of the proceedings or at any time thereafter, before he shall finally have decided on the matters so referred to him as aforesaid, it shall be lawful for him to call before him such engineers, surveyors, architects, accountants, or other skilled persons as may seem to him requisite or necessary for the purpose of obtaining from them or any of them opinions upon any question or questions in respect of any matter or thing arising out of or in relation to the subject of such reference, and upon which he may desire the same on any of the matters to be so submitted to him as aforesaid.

May obtain opinions of Engineers, &c.

13. If either of the said parties shall fail or neglect to attend at such reference, after having been lawfully required to attend in pursuance of any notice so to attend, or who shall fail or neglect to produce any contract, plans, drawings, papers, or writings as aforesaid, after having been lawfully required to do so in manner aforesaid, it shall be lawful for the said Judge to proceed with the subject-matter of such reference *ex parte*.

Parties not attending, Judge may proceed *ex parte*.

14. Either of the said parties may appear by counsel or solicitor, and shall be entitled to examine, cross-examine, and re-examine witnesses who may be examined by or before such Judge.

Parties may appear by counsel or solicitor.

The Judge may adjourn such reference and the proceedings thereon from time to time as he shall see fit, and either for a fixed period or without fixing a day for further proceeding therein, but no such adjournment shall continue for a longer period than calendar months.

Judge may adjourn proceedings.

15. Any notice or other instrument which it may be necessary or requisite to serve upon the Minister under this Act, may be served at the office of the Public Works Department at Wellington, by leaving the same with the Chief Engineer or the Secretary for Public Works; and any notice or other instrument which it may be necessary or requisite to serve upon the Contractor may be served upon him either personally or by leaving the same at his last known place of business or abode in the judicial district of the Supreme Court in which any such contract may be in course of execution or may have been executed or carried on, or by leaving the same with any foreman or person in charge of any public work forming the subject of such contract. All notices served as and in

Notices, &c., how to be served.

manner herein provided shall, on proof thereof to the satisfaction of the Judge, be deemed to have been effectually served upon the party affected or intended to be affected thereby.

Judge to give a certificate of his decision, and what may be stated in certificate.

16. The Judge before whom such evidence shall be taken upon or under any such reference as aforesaid shall, by a certificate under his hand, and the seal of the Supreme Court, addressed to the Governor of the colony, certify to him the decision at which he shall have arrived upon the matters so referred to him.

In and by any such certificate, or by a separate instrument in writing under his hand, and sealed as aforesaid, the Judge may order the payment of money by one of the parties to the other of them, whether as damages or costs, and in and by any such certificate or instrument may prescribe and direct what shall be done and performed by either of the said parties or by both of them, or what shall be refrained from being done by either of them or both of them, whether such direction or performance shall have reference to the subject-matter of any such contract and is specified or referred to therein, or as to any act, matter, or thing connected with or arising out of such contract, or the proceedings had on any such reference.

Certificate to be filed in Court.

17. A copy of the certificate so to be given as aforesaid shall be forthwith recorded in the Supreme Court at the place where the proceedings in the reference shall have been conducted, and either of the parties shall have the right of making copies thereof or taking extracts therefrom on payment of the usual and customary fees in such cases prescribed by the practice of the Supreme Court.

Effect of certificate.

18. The effect of every such certificate shall be similar to that of a judgment or decree of the Supreme Court in its ordinary jurisdiction, and upon such certificate the person lawfully entitled to do so shall be entitled to recover moneys due or payable to him thereunder, subject, however, to the following terms and conditions, that is to say,—

Whenever by any such certificate it shall appear that money, whether as damages or costs, is made payable to Her Majesty the Queen, or the Governor, or the Government of the colony, the like proceedings to recover the same may be had as upon a debt due to the Crown, and all the provisions of "The Crown Debts Act, 1866," as to the recovery of debts due to the Crown and to the issue of process thereunder, shall be deemed to apply to any such certificate as aforesaid :

And whenever by any such certificate it shall appear that any money, whether as damages or costs, shall be paid to any Contractor, he shall be entitled to have the same satisfied in the manner provided by "The Crown Redress Act, 1871," and the provisions of the sixth and seventh sections of that Act shall be deemed to be incorporated herein so far as applicable, and subject to the provisions of this Act :

Provided that to entitle any Contractor to avail himself of this provision it must appear by the certificate to be given by the Judge what moneys (if any) have been appropriated by the General Assembly for the purpose of satisfying any claims or demands under this Act, and that the same are legally available for the purpose of satisfying any claims made thereunder by virtue of such certificate.

Costs.

19. The costs, charges, and expenses, of whatsoever nature, of and attending such reference, and of all proceedings consequent upon or incidental thereto, and of all necessary acts, matters, and things which shall or may be had, made, done, or performed by any such Judge under the powers hereof, or by either of the parties, shall be borne and paid by and between the said parties, in such proportions as to the Judge shall seem meet, or as he shall in his discretion think fit, and the allowance or award of such costs, and the direction by and to whom the same shall be paid, shall be included in and form part of the certificate so to be made as aforesaid.

Penalty for non-attendance as witness, or for neglect to obey order of Judge.

20. If any person having been duly summoned to attend on any such reference as aforesaid, whether for the purpose of giving evidence in any matter connected therewith, or to produce any plan, contract, paper, writing, or instrument

whatsoever, or for the purpose of being examined on any matter of opinion which the Judge shall desire to submit to such person, or if any party to such inquiry shall refuse or neglect to comply with any direction or order made by such Judge in relation thereto and under the powers herein contained, every such person shall be liable to the like penalties which by the practice of the Supreme Court would attach to such person for or by reason of any non-attendance as such witness on non-compliance with any such rule or order as aforesaid in a civil action in the Supreme Court.

21. In the summoning of witnesses, and in all proceedings relating to any reference held under this Act, in the taking of evidence as aforesaid, and in the taxation of costs of any such reference as aforesaid, the practice and procedure of the Supreme Court for the time being relating to civil actions shall be followed so far as they may be found or made applicable to such proceedings; and witnesses summoned to attend such reference, and parties thereto, shall be subject to the same liabilities as witnesses in and parties concerned in the trial of an action in the Supreme Court would be subject to in like cases: Provided that nothing in this or the preceding section contained shall be held or construed to render any witness or party liable to any penalty or proceeding in any of the cases therein mentioned, unless such witness or party shall have been duly summoned or had notice to attend such reference, or may have been required to do or omit to do some act in the like manner in which he would have been summoned or required to attend as a witness in a civil action in the Supreme Court as aforesaid, or if a party might be required to do or omit to do some act in any such action as aforesaid.

Procedure of Supreme Court to be applicable.

22. No appeal shall lie from any decision of a Judge given under or in accordance with the provisions of this Act, either to the Supreme Court, or to the Court of Appeal, or to any other Court or tribunal, but every such decision shall be binding, final, and conclusive on the parties concerned in or affected by any such reference.

No appeal from Judge's decision.

The Bill as still further revised (called the Third Revise), and sent to the Government Printer for amendment and reprint on the 20th August, 1872.

GOVERNMENT CONTRACTORS ARBITRATION.

ANALYSIS.

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| <p>Title.
Preamble.
1. Short Title.
2. Interpretation.
3. Disputes between Government and Contractors to be referred to decision of Judge of the Supreme Court.
4. Where dispute between Chief Engineer and Contractor, to be referred to the Minister.
5. Statement of claim and proposition of law or fact to be made and signed by parties, and filed in Supreme Court office.
6. Party desiring a reference to apply to Judge to fix day and place for proceeding therein.
7. Notice to be given to the Minister.
8.
9. Judge may direct how reference to be carried on.
10. May require the attendance of witnesses.
11. Judge may hear evidence, and may require production of plans, &c.
12. Judge may direct inspection by skilled persons.
13. May obtain opinions of Engineers, &c.</p> | <p>14. Parties not attending, Judge may proceed <i>ex parte</i>.
15. Parties may appear by counsel or solicitor. Judge may adjourn proceedings.
16. Parties may apply for leave to amend statements, &c.
17. Notices, &c., how to be served.
18. Judge to give a certificate of his decision, and what may be stated in certificate.
19. Several certificates may be given.
20. Certificate to be filed in Court.
21. Effect of certificate.
22. Certificate not to be set aside for informality.
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24. Penalty for non-attendance as witness, or for neglect to obey order of Judge.
25. Procedure of Supreme Court to be applicable.
26. No power to parties to revoke. Death not to abate proceedings.
27. Parties not to bring action or prosecute writ of error.
28. No appeal from Judge's decision.
29. Judges to make rules, &c.</p> |
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A BILL INTITULED

- Title.** AN ACT for referring Disputes occurring between certain Contractors and the Government of the Colony to the Decision of a Judge of the Supreme Court, and for giving Jurisdiction to such Judge in certain cases therein.
- Preamble.** WHEREAS certain statutes now are in force within the Colony of New Zealand authorizing the construction, erection, and maintenance of railways and other public works in the said colony: And whereas other statutes may from time to time hereafter be in force for such and other like purposes: And whereas certain contracts have been already and others may hereafter be entered into for the construction of such works between Her Majesty the Queen and certain persons carrying on business in copartnership under the style of "John Brogden and Sons:" And whereas disputes may arise under such contracts, and it is expedient that provision should be made for summary and final settlement of such disputes:
- BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—
- Short Title.** 1. The Short Title of this Act shall be "The Government Contractors Arbitration Act, 1872," and it shall come into operation on the passing thereof.
- Interpretation.** 2. In the interpretation of this Act the following words and expressions shall be deemed to have the meanings hereby assigned to them respectively, unless it shall appear from the context that some other meaning should be assigned thereto:—
- The word "Minister" shall mean the Minister appointed under "The Immigration and Public Works Act, 1870," and shall include the Minister for the time being authorized by the Governor to act for such Minister in respect of any public work as herein defined:
- The word "Engineer" shall mean the Engineer who shall from time to time be appointed by the Minister to have principal charge of the public works on behalf of the Government, and to be, for the purposes of the contract and this Act, the Engineer with reference to such work:
- The term "public work" shall mean and include any railway, tramway, road, bridge, building, erection, or structure whatsoever, and also all works of whatsoever nature connected with or relating to any such railway, tramway, road, bridge, building, erection, or structure:
- The word "contract" shall mean any contract already or hereafter entered into between the Governor, in the name of Her Majesty the Queen, and Messieurs Alexander Brogden, Henry Brogden, and James Brogden (carrying on business as aforesaid under the style of "John Brogden and Sons"), for the execution of any public work; and the term "Contractor," where hereinafter used, shall mean the said Alexander Brogden, Henry Brogden, and James Brogden, and shall include such person or persons as by the contract it is provided such term shall include:
- The term "the parties" shall mean the "Contractor" of the one part, and the "Minister" of the other part, and whenever throughout this Act the term "parties" is used, the same shall, in so far as it affects Her Majesty the Queen, the Governor, or the Government of the colony, be deemed to mean the Minister:
- The expression "a Judge of the Supreme Court" shall mean the Judge of the Supreme Court for the judicial district of the Supreme Court within which the works relative to which the dispute shall have arisen have been or are to be executed.
3. In any case where, under the provisions of any contract, it may be provided that any dispute arising between the parties thereto, or between the Engineer and the Contractor, or between the Contractor and the Government, that such dispute shall be referred to the sole determination, arbitrament, and

award of the Judge of the Supreme Court assigned to the judicial district of the Supreme Court within which the works relative to which the dispute shall have arisen have been or are to be executed, then and in any such case such dispute shall be referred to the decision of a Judge of the Supreme Court in the manner hereinafter provided :

Provided that where any such Judge shall, by reason of continued illness or absence from the district assigned to him, be unable to proceed with the reference so to be made to him, or in case of the death of such Judge, then the dispute shall be heard and determined by the Chief Justice of the Supreme Court, or before some other Judge of the said Court to be appointed by him : Provided further that if the reference shall have been partly heard, the proceedings before the Chief Justice, or such Judge as last aforesaid, shall be commenced *de novo*. And any dispute so referred as herein lastly provided, and all the proceedings relating thereto or consequent thereon, shall be heard, conducted, and may be enforced as if the same were referred to the Judge who, but for such illness, absence, or death, would have heard and determined the same.

4. Whenever any such dispute shall have arisen between the Engineer and the Contractor, the matter in dispute shall be referred to the Minister for his decision; and in case the decision of the Minister shall be adverse to the Contractor, then the latter shall be entitled to avail himself of the provisions for arbitration hereinafter contained, but not otherwise.

Where dispute between Chief Engineer and Contractor, to be referred to the Minister.

5. If any dispute shall arise between either of the parties to any contract as hereinbefore mentioned upon any matter or thing which according to the terms of such contract ought to be or might be referred to arbitration as aforesaid, then either party desiring to proceed to arbitration under this Act shall prepare a statement in writing, setting forth in a concise manner the nature and extent of the claim made by such party, and the propositions of fact and law which such party desires to submit to the Arbitrator in support of such claim, and shall deliver a copy of such statement of claim and propositions to the other party; and the other party may, within fourteen days after receipt of such statement, deliver to the party from whom the same shall have been received, such propositions of fact and law as such other party desires to submit to the Arbitrator in opposition to such claim.

Statement of claim and proposition of law or fact to be made and signed by parties, and filed in Supreme Court office.

At any time within one month after the expiration of the said fourteen days, the party desiring the reference shall cause a copy of such claim and of any propositions of fact or law in support thereof, or which shall have been delivered in opposition thereto, to be filed in the office of the Registrar of the Supreme Court in the judicial district where according to this Act be had :

Provided that if in such district there be more than one such office, then such copies shall be filed at the office of the Supreme Court in such district at the town or place where the Judge assigned to such district usually resides.

6. The party desiring a reference shall give a reasonable notice to the other party of such filing and of the time of the application hereinafter mentioned; and as soon as conveniently may be after the filing of such copies as aforesaid such first-mentioned party shall apply to the Judge assigned to the district to hear and determine the matter of such claim, and to fix a day, time, and place for proceeding in the matters so to be referred to him as aforesaid.

Party desiring a reference to apply to Judge to fix day and place for proceeding therein.

Notice of the time and place so fixed shall in all cases be given to the other of the said parties, unless such other party shall appear at the application for fixing the same.

7. Before any dispute, whether occurring between the Engineer and Contractor or either of the parties, shall be referred by any Contractor under the powers in this Act contained, the Contractor shall give to the Minister one calendar month's notice in writing of such dispute, and of the matter and cause thereof; and in such notice the Contractor's claim shall be explicitly stated, and, if such claim be for pecuniary compensation, the amount thereof shall also be stated.

Notice to be given to the Minister.

8. On such day, and at the time and place appointed by the Judge, the parties, by themselves, or by their counsel or solicitors, shall attend before the Judge for the purpose of proceeding in the reference.

Judge may direct how reference to be carried on.

9. Every such reference shall be conducted in such manner as the Judge shall direct; and he shall have power to direct what notices shall be served, and on whom and in what manner such notices shall be served, and shall give such other directions concerning the conduct of the reference as to him may seem fit.

May require the attendance of witnesses.

10. The Judge, at his discretion, or on the application of either of the parties, by notice in writing under his hand, may summon any person or persons whose evidence may be considered by him or by such parties to be material to the subject-matter of the reference, to attend before him, at a time and place to be specified in such notice, for the purpose of giving evidence touching or concerning the matters in dispute.

Judge may hear evidence, and may require production of plans, &c.

11. It shall be lawful for such Judge, at such time and place within his judicial district as aforesaid, and whether in open Court or in Chambers, and upon such proof of notice to parties interested as to the Judge shall seem sufficient, to take and hear evidence, upon oath or affirmation, in support of or in opposition to the several matters so to be referred to him in manner aforesaid.

And for all or any of the purposes aforesaid may require any of the parties or any other person or persons to produce or cause to be produced before him on such reference all plans, drawings, contracts, specifications, papers, and writings whatsoever touching or concerning all or any of the matters aforesaid.

Judge may direct inspection by skilled persons.

12. For the purpose of arriving at a clear understanding of all or any of such matters, it shall be lawful for the Judge to make or cause to be made an inspection of any public work in respect of which any such reference shall be had and referred to him as aforesaid, or of any part thereof, or any materials composing the same or any part thereof, or of any other thing that may be the subject of dispute as aforesaid, and capable of being inspected, and for that purpose may require one or more skilled and competent persons to conduct and make such inspection, and may fix a time within which such inspection shall be made, and within which a report shall be made to such Judge of the public work or materials so required to be inspected as aforesaid; and the report or certificate in writing of any such persons whom the Judge may direct or require to do any of the things herein provided for shall and may be taken and received by such Judge, and acted upon by him as effectually as if he had taken the evidence of such person *vivâ voce*.

May obtain opinions of Engineers, &c.

13. If it shall become necessary, in the opinion of the Judge, whether in the course of the reference or at any time thereafter, before he shall finally have decided on the matters so referred to him as aforesaid, it shall be lawful for him to call before him such engineers, surveyors, architects, accountants, or other skilled persons as may seem to him requisite or necessary for the purpose of obtaining from them or any of them opinions upon any question or questions in respect of any matter or thing arising out of or in relation to the subject of such reference, and upon which he may desire the same on any of the matters to be so submitted to him as aforesaid.

Parties not attending, Judge may proceed *ex parte*.

14. If either of the said parties shall fail or neglect to attend at such reference, after having been lawfully required to attend in pursuance of any notice so to attend, or who shall fail or neglect to produce any contract, plans, drawings, papers, or writings as aforesaid, after having been lawfully required to do so in manner aforesaid, it shall be lawful for the said Judge to proceed with the subject-matter of such reference *ex parte*.

Parties may appear by counsel or solicitor.

15. Either of the said parties may appear by counsel or solicitor, and shall be entitled to examine, cross-examine, and re-examine witnesses who may be examined by or before such Judge.

Judge may adjourn proceedings.

The Judge may adjourn such reference and the proceedings thereon from time to time as he shall see fit, and for such time and to such place as he may think fit; but no such adjournment shall continue for a longer period than calendar months.

Parties may apply for leave to amend statements, &c.

16. At any time during the proceedings on any such reference it shall be lawful for either of the parties to apply to the Judge to amend any statement of claim or propositions of law or fact delivered or filed by such party under the powers herein contained; and if the other of such parties shall not consent to such amendment, the Judge shall decide as to the reasonableness of the application, and may either grant or refuse the application, upon such terms as

to adjournment of the proceedings, and as to the allowance of costs to the last-mentioned party as to the Judge shall seem meet.

17. Any notice or other instrument which it may be necessary or requisite to serve upon the Minister under this Act may be served at the office of the Public Works Department at Wellington, by leaving the same with the Engineer or the Secretary for Public Works; and any notice or other instrument which it may be necessary or requisite to serve upon the Contractor may be served upon him either personally or by leaving the same at his last known place of business or abode in the judicial district of the Supreme Court in which any such contract may be in course of execution or may have been executed or carried on, or by leaving the same with any foreman or person in charge of any public work forming the subject of such contract. All notices served as and in manner herein provided shall, on proof thereof to the satisfaction of the Judge, be deemed to have been effectually served upon the party affected or intended to be affected thereby.

Notices, &c., how to be served.

18. The Judge before whom such reference shall be had shall, by a certificate under his hand, and the seal of the Supreme Court, addressed to the Governor of the colony, certify to him the decision at which he shall have arrived upon the matters so referred to him.

Judge to give a certificate of his decision, and what may be stated in certificate.

In and by any such certificate the Judge may order the payment of money by one of the parties to the other of them, whether as damages or costs, and in and by any such certificate or instrument may prescribe and direct what shall be done and performed by either of the said parties or by both of them, or what shall be refrained from being done by either of them or both of them, whether such direction or performance shall have reference to the subject-matter of any such contract and is specified or referred to therein, or as to any act, matter, or thing connected with or arising out of such contract or the proceedings had on any such reference.

19. If the Judge shall think fit, he may give several certificates each on part of the matters referred to him as aforesaid, instead of one certificate on all the matters referred, and every such certificate on part of the matters shall, for such time and for such purposes as is or are mentioned therein, be binding as to all the matters to which it extends as if the matters therein mentioned were all the matters referred, and notwithstanding no certificate shall then or thereafter be given in respect of the other matters in dispute and reference as aforesaid.

Several certificates may be given.

20. A copy of every certificate made or given as aforesaid shall be forthwith recorded in the Supreme Court at the place where the statements of claim aforesaid or the propositions of law or fact (as the case may be) shall have been filed, and either of the parties shall have the right of making copies thereof or taking extracts therefrom on payment of the usual and customary fees in such cases prescribed by the practice of the Supreme Court.

Certificate to be filed in Court.

21. The effect of every such certificate shall be similar to that of a judgment or decree of the Supreme Court in its ordinary jurisdiction, and upon such certificate the person lawfully entitled to do so shall be entitled to recover moneys due or payable to him thereunder, subject, however, to the following terms and conditions (that is to say),—

Effect of certificate.

Whenever by any such certificate it shall appear that money, whether as damages or costs, is made payable to Her Majesty the Queen, or the Governor, or the Government of the colony, the like proceedings to recover the same may be had as upon a judgment debt due to the Crown, and all the provisions of "The Crown Debts Act, 1866," as to the recovery of judgment debts due to the Crown, and to the issue of process thereunder, shall be deemed to apply to any such certificate as aforesaid:

And whenever by any such certificate it shall appear that any money, whether as damages or costs, shall be paid to any Contractor, he shall be entitled to have the same satisfied in the manner provided by "The Crown Redress Act, 1871," and the provisions of the sixth and seventh sections of that Act shall be deemed to be incorporated herein so far as applicable, and subject to the provisions of this Act.

Certificate not to be set aside for informality.
Costs.

22. No certificate made or given under the provisions of this Act shall be void or liable to be set aside for any irregularity or informality.

23. The costs, charges, and expenses, of whatsoever nature, of and attending such reference, and of all proceedings consequent upon or incidental thereto, and of all necessary acts, matters, and things which shall or may be had, made, done, or performed by any such Judge or by his direction under the powers hereof, or by either of the parties, shall be borne and paid by and between the said parties in such proportions as to the Judge shall seem meet or as he shall in his discretion think fit, and the allowance or award of such costs, and the direction by and to whom the same shall be paid, shall be included in and form part of the certificate so to be made as aforesaid.

Penalty for non-attendance as witness, or for neglect to obey order of Judge.

24. If any person having been duly summoned to attend on any such reference as aforesaid, whether for the purpose of giving evidence in any matter connected therewith, or to produce any plan, contract, paper, writing, or instrument whatsoever, or for the purpose of being examined on any matter of opinion which the Judge shall desire to submit to such person, or if any party to such reference shall refuse or neglect to comply with any direction or order made by such Judge in relation thereto and under the powers herein contained, every such person shall be liable to the like penalties which by the practice of the Supreme Court would attach to such person for or by reason of any non-attendance as such witness or non-compliance with any such rule or order as aforesaid in a civil action in the Supreme Court.

Procedure of Supreme Court to be applicable.

25. In the summoning of witnesses, and in all proceedings relating to any reference held under this Act, in the taking of evidence as aforesaid, and in the taxation of costs of any such reference, the practice and procedure of the Supreme Court for the time being relating to civil actions shall be followed so far as they may be found or made applicable to such proceedings; and witnesses summoned to attend such reference, and parties thereto, shall be subject to the same liabilities as witnesses in and parties concerned in the trial of an action in the Supreme Court would be subject to in like cases: Provided that nothing in this or the preceding section contained shall be held or construed to render any witness or party liable to any penalty or proceeding in any of the cases therein mentioned, unless such witness or party shall have been duly summoned or had notice to attend such reference, or may have been required to do or omit to do some act in the like manner in which he would have been summoned or required to attend as a witness in a civil action in the Supreme Court as aforesaid, or if a party might be required to do or omit to do some act in any such action as aforesaid.

No power to parties to revoke.

26. After the commencement of any reference under this Act neither party shall have power to withdraw from such reference or to revoke or recall any statement of claim or proposition of fact or law submitted without the consent of the other of the said parties.

Death not to abate proceedings.

The death of either of the parties pending any reference under this Act shall not affect the same, but such reference may be proceeded with and may be determined in the same manner as if the certificate of the Judge had been made or given in the lifetime of the parties so dying, and the personal representatives of the party so dying shall be considered for all purposes to be a party or parties to the reference.

Parties not to bring action or prosecute writ of error.

27. Neither of the parties shall bring any action, suit, or proceeding against the other for or in respect of any matter so agreed to be referred as aforesaid, nor shall either bring or prosecute any writ of error or other proceeding in the nature thereof concerning any of the matters referred or any certificate made or given under this Act.

No appeal from Judge's decision.

28. No appeal shall lie from any decision of a Judge given under or in accordance with the provisions of this Act, either to the Supreme Court, or to the Court of Appeal, or to any other Court or tribunal, but every such decision shall be binding, final, and conclusive on the parties concerned in or affected by any such reference.

Judges to make rules, &c.

29. The Judges of the Supreme Court, or any three of them, of whom the Chief Justice shall be one, shall have power to make any rules not inconsistent

with this Act, and thereby may prescribe the forms of notices, certificates, and other proceedings, and provide for the general conduct of any reference as herein is provided for.

The Act as it now stands on the Statute-Book of the Colony.

“THE GOVERNMENT CONTRACTORS ARBITRATION ACT,
1872.”

ANALYSIS.

<p>Title. Preamble. 1. Short Title. 2. Interpretation. 3. Disputes between Government and Contractors to be referred to decision of Judge of the Supreme Court. 4. Where dispute between Chief Engineer and Contractor, to be referred to the Minister. 5. Statement of claim and proposition of law or fact to be made and signed by parties, and filed in Supreme Court office. 6. Party desiring a reference to apply to Judge to fix day and place for proceeding therein. 7. Notice to be given to the Minister. 8. Judge may direct how reference to be carried on. 9. May require the attendance of witnesses. 10. On appointed day, the parties to attend before Judge and proceed in reference. 11. Judge may hear evidence, and may require production of plans, &c. 12. Judge may direct inspection by skilled persons. 13. May obtain opinions of Engineers, &c. 14. Payment of fees, &c., to skilled witnesses and engineers, &c.</p>	<p>15. Parties not attending, Judge may proceed <i>ex parte</i>. 16. Parties may appear by counsel or solicitor. Judge may adjourn proceedings. 17. Parties may apply for leave to amend statements, &c. 18. Notices, &c., how to be served. 19. Judge to give a certificate of his decision, and what may be stated in certificate. 20. Several certificates may be given. 21. Certificate to be filed in Court. 22. Effect of certificate. 23. Certificate not to be set aside for informality. 24. Costs. 25. Penalty for non-attendance as witness, or for neglect to obey order of Judge. 26. Procedure of Supreme Court to be applicable. 27. No power to parties to revoke. Death not to abate proceedings. 28. Parties not to bring action or prosecute writ of error. 29. No appeal from Judge's decision. 30. Judges to make rules, &c. 31. Limitation of time within which reference may be had.</p>
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AN ACT for referring Disputes occurring between certain Contractors and the Government of the Colony to the decision of a Judge of the Supreme Court, and for giving Jurisdiction to such Judge in certain cases therein. [10th October, 1872.]

WHEREAS certain statutes now are in force within the Colony of New Zealand authorizing the construction, erection, and maintenance of railways and other public works in the said colony: And whereas other statutes may from time to time hereafter be in force for such and other like purposes: And whereas certain contracts have been already and others may hereafter be entered into for the construction of such works between Her Majesty the Queen and certain persons carrying on business in copartnership under the style of “John Brogden and Sons:” And whereas disputes may arise under such contracts, and it is expedient that provision should be made for summary and final settlement of such disputes:

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:—

1. The Short Title of this Act shall be “The Government Contractors Arbitration Act, 1872,” and it shall come into operation on the passing thereof.

2. In the interpretation of this Act the following words and expressions shall be deemed to have the meanings hereby assigned to them respectively, unless it shall appear from the context that some other meaning should be assigned thereto:—

The word "Minister" shall mean the Minister appointed under "The Immigration and Public Works Act, 1870," and shall include the Minister for the time being authorized by the Governor to act for such Minister in respect of any public work as herein defined :

The word "Engineer" shall mean the Engineer who shall from time to time be appointed by the Minister to have principal charge of any public work on behalf of the Government, and to be, for the purposes of the contract and this Act, the Engineer with reference to such work :

The term "public work" shall mean and include any railway, tramway, road, bridge, building, erection, or structure whatsoever, and also all works, of whatsoever nature, connected with or relating to any such railway, tramway, road, bridge, building, erection, or structure :

The word "contract" shall mean any contract already or hereafter entered into between the Governor in the name of Her Majesty the Queen, and Messieurs Alexander Brogden, Henry Brogden, and James Brogden (carrying on business as aforesaid under the style of "John Brogden and Sons"), for the execution of any public work ; and the term "Contractor," where hereinafter used, shall mean the said Alexander Brogden, Henry Brogden, and James Brogden, and shall include such person or persons as by the contract it is provided the term "Contractor" shall include :

The term "the parties" shall mean the "Contractor" of the one part, and the "Minister" of the other part ; and whenever throughout this Act the term "parties" is used, the same shall, in so far as it affects Her Majesty the Queen, the Governor, or the Government of the Colony, be deemed to mean the Minister :

The expression "a Judge of the Supreme Court" shall mean any Judge of the Supreme Court for the judicial district of the Supreme Court within which the works relative to which the dispute shall have arisen have been or are to be executed.

Disputes between Government and Contractors to be referred to decision of Judge of the Supreme Court.

3. In any case where, under the provisions of any contract, it may be provided that any dispute arising between the parties thereto, or between the Engineer and the Contractor, or between the Contractor and the Government, that such dispute shall be referred to the sole determination, arbitrament, and award of the Judge of the Supreme Court assigned to the judicial district of the Supreme Court within which the works relative to which the dispute shall have arisen have been or are to be executed, then and in any such case such dispute shall be referred to the decision of a Judge of the Supreme Court in the manner hereinafter provided :

Provided that where any such Judge shall, by reason of continued illness or absence from the district assigned to him, be unable to proceed with the reference so to be made to him, or in case of the death of such Judge before the determination of the reference, then the dispute shall be heard and determined by the Chief Justice of the Supreme Court, or before some other Judge of the said Court to be appointed by him : Provided, further, that if in such case as last aforesaid any evidence shall have been heard by or before the Judge to whom the dispute shall have been originally referred, the taking of evidence shall, if either of the parties require it, be commenced *de novo* before the Chief Justice or the Judge appointed by him ; and any dispute so referred as herein lastly provided, and all the proceedings relating thereto or consequent thereon, shall be heard, conducted, and may be enforced as if the same were referred to the Judge who, but for such illness, absence, or death, would have heard and determined the same.

Where dispute between Chief Engineer and Contractor, to be referred to the Minister.

4. Whenever any such dispute shall have arisen between the Engineer and the Contractor, the matter in dispute shall be referred to the Minister for his decision ; and in case the decision of the Minister shall be adverse to the Contractor, then the latter shall be entitled to avail himself of the provisions for arbitration hereinafter contained, but not otherwise.

5. If any dispute shall arise between either of the parties to any contract as hereinbefore mentioned upon any matter or thing which, according to the terms of such contract, ought to be or might be referred to arbitration as aforesaid, then either party desiring to proceed to arbitration under this Act shall prepare a statement in writing, setting forth in a concise manner the nature and extent of the claim made by such party, and the propositions of fact and law which such party desires to submit to a Judge of the Supreme Court in support of such claim, and shall deliver a copy of such statement of claim and propositions to the other party; and the other party may, within fourteen days after receipt of such statement, deliver to the party from whom the same shall have been received, such propositions of fact and law as such other party desires to submit to such Judge in opposition to such claim.

Statement of claim and proposition of law or fact to be made and signed by parties, and filed in Supreme Court office.

At any time within one month after the expiration of the said fourteen days, the party desiring the reference shall cause a copy of such claim and of any propositions of fact or law in support thereof, or which shall have been delivered in opposition thereto, to be filed in the office of the Registrar of the Supreme Court in the judicial district where according to this Act such reference may be had :

Provided that if in such district there be more than one such office, then such copies shall be filed at the office of the Supreme Court in such district at the town or place where the Judge assigned to such district usually resides.

6. The party desiring a reference shall give a reasonable notice to the other party of such filing and of the time of the application hereinafter mentioned; and, as soon as conveniently may be after the filing of such copies as aforesaid, such first-mentioned party shall apply to the Judge assigned to the district to hear and determine the matter of such claim, and to fix a day, time, and place for proceeding in the matters so to be referred to him as aforesaid.

Party desiring a reference to apply to Judge to fix day and place for proceeding therein.

Notice of the time and place so fixed shall in all cases be given to the other of the said parties, unless such other party shall appear at the application for fixing the same.

7. Before any dispute, whether occurring between the Engineer and Contractor or either of the parties, shall be referred by any Contractor under the powers in this Act contained, the Contractor shall give to the Minister one calendar month's notice in writing of such dispute, and of the matter and cause thereof; and in such notice the Contractor's claim shall be explicitly stated, and, if such claim be for pecuniary compensation, the amount thereof shall also be stated.

Notice to be given to the Minister.

8. Every such reference shall be conducted in such manner as the Judge shall direct; and he shall have power to direct what notices shall be served, and on whom and in what manner such notices shall be served, and shall give such other directions concerning the conduct of the reference as to him may seem fit.

Judge may direct how reference to be carried on.

9. The Judge, at his discretion, or on the application of either of the parties, by notice in writing under his hand, may summon any person or persons whose evidence may be considered by him or by such parties to be material to the subject-matter of the reference to attend before him, at a time and place to be specified in such notice, for the purpose of giving evidence touching or concerning the matters in dispute.

May require the attendance of witnesses.

10. On the day and at the time and place appointed by the Judge as hereinbefore provided, the parties, by themselves, or by their counsel or solicitors, shall attend before the Judge for the purpose of proceeding in the reference.

On appointed day, the parties to attend before Judge and proceed in reference.

11. It shall be lawful for such Judge, at such time and place within his judicial district as aforesaid, and whether in open Court or in Chambers, and upon such proof of notice to parties interested as to the Judge shall seem sufficient, to take and hear evidence, upon oath or affirmation, in support of or in opposition to the several matters so to be referred to him in manner aforesaid.

Judge may hear evidence, and may require production of plans, &c.

And for all or any of the purposes aforesaid may require any of the parties, or any other person or persons, to produce or cause to be produced before him on such reference all plans, drawings, contracts, specifications, papers, and writings whatsoever touching or concerning all or any of the matters aforesaid.

Judge may direct inspection by skilled persons.

12. For the purpose of arriving at a clear understanding of all or any of such matters, it shall be lawful for the Judge to make or cause to be made an inspection of any public work in respect of which any such reference shall be had and referred to him as aforesaid, or of any part thereof, or any materials composing the same or any part thereof, or of any other thing that may be the subject of dispute as aforesaid, and capable of being inspected, and for that purpose may require one or more skilled and competent persons to conduct and make such inspection, and may fix a time within which such inspection shall be made, and within which a report shall be made to such Judge of the public work or materials so required to be inspected as aforesaid; and the report or certificate in writing of any such persons whom the Judge may direct or require to do any of the things herein provided for shall and may be taken and received by such Judge, and acted upon by him as effectually as if he had taken the evidence of such person *vidē voce*.

May obtain opinions of Engineers, &c.

13. If it shall become necessary, in the opinion of the Judge, whether in the course of the reference or at any time thereafter, before he shall finally have decided on the matters so referred to him as aforesaid, it shall be lawful for him to call before him such engineers, surveyors, architects, accountants, or other skilled persons as may seem to him requisite or necessary for the purpose of obtaining from them or any of them opinions upon any question or questions in respect of any matter or thing arising out of or in relation to the subject of such reference, and upon which he may desire the same on any of the matters to be so submitted to him as aforesaid.

Payment of fees, &c., to skilled witnesses and engineers, &c.

14. The fees and charges to be allowed to any persons making any such inspection or report, or giving any such opinions as in the two last preceding sections mentioned, shall be settled by the Judge in accordance with any scale to be fixed as hereinafter is provided, and the Judge shall, by order under his hand directed to the Colonial Treasurer, require him to pay such fees and charges out of the consolidated revenue of the colony in the first instance; and the Colonial Treasurer is hereby authorized to pay the amount expressed in any such order accordingly.

Upon the final determination of the matters referred, the Judge shall decide by whom such fees and charges shall be paid, either wholly or in part; and if the same are directed, by the certificate to be given by the Judge as hereinafter provided, to be paid by the Contractor, the same may be deducted out of any moneys payable to him, or otherwise may be recovered as hereinafter provided.

Parties not attending, Judge may proceed *ex parte*.

15. If either of the said parties shall fail or neglect to attend at such reference after having been lawfully required to attend in pursuance of any notice so to attend, or who shall fail or neglect to produce any contract, plans, drawings, papers, or writings as aforesaid after having been lawfully required to do so in manner aforesaid, it shall be lawful for the said Judge to proceed with the subject-matter of such reference *ex parte*.

Parties may appear by counsel or solicitor.

16. Either of the said parties may appear by counsel or solicitor, and shall be entitled to examine, cross-examine, and re-examine witnesses who may be examined by or before such Judge.

Judge may adjourn proceedings.

The Judge may adjourn such reference and the proceedings thereon from time to time as he shall see fit, and for such time and to such place as he may think fit; but no such adjournment shall continue for a longer period than three calendar months.

Parties may apply for leave to amend statements, &c.

17. At any time during the proceedings on any such reference it shall be lawful for either of the parties to apply to the Judge to amend any statement of claim or propositions of law or fact delivered or filed by such party under the powers herein contained; and if the other of such parties shall not consent to such amendment, the Judge shall decide as to the reasonableness of the application, and may either grant or refuse the application, upon such terms as to adjournment of the proceedings and as to the allowance of costs to the last-mentioned party as to the Judge shall seem meet.

Notices, &c., how to be served.

18. Any notice or other instrument which it may be necessary or requisite to serve upon the Minister under this Act may be served at the office of the Public Works Department at Wellington, by leaving the same with the Engineer

or the Secretary for Public Works; or if the Minister shall approve of any person to accept notices or other instruments on his behalf, in any judicial district in which any reference is under this Act to be had, then such service may be on such person.

And any notice or other instrument which it may be necessary or requisite to serve upon the Contractor may be served upon him either personally or by leaving the same at his last known place of business in the judicial district of the Supreme Court in which any such contract may be in course of execution, or may have been executed or carried on, or by leaving the same with any foreman or person in charge of any public work forming the subject of such contract.

All notices served as and in manner herein provided shall, on proof thereof to the satisfaction of the Judge, be deemed to have been effectually served upon the party affected or intended to be affected thereby.

19. The Judge before whom such reference shall be had shall, by a certificate under his hand and the seal of the Supreme Court, addressed to the Governor of the colony, certify to him the decision at which he shall have arrived upon the matters so referred to him.

Judge to give a certificate of his decision, and what may be stated in certificate.

In and by any such certificate the Judge may order the payment of money by one of the parties to the other of them, whether as damages or costs, and in and by any such certificate or instrument may prescribe and direct what shall be done and performed by either of the said parties or by both of them, or what shall be refrained from being done by either of them or both of them, whether such direction or performance shall have reference to the subject-matter of any such contract and is specified or referred to therein, or as to any act, matter, or thing connected with or arising out of such contract or the proceedings had on any such reference.

20. If the Judge shall think fit he may give several certificates, each on part of the matters referred to him as aforesaid, instead of one certificate on all the matters referred, and every such certificate on part of the matters shall for such time and for such purposes as is or are mentioned therein, be binding as to all the matters to which it extends as if the matters therein mentioned were all the matters referred, and notwithstanding no certificate shall then or thereafter be given in respect of the other matters in dispute and reference as aforesaid.

Several certificates may be given.

21. A copy of every certificate made or given as aforesaid shall be forthwith recorded in the Supreme Court at the place where the statements of claim aforesaid or the propositions of law or fact (as the case may be) shall have been filed, and either of the parties shall have the right of making copies thereof or taking extracts therefrom on payment of the usual and customary fees in such cases prescribed by the practice of the Supreme Court.

Certificate to be filed in Court.

22. The effect of every such certificate shall be similar to that of a judgment order or decree of the Supreme Court for or against the Crown under "The Crown Debts Act, 1866," or "The Crown Redress Act, 1871," as the case may be.

Effect of certificate.

23. No certificate made or given under the provisions of this Act shall be void or liable to be set aside for any irregularity or informality.

Certificate not to be set aside for informality.

24. The costs, charges, and expenses, of whatsoever nature, of and attending such reference, and of all proceedings consequent upon or incidental thereto, and of all necessary acts, matters, and things which shall or may be had, made, done, or performed by any such Judge or by his direction under the powers hereof, or by either of the parties, shall be borne and paid by and between the said parties, in such proportions as to the Judge shall seem meet or as he shall in his discretion think fit; and the allowance or award of such costs, and the direction by and to whom the same shall be paid, shall be included in and form part of the certificate so to be made as aforesaid.

Costs.

25. If any person having been duly summoned to attend on any such reference as aforesaid, whether for the purpose of giving evidence in any matter connected therewith, or to produce any plan, contract, paper, writing, or instrument whatsoever, or for the purpose of being examined on any matter of opinion

Penalty for non-attendance as witness, or for neglect to obey order of Judge.

which the Judge shall desire to submit to such person, or if any party to such reference shall refuse or neglect to comply with any direction or order made by such Judge in relation thereto and under the powers herein contained, every such person shall be liable to the like penalties which by the practice of the Supreme Court would attach to such person for or by reason of any non-attendance as such witness on non-compliance with any such rule or order as aforesaid in a civil action in the Supreme Court.

Procedure of
Supreme Court to
be applicable.

26. In the summoning of witnesses, and in all proceedings relating to any reference held under this Act, in the taking of evidence as aforesaid, and in the taxation of costs of any such reference, the practice and procedure of the Supreme Court for the time being relating to civil actions shall be followed, so far as they may be found or made applicable to such proceedings; and witnesses summoned to attend such reference, and parties thereto, shall be subject to the same liabilities as witnesses in and parties concerned in the trial of an action in the Supreme Court would be subject to in like cases: Provided that nothing in this or the preceding section contained shall be held or construed to render any witness or party liable to any penalty or proceeding in any of the cases therein mentioned, unless such witness or party shall have been duly summoned or had notice to attend such reference, or may have been required to do or omit to do some act in the like manner in which he would have been summoned or required to attend as a witness in a civil action in the Supreme Court as aforesaid, or if a party might be required to do or omit to do some act in any such action as aforesaid.

No power to parties
to revoke.

27. After the commencement of any reference under this Act, neither party shall have power to withdraw from such reference, or to revoke or recall any statement of claim or proposition of fact or law submitted, without the consent of the other of the said parties.

Death not to abate
proceedings.

The death of either of the parties pending any reference under this Act shall not affect the same, but such reference may be proceeded with and may be determined in the same manner as if the certificate of the Judge had been made or given in the lifetime of the parties so dying, and the personal representatives of the party so dying shall be considered for all purposes to be a party or parties to the reference.

Parties not to bring
action or prosecute
writ of error.

28. Neither of the parties shall bring any action, suit, or proceeding against the other for or in respect of any matter so agreed to be referred as aforesaid, nor shall either bring or prosecute any writ of error or other proceeding in the nature thereof concerning any of the matters referred or any certificate made or given under this Act.

No appeal from
Judge's decision.

29. No appeal shall lie from any decision of a Judge given under or in accordance with the provisions of this Act, either to the Supreme Court, or to the Court of Appeal, or to any other Court or tribunal, but every such decision shall be binding, final, and conclusive on the parties concerned in or affected by any such reference.

Judges to make
rules, &c.

30. The Judges of the Supreme Court, or any three of them of whom the Chief Justice shall be one, shall have power to make any rules not inconsistent with this Act, and thereby may prescribe the forms of notices, certificates, and other proceedings, and provide for the general conduct of any reference as herein is provided for, and may also fix a scale of costs allowable on such proceedings, and may fix a scale of fees to be allowed to witnesses under such reference.

Limitation of time
within which refer-
ence may be had.

31. Whenever either of the parties shall desire to proceed to a reference under the provisions of this Act, the proceedings for that purpose shall be commenced within six months after the particular dispute or matter of difference shall have arisen, and not afterwards, unless with the consent of the other of the said parties.

THE THREE RAILWAY CONTRACTS ENTERED INTO 19TH JULY, 1873.

On the 19th July, 1873, three additional railway contracts were entered into, viz., the Waitara to New Plymouth; Waitaki to Moeraki (Moeraki Contract); and the Auckland Station, Auckland Station to Newmarket, and Onehunga Branch Railway. These are of very similar tenor to the Auckland and Mercer Railway contract already printed with these papers, and are therefore not reprinted here, but copies for reference have been deposited in the General Assembly Library.

MESSRS. BROGDEN'S CLAIMS OF 1876.

A limited number of these have been printed already, and bound in a volume lettered on the outside "Messrs. Brogden's Claims.—The Claims of 1876." They are not reprinted here, but copies for reference have been deposited in the General Assembly Library.

CORRESPONDENCE WITH THE SECRETARY OF STATE FOR THE COLONIES REFERRING TO THE ACT OF 1872, AND PAPERS RELATING THERETO.

Extract from Appendix to the Journals of the House of Representatives, E.—3, 1878.

The SECRETARY for the COLONIES to His Excellency the GOVERNOR.

My LORD,—

Downing Street, 18th January, 1878.

I have the honour to transmit to you a copy of a letter which has been addressed to me by Messrs. John Brogden and Sons in reference to the contracts entered into by them with the Government of New Zealand.

Messrs. Brogden and Sons appear to complain that an Act—"The Government Contractors Arbitration Act, 1872,"—which in its nature was a private Act, was passed by the Legislature of New Zealand without those notices having been given to them which are prescribed in the case of all private Acts, for the protection of individuals affected thereby; and I have therefore to request that you will bring the case under the consideration of your Ministers.

Governor the Most Hon. the Marquis of Normanby,
G.C.M.G.

I have, &c.,
CARNARVON.

[Enclosure.]

Messrs. JOHN BROGDEN and SONS to the COLONIAL OFFICE.

SIR,—

21, Queen Anne's Gate, Westminster, 15th January, 1878.

We have the honour to enclose herewith a short *résumé* of the facts in connection with the contracts for the construction of railways in New Zealand which we undertook, under agreements through the Government of New Zealand, on behalf of Her Majesty the Queen; as also copy of a memorial proposed to be presented to the House of Representatives of that colony for inquiry and relief in respect of an emigration agreement.

We beg to draw the attention of Her Majesty's Government to the grave and serious injustice we now suffer under from the retention of such large sums of money, and no hearing is possible without great delay and expense to the colony and ourselves.

Whereas we submit that by a speedy hearing and settlement, which the original arbitration clause insured, a mutual benefit would be the result.

One of our firm will, at great inconvenience, proceed to the colony at once, so as to confer with the Government of New Zealand as to the most desirable arrangements to be made for both interests.

We beg most earnestly that an inquiry may be recommended by Her Majesty's Government into the above cases, and that such intimation may be made by the outgoing mail to New Zealand on Friday next.

W. R. Malcolm, Esq.

We have, &c.,

JOHN BROGDEN AND SONS.

[Sub-Enclosures.]

21, Queen Anne's Gate, Westminster, 15th January, 1878.

MESSRS. John Brogden and Sons entered into the following contracts for the construction of railways with the Governor of New Zealand, on behalf of the Queen, at the dates named:—

Auckland and Mercer	...	...	...	10th August, 1872.
Napier and Pakipaki	...	...	...	10th August, 1872.
Wellington and Hutt	...	...	...	10th August, 1872.
Picton and Blenheim	...	...	...	10th August, 1872.
Dunedin and Clutha	...	...	...	10th August, 1872.
Invercargill and Mataura	...	...	...	10th August, 1872.

The works are all completed, and there are now pending claims for the final balances on the contracts, &c., amounting to about £172,000, and others have yet to be sent in, which will make the total sum claimed above £200,000. The New Zealand Government dispute every claim, and allege that Messrs. John Brogden and Sons have been paid everything that is due to them upon these contracts.

By the following clause in each contract disputes between the Government and the Contractors were referred to arbitration:—

“ARBITRATION.

“30. Should any dispute arise between the Contractor and the Engineer, or between the Contractor and the Minister for Public Works or the Government, relative to the force and intent and meaning of the specifications, drawings, or conditions, or to the mode of carrying on the works, or the nature or quality of the materials used, or supplied to be used, or workmanship of work done, or as to the maintenance of the works, or as to the expense of additional works, or of alterations or deviations from the specifications or plans, or as to any other matter connected with the execution of the works, or with the contract, specifications, drawings, or conditions, or as to any matter which by this contract it is expressly provided is to be settled, ascertained, or determined by arbitration, such dispute shall be referred in writing to the sole determination, arbitrament, and award of the Judge of the Supreme Court assigned to that judicial district of the Supreme Court within which the works relative to which the dispute shall have arisen have been or are to be executed, whose award shall be final, binding, and conclusive on all parties: Provided, however, that, before any such dispute as aforesaid shall be so referred, the Contractor shall give to the Minister for Public Works one calendar month's notice, in writing, of such dispute, and of the matter and cause thereof, and in such notice the Contractor's claim shall be explicitly stated, and, if such claim be for pecuniary compensation, the amount thereof shall also be stated.

“JOHN CARRUTHERS.

“JOHN BROGDEN AND SONS.”

This clause, amongst others, in the contract was the subject of considerable discussion, the Contractors objecting to the settlement of disputes except by arbitration conducted by someone independent of either party.

Clause 3 provides that disputes between Government and Contractors are to be referred to the decision of a Judge of the Supreme Court, but that if by reason of the continued illness or absence from the district assigned to him, the dispute will be referred to another Judge, and, if either of the parties require the evidence to be heard over again, the case must be commenced *de novo*. The Government have the power of changing the Judges to different districts, and therefore have the power of causing an indefinite amount of delay and cost, and the Contractors have no remedy.

When the Contractors asked for the final balances to be certified by the Engineer on completion of the various contracts, the New Zealand Government produced an Act passed on the 10th October, 1872, called the Government Contractors Arbitration Act, which relates solely to contracts with Messrs. John Brogden and Sons, and not, as its title implied, to any other contractor, or contractors generally.

This Act was first brought to the notice of the firm affected in the year 1877, five years after the passing of the above Act, when arbitration, according to the contracts, was demanded by them. It was passed disguised as a public statute, without the proper formalities and notices required by the New Zealand Parliament for private statutes affecting only private interests. Messrs. Brogden had therefore no opportunity of opposing any of its provisions: it was passed without their knowledge, and it varied the contracts which they had previously entered into, and left them in the hands of Engineers and Ministers of Works.

The debates which occurred during its passage through the New Zealand Parliament (*see* “New Zealand Parliamentary Debates,” 16th August and 1st October, 1872) show that the Ministers represented that it was intended to carry out the contracts, to give power to the Judges to act in accordance with the arbitration clause, and facilitate the rapid settlement of disputes; whereas it varies the arbitration clause of those contracts in the following important particulars:—

Clause 4 constitutes the Minister for Public Works a Court of first instance, to hear and determine claims, an appeal lying from him to the Judge of the Supreme Court for the district in which the works are situated. Thus the Contractors are put to the expense of a hearing at Wellington, and, in the event of the Minister, who is one of the parties to the suit, deciding in his own favour, of a second hearing in another part of the colony.

Clause 12 empowers a Judge to employ an expert to make a report upon any matters of construction that may be in dispute, and enables the Judge to take that report as if it were *vivâ voce* evidence, thus depriving the Contractors of the right of cross-examination.

Clause 29 deprives the Contractors of any appeal from decisions under the Act, although they have never been consulted nor their consent asked to the variations in the procedure already agreed to with the Government.

Clause 31 limits the time for commencing proceedings to six months from the arising of a dispute, whereas there is no such limitation in the arbitration clause; and Messrs. Brogden are thus placed under a disability to which other subjects of Her Majesty are not liable, for, the contracts being under seal, the statutory limitation for actions is twenty years.

If Messrs. Brogden had been informed of the Act in 1872, when it passed the Legislature of New Zealand, or—being an English firm of contractors—had they been notified in England, they would certainly have made an appeal against the granting of the Royal assent to a measure which they conceive to be so unjust and unconstitutional.

By the Act of the Imperial Parliament granting the present Constitution of New Zealand (15 and 16 Vict., c. 72), it is provided (clause 53) that it shall be competent to the General Assembly (except and subject as hereinafter mentioned) to make laws for the “peace, order, and good government of New Zealand, provided that no such laws be repugnant to the law of England.”

Can it be said to be consistent with “peace, order, and good government” that the Government, being party to contracts with any individual or firm, should vary any of the provisions of such contracts by statute without the consent of the other party to those contracts? and can such legislation, whereby

one party to a contract alters some of its provisions without the consent of the other party, be otherwise than "repugnant to the law of England"?

The contracts for the construction of the following railways, viz., Waitaki and Moeraki (19th July, 1873), Waitara and New Plymouth (19th July, 1873), Auckland Station, &c. (19th July, 1873), Auckland and Mercer (20th August, 1873), were taken subsequent to the passing of the Government Contractors Act of 1872, but before the Royal assent to this Act had been obtained. These contracts contain the same terms and conditions and the same arbitration clause, were signed, sealed, and delivered in similar manner. But the Government Contractors Act of 1872 was not exhibited or referred to and not produced by the Government in reference to these contracts until 1877, which was the first intimation the Contractors had of the existence of such an Act.

To His Excellency the Most Honourable the Marquis of Normanby, a member of Her Majesty's Most Honourable Privy Council, Knight Commander of the Most Distinguished Order of St. Michael and St. George, Governor and Commander-in-Chief of Her Majesty's Colony of New Zealand and its Dependencies, and Vice-Admiral of the same.

The Memorial of Messieurs Alexander Brogden, M.P., Henry Brogden, and James Brogden, of Queen Anne's Gate, in the City of Westminster, in England, Railway Contractors, carrying on business in copartnership under the style of John Brogden and Sons, sheweth as follows:—

1. Your memorialists in June, 1871, after many months of previous negotiation with the Honourable Julius Vogel, at that time the Treasurer of the Colony of New Zealand, and then in England, executed in duplicate three instruments, dated respectively the 21st, the 22nd, and the 26th June, 1871, and each of which was expressed to be made between the then Governor of New Zealand of the one part and the memorialists of the other part.

2. The first instrument expressed that the Governor would intrust to the memorialists, and that they would undertake, the construction of railways in New Zealand to the value of £4,500,000; that the Governor, besides paying the memorialists the cost of the railways to them, and a profit of 5 per cent. thereon, would make to them grants of land, at the rate of three-quarters of an acre for every pound sterling of the cost of the railways, and one-fifth of which should be suitable for settlement and for settlers to take immediate possession of; that the portions of the latter required for immigrants should be granted as and when required; that the memorialists would within ten years land in New Zealand ten thousand approved European immigrants; and that the Governor would also pay the memorialists the sum of £1 per head per annum for ten years for all immigrants so landed.

3. The second instrument expressed that the Governor would intrust to the memorialists, and that they would undertake, the construction of railways in New Zealand to the value of £500,000, upon terms which did not include any arrangements with respect to immigration.

4. The third instrument recited the other two, and expressed that, within six months after the arrival of the three in New Zealand, the Governor would execute both or one of the first two documents, and that meantime both should bind the memorialists; and the Colonial Treasurer, in token of his approval, executed the third instrument as on behalf of the Governor, and thereby himself agreed that he would procure the Governor to execute one or both of the first and second instruments within the said six months.

5. During the negotiation of these three instruments the Colonial Treasurer suggested that one of the memorialists should follow him to New Zealand, and be at hand to carry into effect the first and second instruments, or whichever of them the Governor should execute; and that the memorialists should immediately send out a staff of engineers and others for the purposes of these contracts. At that time, as appears from the statement of the Minister (*see* "Parliamentary Debates," 2nd Session of 5th Parliament, page 540), "the number of engineers in the colony accustomed to modern railway construction was exceedingly limited."

6. Immediately on the execution of these three instruments, the Colonial Treasurer returned to New Zealand; and, upon the faith of his above engagement and counsel, the memorialists, at great expense, immediately sent to New Zealand a staff of engineers and assistants (which they afterwards from time to time increased); and in August, 1871, the memorialist James Brogden followed the Colonial Treasurer to New Zealand.

7. On the 24th October, 1871, soon after the arrival of Mr. James Brogden in the colony, the Colonial Treasurer himself, in a Committee of the House of Representatives, and before execution by the Governor of either No. 1 or No. 2 Contract, moved a resolution recommending that No. 1 should not be accepted. (*See* "Parliamentary Debates," 1st session of 5th Parliament, page 504.) To this resolution an addition was proposed (by way of amendment), containing a recommendation that the Government should negotiate with the memorialists for the modification and extension of No. 2 Contract, or the substitution in its place of one for the construction by the memorialists of such railways, authorized or to be authorized by the Assembly, as it might be agreed should be offered to them, to the amount of £1,000,000, at prices to be agreed to between them and the Government, such prices being within the limits fixed by the Legislature. (*See* "Parliamentary Debates," same session, page 564.) This amendment was adopted by the House of Representatives, after an adjourned debate, on the 26th October, 1871, and the motion of the Colonial Treasurer as so amended was carried.

8. As a sequel to this resolution, the Governor, at a subsequent date, executed the Contract No. 2 *pro formâ*, and with the understanding (afterwards embodied in an actual agreement, dated the 18th of December, 1871) that it should not be deemed to have come into operation until after failure of negotiations for a substituted contract. (*See* Parliamentary Paper of 1872, D., No. 1, page 15.)

9. Mr. James Brogden, therefore, with a large and costly staff, retained and imported at a very great expense, found himself in the colony with Contract No. 1 rejected, with Contract No. 2 suspended (under the force of the quoted recommendation of the House of Representatives), with

no railways to employ his staff upon, and with the prospect of inevitable delay in negotiating any contract at all.

10. Making the best he could of the circumstances, Mr. James Brogden ultimately arranged with the Government to take contracts for the construction of the following railways—viz., the Auckland to Mercer; the Napier to Pakipaki; the Wellington to Hutt Valley; the Picton to Blenheim; the Dunedin to Clutha; the Invercargill to Maitara; the Waitara to New Plymouth; and the Oamaru to Moeraki. But none of these contracts were executed until June, 1872.

11. These contracts, which amounted together to £793,107, were let to the memorialists (*conformably to the recommendation of the House of Representatives*) at agreed prices, and without being put up to public competition. But, though not submitted to public competition, the prices of the contracts granted were fixed by Mr. Carruthers, the Government Engineer, whose testimony (contained in the report referred to in paragraph 25 thereof) is that the prices were settled principally upon the rate paid for other works; that they allowed for increase to some slight extent upon the then current rates for labour; that no allowance was made nor was it taken into consideration that the Contractors were about to import labour into the colony; that it was not expected they would have to do so, because it was understood at the time that the Government were going to import a great many immigrants, whose importation would be sufficient to keep prices down to prevailing rates, and that no allowance was made to the memorialists for any loss that might fall to them by the introduction of immigrants by them. In point of fact, the granted contracts had no reference whatever to any scheme of immigration.

12. On 20th August, 1872, the Minister (the Hon. Mr. Ormond), addressing the House of Representatives, observed, with reference to these new contracts, "that the most careful consideration has been given by the Government to this subject; that the settlement of these contracts has only been effected after long, minute inquiry, and in conformity with the advice of the Engineer-in-Chief, given after careful investigation. * * * That the prices at which Messrs. Brogden

have contracted to construct these railways are fair and reasonable." And that, "when the difficult nature of the country through which these railways have to be carried, together with the largely increased price of iron, is considered, it will be allowed that the cost at which these railways are to be constructed and equipped—namely, an average of £4,865 per mile—will compare most favourably with the cost of similar works in any other country in the world." (*See "Parliamentary Debates," 2nd Session of 5th Parliament, page 541.*) And on 28th August, 1872, the Hon. the Colonial Treasurer, in an elaborate address to the House, further vindicated the fairness and reasonableness of the prices of these contracts, and expressed his conviction that the railways contracted for would be obtained "cheaper than they have been constructed in any other country in the world." (*See the same "Parliamentary Debates," page 738.*)

13. But, during the consideration of these contracts, and as an entirely independent subject-matter of treaty, the Government, who were deeply interested in securing a large addition to the labouring population of the colony, strongly pressed upon the memorialists a negotiation for the importation of immigrants by them.

14. That this was a matter of great interest to the Government is amply testified by an article dated 17th January, 1875, contributed by the Colonial Treasurer (then Prime Minister) to "Fraser's Magazine," in London, and in which he says, "In the United States, I believe, every immigrant is held to be worth £200. It is generally considered in New Zealand that this is the reverse of an excessive estimate. Large as is the number already introduced into the colony, my latest advices urge the demand for more." The great need of immigrants in the view of the Government is also strongly impressed upon the Agent-General for the colony in England by the Minister for Public Works, in that Minister's letter of the 25th November, 1871. (*See Parliamentary Paper, 1872, D., No. 1, page 8.*)

15. The negotiation with the memorialists relative to immigration was in consequence of the urgent want thus expressed. It was initiated by the Government, and pressed upon the memorialists. To a certain point it was carried on in the colony between the Hon. the Minister for Immigration and the memorialist James Brogden, but being deemed by the latter an affair of too much importance and devolving upon him too great a degree of responsibility to be undertaken without the concurrence of his partners, it was, in November, 1871, relegated to the Agent-General for the colony in England, on the part of the Government (*see Parliamentary Paper, 1872, D., No. 1, page 10*), and to the partners of your memorialists' firm resident in England, on behalf of the firm.

16. On receipt by the Agent-General of his despatches from the colony on this subject, he opened a communication upon it with the memorialists Alexander and Henry Brogden, who were then without any advices from the memorialist James Brogden concerning it. Long negotiations followed, and the result was that, on faith of the assurances referred to below, an instrument, dated the 27th of June, 1872, and expressed to be made between the Governor of New Zealand by the Agent-General of the one part, and the memorialists of the other part, was executed by the Agent-General on behalf of the Governor, and by the memorialists by the hands of Alexander and Henry Brogden. This instrument is fully set forth in the Parliamentary Paper, 1872, D., No. 19b, and it purports that the memorialists will send out such a number, not exceeding two thousand able-bodied men, besides wives and children, as the Agent-General shall require; that the Agent-General will cause them to be conveyed to the colony, and the Governor will make all payments in respect of their conveyance; that the Governor will deal with them on their arrival in as beneficial a manner as other immigrants are received and dealt with on behalf of the Governor on arrival in the colony; that the memorialists will repay the Governor £10 in respect of every such adult immigrant, and to be secured, with interest, by joint and several promissory notes of the memorialists in a given form, and with liberty to the Governor to deduct the amount of any due notes from any moneys payable by him to the memorialists in respect of any railway or works executed by them; and that the memorialists might take from every adult immigrant a promissory note for a sum not exceeding £15, in payment of that for which payment was to be made to the Governor, and to cover the risk of non-payment of such sum.

17. The scheme embodied in this instrument of the 27th June, 1872, was accepted by the memorialists Alexander and Henry Brogden entirely at the instance and upon the faith of the representations of the Agent-General, who from time to time communicated to them the urgent

despatches of the Hon. Mr. Gisborne on the subject of the paramount necessity of a prompt and continuous flow of from *eight thousand* to *ten thousand* emigrants into the colony (Parliamentary Paper, 1872, D., No. 1), and the Agent-General earnestly pressed upon them the resumption and completion of the treaty which Mr. James Brogden had begun with the Minister in the colony. Acceding to this, at the Agent-General's strong instance, they intimated their willingness to assist the immigration schemes of the Government by some arrangement which should neither yield them any profit nor expose them to any loss; and they suggested that they should keep account of the moneys expended, and the repayments received from emigrants, and that the account should be ultimately settled upon the basis of repaying actual outlay. It was in anticipation that such would be the basis of agreement between themselves and the Government that the memorialists, before the execution of the document of 27th June, 1872, sent out between six hundred and seven hundred emigrants and their families. But the Agent-General objected that there was no finality in such an agreement. At the same time, he vouched to the memorialists Alexander and Henry Brogden, in the strongest possible manner, and as from his own actual personal experience, that the terms which were ultimately embodied in the document of June, 1872, would fully and effectually indemnify them from all loss; and they, without experience themselves, but implicitly relying upon this assurance (which to them was invested with all the weight attached to the *ex officio* utterance of a Government authority), and confiding entirely in it, executed the document in question, and proceeded to act upon it until, in the whole, they had despatched twelve hundred and ninety-nine able-bodied emigrants to the colony, representing, according to the quoted estimate of the Prime Minister, a net value to the country of no less than about £260,000.

18. At the time these statements of the Agent-General led to the memorialists executing the deed of June, 1872, it was also represented to them by him that the Government itself was dealing with emigrants on a similar footing of making advances and taking promissory notes; that it was found a satisfactory course to the Government; that there were no difficulties in the way of recovering and enforcing these notes; that the law of arrest prevailed in the colony, and was effectual; and that other immigrants would be exported by the Government upon very similar terms. And all these representations were received by the memorialists as authentic, and contributed to induce them to accept the deed of June, 1872, instead of the basis they had themselves desired.

19. But, since executing that deed, there is not one condition of the things represented which has not been changed. The Government began by taking out their own emigrants in the same vessels with those of the memorialists upon other and more favourable terms, thus creating jealousy and discontent on the part of the latter. It then proceeded to grant entirely free passages to emigrants other than those of the memorialists, and so raised the feeling of the latter from one of discontent to one of accusation against the memorialists, whom they charged with defrauding them, and against whom every device to avoid payment of their promissory notes was deemed lawful. The Court of Bankruptcy, which, as the memorialists are informed, had always refused discharges to those who were indebted to the Government for cost of immigration, granted discharges to those who were indebted to the memorialists. The Government afterwards ceased to enforce the promissory notes of their own emigrants, thereby showing their estimate of the value of securities which the memorialists had been so strongly assured by the Agent-General to be effectual. At length every possible chance of recovery was extinguished by the repeal of the law of arrest for debt. Yet the Government claims to remain creditor of the memorialists, after having itself destroyed the security which the Agent-General had *ex officio* assured them was ample to protect them from loss in undertaking the liability to pay for the export of emigrants to enrich the governed country.

20. In this state of things, and in consequence of the losses sustained by the memorialists through their endeavour to assist the immigration plans of the Government by the means provided in the deed of June, 1872, Mr. James Brogden, in October, 1872, at an interview with the Hon. the Minister for Immigration, claimed, as an act of justice, that the Government should relieve the memorialists from that deed. The claim was further urged in a correspondence between the Minister and Mr. James Brogden in October and November, 1872, and between the memorialists in England and the Agent-General on the 15th, 26th, 27th, and 28th of May, the 12th of June, and the 10th of July, 1873. This correspondence is all set out *in extenso* in the Appendix to the Report of the Committee hereinafter referred to. (See the Parliamentary Paper, 1873, I.—5, pages 19 to 22.) The letter of the memorialists to the Agent-General of the 12th June, 1873, recapitulated to the latter the fact of the Government having originated the negotiations which resulted in the deed of June, 1872; the pressure put both by the Government and himself upon them to undertake it; their statements to the Agent-General at the time that they sought no profit, but desired to make no loss; the strong assurances of the Agent-General of the amplitude of the security against loss, and upon the faith of which assurances alone the memorialists entered into the deed; and many of those subsequent measures of the Government to which the defalcations of the immigrants, in spite of the assurances of the Agent-General, are to be traced.

21. To the statements of that letter of the 12th of June, 1873, no contradiction has ever been offered by the Agent-General, either to the memorialists or to the Government; but they have for two years been acquiesced in, and are, therefore, to be taken as proved.

22. In their letter of the 10th July, 1873, to the Agent-General, already referred to (1873, I.—5), the memorialists showed that the amount in which their immigrants were indebted to them on promissory notes for the agreed rate of passage, and for nearly £11,500 advanced for kits, outfits, and sundries, was £39,874 13s. 9d.; and that, against the item for passage-money, the memorialists had given to the Government their own promissory notes for £18,240, of which only £1,007 18s. 8d. had been received back; and they proposed that they should be relieved from these latter promissory notes, and should transfer to the Government those of the immigrants, to enable the Government to collect them, and apply the moneys collected in reduction rateably of the passage-money and the memorialists' advances.

23. The Government, however, refused assent to the memorialists' applications. They, therefore, in August, 1873, presented a petition to the Honourable the House of Representatives, praying inquiry into their case, with a view to such relief as might be just. To that petition they ask now to refer.

24. The petition was referred to the Public Works and Immigration Committee, who heard evidence upon it and made their report, dated 24th September, 1873.

25. The proceedings of the Committee, the evidence taken by them, and their report, are contained in the before-mentioned Parliamentary Paper (1873, I.-5). The evidence of Mr. Carruthers, referred to in paragraph 11 of this memorial, is contained in that report, and it is fully confirmed as well by the evidence of Mr. Billing (given in answer to questions 102 to 106 of the minutes of the evidence taken by the Committee, and set forth in the same Parliamentary Paper) as by the statements of the Ministers referred to in paragraph 12 thereof.

26. The report itself was to the effect that the memorialists prayed to be relieved from the loss to which they alleged they had been subjected under their immigration contract with the Government; that the Committee, having taken all the evidence that was available to them on the subject of the claims put forward in the petition, were of opinion that "the statements in the said petition were not substantiated;" that, "so far as they were able to judge, there was no good ground for such claim, either in law or in equity;" and that the Committee were further of opinion that, "in the absence of proof," it would be a bad precedent to entertain claims founded upon vague allegations, and the admission of which would do away with all finality in a system of public contracts under written engagements.

27. The conclusions reported by the Committee being therefore based on the want of sufficient evidence, the memorialists renewed the subject in a letter, dated the 25th of March, 1874, addressed to the Agent-General (see Parliamentary Paper, 1874, D.-3A), recalling to his attention their letters of the 12th June and 10th July, 1873; again setting forth the state of accounts with respect to expenditure upon immigration; reiterating the history of the deed of June, 1872, and of the representations and assurances of the Agent-General which induced them to undertake it; renewing their former claim for relief; supporting it by urging the advantage the country derived from the introduction of above two thousand immigrants at a cost of £35,000 to the memorialists; and appealing to the honour of the Government to recoup them the outlay incurred in thus benefiting the country.

28. In the same letter of 25th March, 1874, the memorialists also quoted a memorandum of the Minister for Public Works to the Cabinet (No. 66, 1st April, 1873), which says, "The only thing which has kept the rates of labour from rising to rates ruinous to the various interests in the colony has been the shipment of so much labour by Messrs. Brogden." In fact, as the same letter states, out of twelve hundred and ninety-nine able-bodied immigrants introduced by the memorialists there remained working for their firm at that date only seventy-six. That number was afterwards reduced to thirty-nine, and, ultimately, to none. Practically, therefore, the whole number imported by the memorialists violated their engagements to the memorialists under a sense of the disadvantage at which they were placed relatively to Government immigrants, and distributed themselves throughout the colony, working for other employers, and producing that benefit to the colony, at the expense of the memorialists, which the Minister for Works has described in the above extract.

29. As an answer to this letter, the Agent-General afterwards communicated to the memorialists a letter addressed to himself by Sir Julius Vogel, then Prime Minister, dated the 3rd July, 1874 (see Parliamentary Paper, 1874, D.-1A, pp. 17, 18), expressing the opinion of the Government that they were not entitled to the relief they asked, nor to any relief whatever. This letter entirely passes by, without answer or notice, all the untraversed assurances of the Agent-General, which induced the deed of June, 1872. It maintains the right of the colony to subsequently grant free passages (a right not denied by the memorialists, but the consequence of which to them was properly dwelt on). It represents free immigration as a boon to them, on account of their large contracts, not noticing how much greater boon it would have been if they had not been drawn so largely into contributing to it. It adverts to the granting of these contracts free from public competition as a reason why the memorialists should import labour, but ignores entirely not only the resolution of the Honourable the House of Representatives of 24th October, 1871 (paragraph 7 hereof), but also the claim which the lapse of both the first contracts gave them, and the evidence of Mr. Carruthers; but no allowance whatever was made in the contract prices for such an expenditure, but that the prices were fixed upon the supposition of Government importation of immigrants, and principally upon the rates paid for other works. It refers to heavy margins which it assumes to have been allowed to the memorialists for contingencies, and this in the face of the evidence of Mr. Carruthers that the allowance for these contingencies was the same as would have been allowed to any other contractor. In forgetfulness of the statements made to the House as well by the Hon. Mr. Ormond as by the Prime Minister himself (paragraph 12 hereof), and although no suggestion of the kind is contained in any of the evidence taken before the Committee, the letter asserts that results have shown that by submission to public tender the contracts could have been let at cheaper rates. And it quotes as a fact that some other English contractors for a railway in Tasmania spontaneously introduced labour to carry out their contracts, but it is silent as to the prices allowed to those contractors, and establishes no parallel between their case and that of the memorialists.

30. The memorialists feel it impossible to accept as final a decision based on ground so entirely at variance with the course of events set forth in this memorial as those enumerated in the last-quoted letter of the Prime Minister. They are suffering an enormous loss from their attempt to assist the Government scheme of immigration. Considering the indisputable facts that labour, to the intrinsic value to the colony of £260,000, has been imported, at their cost, without a fraction of provision for it in their prices for works; that that cost would have clearly fallen on the Government if they had not been induced to undertake it; and that it has been cast upon the memorialists by the *ex officio* assurances of the Government Agent-General, which they could not but confide in, the memorialists humbly submit it to the sense of honour and justice which they are confident will always actuate the Government and Legislature of New Zealand, that the assurances of the Agent-General (acting under the most urgent pressure of the Government, as evidenced by the despatches of the Ministers above referred to) ought to be fulfilled to your memorialists, and that they ought to be indemnified by the Government from all loss in the matter of the immigration proceedings undertaken by them at Government instance and under the circumstances in this memorial stated.

Your memorialists therefore humbly pray that their case may be again inquired into, and that adequate relief may be granted to them in the premises.

And your memorialists, as in duty bound, &c.

ALEXANDER BROGDEN.
HENRY BROGDEN.
JAMES BROGDEN.

The SECRETARY for the COLONIES to His Excellency the GOVERNOR.

MY LORD,—

Downing Street, 7th February, 1878.

With reference to my predecessor's Despatch No. 8, of the 18th January, I have the honour to transmit to you, for communication to your Ministers, a copy of a further letter from Messrs. John Brogden and Sons in reference to the effect which "The Crown Redress Act, 1877," of the New Zealand Legislature may have upon their claims against your Government.

Governor the Most Hon. the Marquis of Normanby,
G.C.M.G.

I have, &c.,
M. E. HICKS BEACH.

[Enclosure.]

Messrs. JOHN BROGDEN and SONS to the COLONIAL OFFICE.

MY LORD,—

21, Queen Anne's Gate, Westminster, 31st January, 1878.

On the 15th instant we had the honour to address a letter to your Lordship on the subject of our claims against the Government of New Zealand, and on the 18th instant we were favoured with a communication from Mr. Malcolm, in reply, for which our thanks are due to your Lordship.

Since that time we have received from New Zealand a copy of a new Act, passed by the Legislature there in November last, entitled "An Act to amend 'The Crown Redress Act, 1871,'" to which we beg leave to call your Lordship's attention.

It appears to us that this Act may have a very prejudicial effect upon claims such as ours, and especially that the 6th clause of it has or may have the effect of a new statute of limitations, restricting to the extraordinarily short period of twelve months the right of taking proceedings for recovery of claims.

We respectfully submit to your Lordship the great injustice of such an Act, which has no parallel in Great Britain; and beg that your Lordship will be pleased to consider the propriety of advising Her Majesty, by Order in Council, to disallow it.

We submit also that, while the earlier clauses of the Act affect to provide new remedies for other subjects of Her Majesty in New Zealand, the 5th section again places, or at least continues, us in an exceptional position; and in fact that, while the rest of the community is supposed to be benefited, we are continued under all disabilities which "The Government Contractors Arbitration Act, 1872," may have put upon us.

The Right Hon. Lord Carnarvon,
Secretary of State for the Colonies, &c.

We have, &c.,
JOHN BROGDEN AND SONS.

The AGENT-GENERAL to the HON. the COLONIAL SECRETARY.

SIR,—

7, Westminster Chambers, London, S.W., 21st March, 1878.

I have the honour to transmit herewith a copy of a letter which I received from Messrs. Mackrell and Co., enclosing me a copy of a notice given by Mr. E. Jenkins, in the House of Commons, of a question he intended to ask on the Crown Redress (No. 2) Act of New Zealand. I also forward an extract from the *Times* newspaper of the 16th instant, giving the question as asked by Mr. Courtney, in Mr. Jenkins's absence, and the reply made by the Secretary of State for the Colonies.

The Hon. the Colonial Secretary, Wellington.

I have, &c.,
JULIUS VOGEL,
Agent-General.

[Enclosures.]

DEAR SIR JULIUS,—

21, Cannon Street, London, 12th March, 1878.

We notice in the Parliamentary Papers that Mr. E. Jenkins has given notice of a question which he intends to put to the Colonial Secretary on Friday next, and a copy of which we enclose.

We are, &c.,
JOHN MACKRELL AND CO.

"MR. EDWARD JENKINS.—To ask the Secretary of State for the Colonies whether an Act has been passed by the New Zealand Legislature called the Crown Redress (No. 2) Act, and whether it has been reserved for Her Majesty's approval; whether it is a provision of this Act that persons having claims against the New Zealand Government shall be deprived of any remedy against that Government for any claim arising after the passing of the Act 'unless the petition setting forth the relief sought shall be filed within twelve months after the claim or demand has arisen;' and whether any remonstrance has or will be sent to the New Zealand Government on the subject.—(Friday, 15th March.)"

NEW ZEALAND LEGISLATION.

"MR. COURTNEY, in the absence of Mr. E. Jenkins, asked the Secretary of State for the Colonies whether an Act had been passed by the New Zealand Legislature called the Crown Redress (No. 2) Act, and whether it had been reserved for Her Majesty's approval; whether it was a provision of this Act that persons having claims against the New Zealand Government should be deprived of any remedy against that Government for any claim arising after the passing of the Act 'unless the

petition setting forth the relief sought shall be filed within twelve months after the claim or demand has arisen ;' and whether any remonstrance had been or would be sent to the New Zealand Government on the subject.

"Sir M. HICKS BEACH said,—An Act called the Crown Redress Act has been passed in New Zealand, and was not reserved for Her Majesty's approval. The 6th section enacts that no person shall be entitled to prosecute any claims under the Act unless the petition setting forth the relief sought shall be filed within twelve months after the claim or demand has arisen. An objection to the Act was received subsequent to its passing, which has been communicated to the Governor of New Zealand."

MEMORANDA by the Hon. the ATTORNEY-GENERAL and the SOLICITOR-GENERAL.

Memorandum for Cabinet.

Re Brogden Contracts and the Despatches of the Secretary of State for the Colonies thereon.

THE position that the Messrs. Brogden have taken up in reference to their contracts, and the fact that, pending litigation with the Government, they have sought and obtained the interference of the Secretary of State for the Colonies, and have, through their friends, brought the provisions of "The Crown Redress Act, 1877," of New Zealand, before the House of Commons, necessitate some statement on the part of the Cabinet. As the Solicitor-General was Assistant Law Officer at the time "The Government Contractors Arbitration Act, 1872," was passed, and was the draftsman of the Act, I put a question to him, which I forward herewith, and I also send his reply.

It will be observed that the charge made against the Government and Legislature of New Zealand is that the General Assembly passed an Act without notice to the Messrs. Brogden, and that this Act interfered with their private rights. Such a charge is at once refuted by the memorandum of the Solicitor-General. It is clear that not only did the Messrs. Brogden know of the preparation of the Act, but that their solicitor drafted clauses to be incorporated in the Bill, and that his suggestions were adopted. Mr. James Brogden was in Wellington, and was, I believe, a regular attender at the sittings of the House when the Bill passed; and I cannot understand how it was that he never knew of its passing. Nor can I understand how, seeing that the firm's solicitor perused the draft Bill, and was a resident in Wellington, and has been in active practice since 1872, he could have remained in ignorance of the existence of the Act.

I need not point out that it was only when the Messrs. Brogden had made large claims against the Government, and the Government declined to acknowledge them, they complained of the Act of 1872.

The Messrs. Brogden, in their memorandum, raise the question of the constitutionality of the Act. Had the Legislature of New Zealand power to pass such a statute? Ample opportunity has been granted to them, and is now open to them, to get this question tested in the Courts of the colony; and, I submit, neither the Government of New Zealand nor that of the Empire can declare whether a statute duly passed is within or without the powers of the New Zealand Legislature. The Judicial Department of the State must decide such a question.

As to "The Crown Redress Act, 1877," I need only say that the question put by Mr. Courtney to Sir M. Hicks Beach, and the letter of the Messrs. Brogden, alike display an ignorance of New Zealand law. "The Crown Redress Act, 1877," is an enabling statute, and far more favourable to claimants against the Government than the Crown Redress Act of 1871. Under the older Act no suit could be prosecuted without leave of the Governor; and the Court of Appeal of New Zealand held that this granting of leave was purely discretionary, and that the Governor could not be compelled to give leave (*Regina v. the Governor, ex parte O'Donohue*). Under the Act of 1877 no such leave is necessary—a petition may be filed by any one. The only limitations on such a wide concession are—

- (1.) One month's notice to the Attorney- or Solicitor-General;
- (2.) Filing the petition within twelve months after the claim or demand has arisen.

I do not understand how the Messrs. Brogden could have considered that this Act affected them. There is express provision that "The Government Contractors Arbitration Act, 1872," is not to be repealed or affected; and there is also express provision that the provisions of this Act shall not apply to any causes of action that have arisen before its passing (8th December, 1877). The Messrs. Brogden's claims had been made a considerable time before the passing of the Act, and could not therefore be affected by any of its provisions.

I think it is inconvenient for a litigant suing the Government of New Zealand to ask for the interference of the Secretary of State pending the litigation; and more inconvenient for the Government to have to submit to the Secretary of State what may be facts and circumstances that should not be disclosed until the case of the adverse party is fully known.

In this case, however, I do not think the Government of New Zealand need conceal anything; and I would therefore advise that His Excellency be asked to transmit this memorandum, and the Solicitor-General's reply, to the Secretary of State for the Colonies.

25th May, 1878.

ROBERT STOUT.

[Enclosure.]

For the Solicitor-General.

As I understand you drafted "The Government Contractors Arbitration Act, 1872," I would like to know whether the Messrs. Brogden knew of the passing of the Act; whether they objected to it; also, whether they made any suggestions regarding it. It is unnecessary to notice the statement made that it was a "private Act," as the New Zealand Legislature decided otherwise. I send herewith Messrs. Brogden's letter to the Secretary of State for the Colonies.

16th May, 1878.

ROBERT STOUT.

Hon. the Attorney-General.

In answer to your inquiries, I think it will be convenient if I set out concisely the circumstances which led to the passing of "The Government Contractors Arbitration Act, 1872," and then state such facts as I am acquainted with tending to prove that the Messrs. Brogden, and those representing them, were well aware of the provisions and passage of the Act.

In the early part of 1872, Mr. James Brogden, a member of the firm, was in the colony, and negotiations were pending as to the conditions of the contracts then proposed to be entered into between the Government and the Messrs. Brogden. A matter much debated was to whom disputes arising under the contracts should be referred for settlement. On the part of the Government it was proposed that the Engineer-in-Chief should be sole arbiter; and to this Mr. James Brogden would not agree. Ultimately it was settled that the Judge of the Supreme Court in the district where the works were being carried on should be the arbitrator, and the Judges were asked if they would be willing to undertake the duties. [See correspondence printed in Appendix to Journals of House of Representatives, 1872, Vol. II., D.-19c.] Upon the whole, the Judges did not view the proposal with favour, doubts being expressed whether the proposed duty was consistent with the judicial character and position, but generally expressed themselves as willing to aid in carrying out the arrangements the Government had entered into. The Judges' replies have not been published, but the outcome of them was the preparation of the Government Contractors Arbitration Act.

I prepared the Bill, and, in its original shape, it was proposed to apply to *all* contracts which the Government had entered into for the construction of public works, but eventually it was limited to the contracts entered into with the Messrs. Brogden. I do not recollect having any special instructions in the matter, but prepared such a measure as I conceived would effect what was required, and carry out the principle of arbitration contained in the contracts. A copy of the first revise was sent to Mr. Travers, who was then acting as Messrs. Brogden's legal adviser in Wellington; and I have had an analysis made of the contents of the Bill in its then shape, which is hereto attached (marked A). This copy appears to have been sent to Mr. Travers as a matter of courtesy, and not by any means as a complete measure; but with the draft Bill in this office I find a note addressed by him to Mr. Prendergast, then Attorney-General, forwarding some draft clauses, and making certain suggestions for amending the Bill. Copies of this note, and of the clauses sent by Mr. Travers, are attached (marked B and C); and, for the purposes of comparison, I have also attached a copy of the clauses as they now stand in the Act (marked D). The other alterations suggested by Mr. Travers were made, and, although it was after this that the change was made in limiting the measure to the contracts entered into with the Messrs. Brogden, yet it will be found that it remained substantially the same measure. Some of the clauses were rearranged, and a few added; but, with the exception of clauses 27, 28, 30, and 31, I do not think anything of importance was added, and, as to these clauses, they apply equally to the Government and the Contractors. I need hardly say that Mr. Travers could at any time have been supplied with copies of the Bill, either prior to its introduction to the Assembly or subsequently.

Referring to the letter addressed by the Messrs. Brogden to the Colonial Office, dated 15th January, 1878, I observe that they complain of the provisions of sections 4, 12, 29, and 31 of the Act. I have compared these sections with the provisions of the Bill submitted to Mr. Travers, and find that section 4 of the Act is substantially the same as clause 4 of the Bill, that section 12 of the Act is similar to clause 11 of the Bill, and that section 29 of the Act stood as clause 22 in the Bill; clause 31 being, therefore, the only new clause in the Act which Messrs. Brogden allege is prejudicial to their interests.

With respect to the mode in which the Bill was passed, I may state it was introduced into the House of Representatives and read a first time on the 16th August, 1872. Mr. Fox's Government was then in power, but quitted office on the 10th September; and on the 20th of that month Mr. Stafford, the Premier, moved the second reading. From the tenor of his remarks, it will be seen that his Government did not approve of the measure, and only proceeded with it because it was conceived that an honourable obligation lay upon them to do so. It passed its third reading on the 24th September, was introduced into the Upper House on the 25th September, and passed its second and third readings on the 1st and 3rd October respectively. The debates on the second readings in each House will be found in *Hansard*, Vol. XIII. (1872), pp. 292 and 425; and a fair summary of the debate on the second reading in the House of Representatives is contained in the *Wellington Independent* newspaper of the 21st September, 1872.

My attention has lately been called to a letter written by Mr. Travers, and published in the *New Zealand Times* of the 4th of April last, in which he admits he knew of the existence of the Act, "but had never read it till it became necessary for him to do so in connection with Messrs. Brogden's claims against the Government;" and then charges the Government and Legislature with a breach of faith by introducing into the Act a set of provisions which materially modified the rights the Messrs. Brogden had under their contracts. A copy of this letter is appended (marked E).

Although, in reporting on the facts connected with this matter, I am not called upon to point out that the Messrs. Brogden have never experienced any *actual* inconvenience from the provisions of the Act—their complaints being as yet matters of assumption—nor to state what I conceive to be fallacies in the arguments put forward by them; yet, as so long a period has elapsed since the Act was passed, I think I may allude to the position of political parties at that time. The Fox Ministry vacated office in 1872, upon an adverse vote as to the administration of the immigration and public works policy. During the debates, which lasted from 21st August to the 5th September, constant reference was made to the negotiations and arrangements with the Messrs. Brogden, both in England and in the colony; and, as I believe Mr. James Brogden was then in Wellington, and Mr. Travers certainly was, it is difficult to conceive that this Bill should have been passed through the Assembly unnoticed, especially looking at all the facts stated in this report, and bearing in mind the remarks made by Mr. Stafford on its second reading, and which were noticed in the journals of the day.

22nd May, 1878.

W. S. REID.

APPENDIX A.

Analysis of Bill intituled "The Government Contractors Arbitration Act, 1872."

(1st Revise.)

1st August, 1872.

PREAMBLE recites that there are statutes in force for erection of public works in colony, and that, as disputes may arise with persons executing such works, it is expedient provision should be made for summary and final settlement of such disputes.

Clause 1. Short Title.

Clause 2. Interpretation.

Clause 3. Disputes between Government and Contractors to be referred to decision of Judge of the Supreme Court.

Clause 4. Where dispute between Chief Engineer and Contractor, to be referred to the Minister for his decision; and, in case decision of Minister adverse to Contractor, then latter entitled to avail himself of provisions for arbitration thereafter contained. Provision for one calendar month's previous notice to Minister.

Clause 5. Statement of matter in dispute to be settled and signed. Copy of statement to be served by party proceeding to a reference, and filed in Supreme Court.

Clause 6. Either party refusing or neglecting to state case, Judge may proceed *ex parte*.

Clause 7. Procedure on filing of statement.

Clause 8. Judge to fix day and place of proceeding with reference.

Clause 9. Judge may direct how reference to be carried on.

Clause 10. Judge may hear evidence on oath or affirmation, and may require production of papers, plans, contracts, &c.

Clause 11. Judge may direct inspection of works by skilled persons, and report or certificate of such persons may be taken and received by Judge as if evidence had been taken *vivâ voce*.

Clause 12. May obtain opinions of engineers, accountants, and other skilled persons.

Clause 13. Parties not attending reference, Judge may proceed *ex parte*.

Clause 14. Parties may appear by counsel or solicitor. Judge may adjourn proceedings.

Clause 15. Notices, how to be served on the Minister and Contractor respectively.

Clause 16. Judge to give a certificate of his decision, and what may be stated in certificate. Payment of money by one party to other, whether as damages or costs. What shall be done or be refrained from being done by either of them in respect of any matter relating to contract, or arising thereout, or the proceedings on the reference.

Clause 17. Copy of certificate to be filed in Supreme Court, at place where proceedings conducted.

Clause 18. Effect of certificate to be similar to judgment or decree of Supreme Court in its ordinary jurisdiction. Crown may proceed thereon as upon a debt due to Crown. Contractor to be entitled to have same satisfied as provided by "Crown Redress Act, 1871."

Clause 19. Costs to be paid as Judge shall, in his discretion, think fit to order, and shall be included in and form part of certificate.

Clause 20. Penalty for non-attendance as witness, or for neglect to obey order of Judge.

Clause 21. Procedure of Supreme Court to be applicable.

Clause 22. No appeal from Judge's decision, either to the Supreme Court, or Court of Appeal, or other tribunal; but every decision shall be final, &c., on parties.

APPENDIX B.

DEAR PRENDERGAST,—

Wellington, 13th August, 1872.

I send you two sections in draft, which I venture to suggest in lieu of sections 5, 6, and 7 of the proposed Contractors Arbitration Bill. I also suggest the following alteration:—

In section 4, lines 16 and 17, to omit the words "a settlement of such difference," and insert "arbitration." To omit the proviso at end of section 18. It appears to me that, as drawn, a contractor would have no remedy unless money had actually been voted; whilst, by omitting the proviso, he would be in the same position as an ordinary judgment creditor, entitled to ask for appropriation if none already existed.

The Hon. J. Prendergast.

Yours truly,

WM. THOS. LOCKE TRAVERS.

APPENDIX C.

If any dispute shall arise between either of the parties to any contract, as hereinbefore mentioned, upon any matter or thing which, according to the terms of such contract, ought to be or might be referred to arbitration as aforesaid, then either party desiring to proceed to a reference under this Act shall prepare a statement in writing, setting forth in a concise manner the nature and extent of the claim made by such party, and the propositions of fact which such party desires to submit to the arbitrator in support of such claim, and shall deliver a copy of such statement of claim and propositions of fact to the other party, and the other party may, within seven days after receipt of such statement, deliver to the party from whom the same shall have been received such propositions of fact as such other party desires to submit to the arbitrator, in opposition to such claim.

At any time after the expiration of ten days from the service in manner aforesaid of any statement of claim and propositions of fact in support thereof, the party desiring the reference shall cause a copy of such claim and of any propositions of fact in support thereof, or which shall have been delivered in opposition thereto, to be filed in the office of the Registrar of the Supreme Court, in the chief town of the province or county where, under the provisions of this Act, such reference may lawfully be had, and shall, as soon as conveniently may be after the filing thereof, apply to the Judge of the said Court to hear and determine the matter of such claim, and to fix a day, time, and place for proceeding in the matters so to be referred to him as aforesaid. Notice of the filing of such statement shall in all cases be given to the other of the said parties.

APPENDIX D.

5. If any dispute shall arise between either of the parties to any contract, as hereinbefore mentioned, upon any matter or thing which, according to the terms of such contract, ought to be or might be referred to arbitration as aforesaid, then either party desiring to proceed to arbitration under this Act shall prepare a statement in writing setting forth in a concise manner the nature and extent of the claim made by such party, and the propositions of fact and law which such party desires to submit to a Judge of the Supreme Court in support of such claim, and shall deliver a copy of such statement of claim and propositions to the other party; and the other party may, within fourteen days after receipt of such statement, deliver to the party from whom the same shall have been received such propositions of fact and law as such other party desires to submit to such Judge in opposition to such claim.

At any time within one month after the expiration of the said fourteen days the party desiring the reference shall cause a copy of such claim, and of any proposition of fact or law in support thereof, or which shall have been delivered in opposition thereto, to be filed in the office of the Registrar of the Supreme Court in the judicial district where, according to this Act, such reference may be had.

Provided that, if in such district there be more than one such office, then such copies shall be filed at the office of the Supreme Court in such district, at the town or place where the Judge assigned to such district usually resides.

6. The party desiring a reference shall give a reasonable notice to the other party of such filing, and of the time of the application hereinafter mentioned; and, as soon as conveniently may be after the filing of such copies as aforesaid, such first-mentioned party shall apply to the Judge assigned to the district to hear and determine the matter of such claim, and to fix a day, time, and place for proceeding in the matters so to be referred to him as aforesaid.

Notice of the time and place so fixed shall in all cases be given to the other of the said parties, unless such other party shall appear at the application for fixing the same.

APPENDIX E.

[*New Zealand Times*, 4th April, 1878.]

Messrs. BROGDEN'S Claims.

To the Editor of the *New Zealand Times*.

SIR,—

Mr. Henderson was in error in stating that I did not know of the existence of the Government Contractors Act until the year 1877. I knew of its existence, but had never read it until it became necessary for me to do so in connection with the claims of the Messrs. Brogden against the Government. It then appeared to me that the Government, and the Legislature by which the Act had been passed, had been guilty of a gross breach of faith towards the Messrs. Brogden, by introducing into the Act a set of provisions which materially modified the rights they had under their contracts. Messrs. Brogden were informed by the Government in office, when their contracts were entered into, that an Act would be requisite to give to the Judges of the Supreme Court authority to act as arbitrators under the contracts, and to provide for the course of procedure; but they assumed that the Government would act in good faith, and therefore did not watch the Act as it passed through the Assembly. The consequence of their reliance on the good faith of the Government has been that their rights under their contracts have been seriously interfered with.

I have, &c.,

Wellington, 3rd April.

WM. THOS. LOCKE TRAVERS.

The Hon. the PREMIER to His Excellency the GOVERNOR.

Memorandum for His Excellency.

SIR GEORGE GREY presents his respectful compliments to the Marquis of Normanby, and acknowledges the receipt of two despatches from the Secretary of State's Department, London, dated 7th February, and 18th March, 1878.

Sir George Grey transmits herewith a memorandum by the Attorney-General of New Zealand, which covers a copy of correspondence between the Attorney-General and the Solicitor-General respecting the questions raised by the despatches; and Sir George Grey requests that the Marquis of Normanby will be good enough to forward those documents to the Secretary of State.

Wellington, 14th June, 1878.

G. GREY.

MESSRS. BROGDEN'S CLAIMS OF 1881.

A limited number of these have been printed already, and bound in a volume lettered on the outside "Messrs. Brogden's Claims.—The Claims of 1881." They are not reprinted here, but copies for reference have been deposited in the General Assembly Library.

APPENDIX H.

PAPERS PRODUCED BEFORE THE COMMITTEE BY COUNSEL FOR
THE CROWN, AND NOT PRINTED IN THE PRECEDING APPEN-
DICES.SCHEDULE OF QUANTITIES AND PRICES PERTAINING TO MESSRS. BROGDEN'S
CONTRACTS, EXTRACTED FROM THE GOVERNMENT "CONTRACTORS' PRICE
BOOK."

AUCKLAND AND MERCER (41 miles 34 chains, and 2 miles of sidings).—J. BROGDEN AND SONS.

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
<i>Fencing.</i>					
Ordinary fencing	ch.	1,600	30/	£ 2,400 0 0	£ 4,000 0 0
Cattle-stops ... ..	...	40	£16	640 0 0	
Gates	pair	80	£12	960 0 0	
Contingencies ... ..	...	...	...	...	500 0 0
<i>Grading.</i>					
Cut to bank, earth	c. yd.	191,794			£ 4,500 0 0
" spoil "	"	10,000			
Side cut "	"	115,668			
		317,462	/10	13,227 11 8	
Loose rock—					
Cut to bank	"	27,977			
" spoil	"	538			
Side cut	"	5,557			
		34,072	2/	3,407 4 0	
Solid basalt	"	15,507			
Side cut	"	17,282			
		32,789	5/6	9,016 19 6	
Sandstone cut	"	13,345	1/9	1,167 13 9	
Haulage ... ..	...	202,652	1/1	10,476 19 8	
" ... ..	...	192,278	/2	1,602 6 4	
" ... ..	...	9,939	/11	455 10 9	
" ... ..	...	599	/7½	18 14 4	
<i>Stream Diversions.</i>					
Not to exceed, in earth	c. yd.	20,000	1/6	1,500 0 0	
" in rock	"	5,000	5/6	1,375 0 0	
Ditching, top and bottom of slopes	ch.	1,622	15/	1,216 10 0	
" specified	c. yd.	9,468	1/6	710 2 0	
Surface forming	ch.	844	£1	844 0 0	
Trimming and forming	"	3,257	10/	1,628 10 0	
Contingencies ... ..	...	...	...	5,830 18 0	
<i>Bushing.</i>					
Felling 3 chains wide	acre	99½	50/	248 15 0	
Clearing 1 chain wide	"	33½	£6	201 0 0	
Grubbing	ch.	379	£1	379 0 0	
Contingencies, 12½ per cent. ... ..	...	...	...	103 5 0	
<i>Road Diversions.</i>					
Making new road	ch.	248	£6	1,488 0 0	
"	"	9	£4	36 0 0	
Carried forward ... ..	...	...	...	54,934 0 0	4,500 0 0

AUCKLAND AND MERCER—continued.

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
				£ s. d.	£ s. d.
Brought forward	...	...	...	54,934 0 0	4,500 0 0
<i>Road Diversions—continued.</i>					
Level crossing, 1st class	...	22	87/5/	1,919 11 0	
" 2nd "	...	5	53/17/6	269 7 6	
" 3rd "	...	5	39/13/6	198 7 6	
Bridge at Clarkson's	...	1	...	50 0 0	
Contingencies	...	...	...	495 15 0	
					57,867 0 0
<i>Bridges and Culverts.</i>					
Excavation in foundations	c. yd.	13,384	3/	2,007 12 0	
Outfalls, not to exceed	"	16,000	1/6	1,200 0 0	
Timber	C b. m.	2,419	35/	4,233 5 0	
Piling	l. ft.	7,310	4/6	1,644 15 0	
Iron	lb.	28,099	/6	702 9 6	
Rubble in cement	c. yd.	8,428	35/	14,749 0 0	
Ashlar in "	c. ft.	91	2/6	11 7 6	
Coping	c. yd.	27	50/	67 10 0	
Brickwork in arches	"	585	£3	1,755 0 0	
Puddle	...	903	5/	225 15 0	
Punning	...	41,556	1/6	3,116 14 0	
Contingencies	...	...	...	3,714 12 0	
					33,427 0 0
<i>Permanent-way in New Zealand.</i>					
Ballast	c. yd.	1,467	3/6	256 14 6	
Laying	l. yd.	1,760	2/	176 0 0	
Sleepers	...	2,050	3/	307 10 0	
Cartage, 23 miles	ton	132	13/	85 16 0	
Waste and loss	...	...	...	20 0 0	
For 1 mile	...	...	...	846 0 6	
Contingencies	m. ch.	41 34	846/0/6	35,050 16 4	
				4,381 3 8	
					39,432 0 0
Sidings, earthwork, not to exceed	...	10,000	1/6	750 0 0	
Permanent-way in New Zealand	mile	2	846/0/6	1,692 1 0	
Contingencies	...	...	...	305 19 0	
					2,748 0 0
<i>Rolling-stock in New Zealand.</i>					
Locomotives	...	3	£150	450 0 0	
Wagon and carriage-stock	...	77	£25	1,925 0 0	
Landing weighbridges	...	3	30/	4 10 0	
Contingencies	...	...	...	297 10 0	
					2,677 0 0
Profits	...	...	...	...	140,651 0 0
Management	...	...	...	...	14,073 0 0
Total contract	...	...	...	...	166,724 0 0
					2,200 0 0
					168,924 0 0
Grading	...	...	...	52,187 2 0	
Contingencies, 12½ per cent.	...	...	...	6,522 18 0	
					58,710 0 0
Profit, 10 per cent.	...	...	...	5,218 0 0	
Management, 10 per cent.	...	...	...	5,218 0 0	
Maintenance, say 2½ per cent.	...	...	...	1,404 0 0	
					11,840 0 0
Bridges and Culverts	...	...	...	29,712 8 0	
Contingencies	...	...	...	3,714 12 0	
					33,427 0 0
Profit	...	...	...	2,971 0 0	
Management	...	...	...	2,971 0 0	
Maintenance	...	...	...	742 0 0	
					6,684 0 0
					40,111 0 0
Fencing	...	...	...	4,000 0 0	
Contingencies	...	...	...	500 0 0	
					4,500 0 0
Profit	...	...	...	400 0 0	
Management	...	...	...	400 0 0	
Maintenance	...	...	...	100 0 0	
					900
					5,400 0 0

AUCKLAND AND MERCER—continued.

Description.	Unit.	Quantity.	Rate.	Amount.		Total.	
				£	s. d.	£	s. d.
Permanent-way, New Zealand	36,732	17 4	41,337	0 0
Contingencies	4,594	2 8		
Profit	3,673	0 0	8,206	0 0
Management	3,673	0 0		
Maintenance	860	0 0		
						49,543	0 0
Rolling-stock, New Zealand	2,379	10 0	2,677	0 0
Contingencies	297	10 0		
Profit	237	0 0	653	0 0
Management	237	0 0		
Maintenance	179	0 0		
						3,320	0 0
Grand total	£168,924	0 0

MEMO.—The portions of these schedules printed in smaller type are entered in the "Contractor's Price Book" in lead pencil only.

NAPIER AND PAKIPAKI (16 miles 3 chains, and 1 mile of sidings).—J. BROGDEN AND SONS.

Description.	Unit.	Quantity.	Rate.	Amount.		Total.	
				£	s. d.	£	s. d.
<i>Fencing.</i>							
Single fencing ...	ch.	320	30/	480	0 0	1,114	0 0
Gates ...	pair	10	£11	110	0 0		
Cattle-stops ...	...	25	£16	400	0 0	
Contingencies, 12½ per cent. ...	...	...	...	124	0 0
<i>Grading.</i>							
Excavation—						5,767	0 0
Formation ...	c. yd.	67,566	1/	3,378	6 0		
Ditch in cuts ...	ch.	23	15/	17	5 0		
Forming line ...	"	306	£1	306	0 0		
Trimming, 16m. 3ch. ...	"	1,283	10/	641	10 0		
Contingencies, 12½ per cent. ...	...	...	...	542	19 0
Road diversions ...	ch.	55½	£4	222	0 0		
Level crossings, 1st class ...	...	4	£82	328	0 0	
" 2nd class ...	...	3	39/10/	118	10 0	
" 3rd class ...	...	3	38/6/	114	18 0	
Contingencies, 12½ per cent. ...	...	...	...	97	12 0
<i>Bridges and Culverts.</i>							
Timber ...	C b. m.	1,906½	£2	3,812	10 0	7,530	0 0
Piles ...	ft.	6,711	4/6	1,509	19 6		
Iron ...	lb.	37,254	/6	931	7 0		
Excavation in foundations ...	c. yd.	860	1/6	64	10 0		
Outfalls, not to exceed ...	"	5,000	1/6	375	0 0		
Contingencies, 12½ per cent. ...	...	...	...	836	13 6
<i>Permanent-way in New Zealand.</i>							
Ballast ...	c. yd.	1,467	2/	146	14 0	14,225	0 0
Sleepers ...	...	2,050	3/	307	10 0	
Laying ...	l. yd.	1,760	2/	176	0 0		
Cartage ...	...	132	5/6	36	6 0	
Waste and loss ...	...	...	...	20	0 0
				686	10 0		
Freight, &c., from Auckland to Napier	102	4 0	887	0 0
Contingencies, 12½ per cent. ...	...	...	...	98	6 0
For 1 mile	14,225	0 0
Carried forward ...	m. ch.	16 3	£887	28,636	0 0

NAPIER AND PAKIPAKI—*continued.*

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
Brought forward	...	...	...	£ s. d.	£ s. d.
<i>Sidings.</i>				...	28,636 0 0
Earthwork, not to exceed	c. yd.	5,000	1/6	375 0 0	
1 mile permanent-way in New Zealand	...	...	...	686 10 0	
Freight on ditto	...	...	...	102 4 0	
Contingencies, 12½ per cent.	...	...	...	145 6 0	1,309 0 0
<i>Rolling-stock in New Zealand.</i>					
2 locomotives landing in Auckland, freight to Napier, with lighterage and transport	...	2	£100	200 0 0	
Landing and erecting ditto	...	2	£100	200 0 0	
Freight of 8 carriage stock	...	96	...	...
Freight of 10 wagon stock	...	80	...	...
		176	£2	352 0 0	
Landing and erecting 18 carriages	...	18	£25	450 0 0	
Insurance on £2,000, 2 per cent.	...	...	...	120 0 0	
Contingencies, 12½ per cent.	...	...	...	165 0 0	1,487 0 0
Contractors' profits, 10 per cent.	...	...	...	...	3,143 0 0
Management	...	...	...	...	2,500 0 0
Total contract	...	...	...	...	£37,075 0 0

NAPIER AND PORT NAPIER (2 miles 10 chains).—J. BROGDEN AND SONS.

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
<i>Grading.</i>				£ s. d.	£ s. d.
Excavation, rock	c. yd.	37,626	2/6	4,703 5 0	
" earth	"	9,627	1/	481 7 0	
Pitching	s. yd.	8,368	3/6	1,464 8 0	
Ditching cuttings	ch.	14	15/	10 10 0	
Trimming and forming	"	170	10/	85 0 0	
Contingencies, 12½ per cent.	...	...	...	843 10 0	
<i>Road Diversions.</i>					
Forming new road	ch.	7½	£4	30 0 0	
Contingencies	...	...	...	4 0 0	7,622 0 0
<i>Bridges and Culverts.</i>					
Timber	£ b. m.	766	£2	1,532 0 0	
Piling, jarrah	l. ft.	2,412	7/	844 7 0	
" others	"	342	4/6	76 19 0	
Iron	lb.	7,715	/6	192 17 6	
Contingencies	...	...	...	330 16 6	2,977 0 0
<i>Permanent-way in New Zealand.</i>					
Ballast, &c.	m. ch.	2 10	£887	...	1,885 0 0
Contractors' profits	...	...	...	...	1,248 0 0
Total contract	...	...	...	...	13,732 0 0
Add Contract Napier to Pakipaki	...	...	...	...	37,075 0 0
Total Port to Pakipaki	...	...	...	...	£50,807 0 0

WELLINGTON AND HUTT CONTRACT (8 miles, and ½ mile sidings).—J. BROGDEN AND SONS.

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
<i>Fencing.</i>				£ s. d.	£ s. d.
Post and rails	ch.	480	30/	720 0 0	
Cattle-guards	...	30	£16	480 0 0	
Slip panels with gravel baulks, 15 x 6 x 4	...	8	70/	28 0 0	
Contingencies	...	...	...	173 0 0	1,381 0 0
Carried forward	...	...	...	...	1,381 0 0

WELLINGTON AND HUTT—continued.

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
				£ s. d.	£ s. d.
Brought forward	...	...	...	...	1,381 0 0
<i>Grading.</i>					
Excavation—					
Rock	c. yd.	2,331	2/6	291 7 6	
Earth	"	13,617	/9	510 12 9	
Side cut	"	42,744	/9	1,602 18 0	
Haulage, 56ft.	"	12,035	/2½	112 16 8	
" 327ft.	"	44,717	/6½	1,211 1 8	
" rock, 213ft.	"	2,340	/8½	82 17 6	
Pitching—					
2ft. square concrete blocks, 6in. thick, or approved stone 1ft. thick	...	6,000	5/	1,500 0 0	
Ditto, parapet walls in cement, rubble, or concrete	c. yd.	225	30/	337 10 0	
Ditto, of stone 6in. thick	s. yd.	14,355	3/6	2,512 2 6	
Ditching in cuts	ch.	415	5/	103 15 0	
Trimming and forming	"	640	10/	320 0 0	
Breast-walls	s. yd.	2,550	3/	382 10 0	
Wall set in concrete	"	256	10/	128 0 0	
Contingencies	...	...	...	1,136 8 5	
<i>Bushing.</i>					
Felling	acre	3¼	50/	8 2 6	
Clearing	"	1¼	£6	7 10 0	
Grubbing	ch.	12¼	£1	12 5 0	
Contingencies	...	...	...	3 2 6	
<i>Road Diversions.</i>					
Earthwork and metalling	ch.	11½	£4	46 0 0	
Level crossings, 1st class	...	2	87/5/	174 10 0	
" 2nd "	...	4	21/17/6	87 10 0	
" 3rd "	...	4	7/13/6	30 14 0	
Contingencies	...	...	...	42 6 0	
					10,644 0 0
<i>Bridges and Culverts.</i>					
Excavations in foundations	c. yd.	1,150	3/	172 10 0	
Outfalls, not to exceed	"	2,000	1/6	150 0 0	
Timber	¢ b. m.	625	35/	1,093 15 0	
Piling	l. ft.	1,067	4/6	240 1 6	
Iron	lb.	5,517	/6	137 18 6	
Masonry in cement	c. yd.	774	35/	1,354 10 0	
Punring	...	3,119	1/6	233 18 6	
Contingencies	...	...	...	422 6 6	
					3,805 0 0
<i>Permanent-way in New Zealand.</i>					
Ballast	c. yd.	1,467	2/	146 14 0	
Sleepers	...	2,050	3/	307 10 0	
Laying	yd.	1,760	2/	176 0 0	
Cartage	ton	132	4/6	29 14 0	
Waste and loss	...	...	...	20 2 0	
Contingencies	...	...	...	85 0 0	
For 1 mile	...	...	...	765 0 0	
	mile	8	£765	...	6,120 0 0
<i>Sidings.</i>					
Excavation, not to exceed	c. yd.	3,000	1/6	225 0 0	
Permanent-way	mile	½	...	340 0 0	
Contingencies	...	...	...	71 0 0	
					636 0 0
<i>Rolling-stock in New Zealand.</i>					
Landing, carting, and erecting locomotives	...	2	£150	300 0 0	
Carriages, 1st, 2nd, and 3rd class, and wagon stock	...	21	£25	525 0 0	
Contingencies	...	...	...	103 0 0	
					928 0 0
Contractors' profits	...	...	...	...	2,352 0 0
Floods	...	...	...	...	1,250 0 0
Management	...	...	...	...	1,500 0 0
Total contract	...	...	...	...	£28,616 0 0
Maintenance (5 per cent.)	...	...	...	...	400 0 0
					£29,016 0 0

PICTON AND BLENHEIM (17 miles 10 chains, and 1 mile of sidings).—J. BROGDEN AND SONS.

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
<i>Fencing.</i>					
Fencing line	ch.	383	25/	£ 478 15 0	£ s. d.
Cattle-guard fencing	"	18	25/	22 10 0	
Cattle-guards	"	34	13/12/	462 8 0	
Contingencies ... ..	"	...	...	120 7 0	
					1,084 0 0
<i>Grading.</i>					
Earthwork—					
Haulage—					
Average, 189 — 33 = 156ft. ... ..	...	275,944	/4	7,174 10 10	
Earth, shingled clay	c. yd.	130,865	/9	4,907 8 9	
Loose rock	"	3,615	2/3	404 12 0	
Solid rock	"	59,798	4/3	12,706 11 10	
Earth amongst roots	"	58,027	1/	2,901 7 0	
" flax (wet)	"	23,639	1/	1,181 19 0	
Ditching	ch.	797	5/	199 5 0	
"	"	24	22/	26 8 0	
Stream diversions	"	15	30/	22 10 0	
Forming line	"	115	£1	115 0 0	
Retaining walls	"	28	32/	44 16 0	
Contingencies, 12½ per cent. ... ..	...	...	...	3,710 11 7	
					33,394 0 0
<i>Bushing.</i>					
Felling	acre	70	£2	140 0 0	
" and clearing	"	35	£4	140 0 0	
Clearing	"	15	£2	30 0 0	
Grubbing	ch.	500	10/	250 0 0	
Contingencies, 12½ per cent. ... ..	...	...	...	70 0 0	
					630 0 0
<i>Road Diversions.</i>					
Level crossings, 2nd class ... ..	...	10	12/15/	127 10 0	
" 3rd class ... ..	...	9	6/6/	56 14 0	
Forming	ch.	10	22/	11 0 0	
Metalling	"	36	£4	144 0 0	
Road diversion, Blind Creek	"	240	2/3	27 0 0	
Pathway to school ... ..	...	...	...	15 0 0	
Contingencies, 12½ per cent. ... ..	...	...	...	47 16 0	
					429 0 0
<i>Bridges and Culverts.</i>					
Excavation—foundations, outfalls, &c.	c. yd.	20,455	1/6	1,534 2 6	
Timber	¢ b. m.	6799-39	25/	8,499 4 9	
Piling	l. ft.	5,003	4/6	1,125 13 6	
" extra	"	10	£26	260 0 0	
Iron	lb.	43,305	/5	902 3 9	
Masonry	c. ft.	113	32/	180 16 0	
Increased price and quality of iron ... ..	...	...	...	322 16 9	
Contingencies ... ..	...	...	...	1,603 1 9	
					14,428 0 0
<i>Permanent-way in New Zealand.</i>					
Ballast	c. yd.	570	3/6	99 15 0	
Sleepers ... ..	...	2,050	1/1	111 1 0	
" adzing ... ..	...	2,050	/3	25 12 6	
Rail-laying	l. yd.	1,760	2/	176 0 0	
Conveyance of material	ton	152	5/3	39 18 0	
Waste and loss ... ..	...	...	...	15 0 0	
Contingencies, 12½ per cent. ... ..	...	...	...	58 13 4	
For 1 mile ... ..	...	...	...	527 0 0	
Sidings	mile	17m 10ch	£527	...	9,025 0 0
Management ... ..	...	1	£527	...	527 0 0
Floods ... ..	...	...	...	...	6,877 0 0
Profits ... ..	...	...	...	...	2,000 0 0
					7,141 0 0
					£75,534 0 0
Maintenance ... ..	...	...	...	...	1,000 0 0
					76,534 0 0
Authorized additions ... ..	...	...	...	3,200 13 10	
Contingencies, 12½ per cent. ... ..	...	...	...	399 6 2	
					3,600 0 0
Profit, 10 per cent. ... ..	...	...	...	360 0 0	
					3,960 0 0
					£80,494 0 0

DUNEDIN AND CLUTHA—TAIERI CONTRACT—*continued.*

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
				£ s. d.	£ s. d.
Brought forward ...	...	...	...	21,648 15 0	65,330 0 0
<i>Culverts and Drains—continued.</i>					
Pitching, 9in. thick ...	c. yd.	545	4/	109 0 0	
Plastering ...	s. yd.	310	2/	31 0 0	
Timber in large culverts ...	£	318·00	30/	477 0 0	
Box-drains in timber ...	...	300	10/	150 0 0	
Tile drains, 12in. ...	l. yd.	300	10/	150 0 0	
" 9in. ...	"	300	7/	105 0 0	
" 6in. ...	"	300	4/	60 0 0	
Punning not to exceed ...	c. yd.	10,000	1/	500 0 0	
Contingencies ...	...	...	...	581 5 0	23,812 0 0
<i>Permanent-way in New Zealand.</i>					
Ballast ...	c. yd.	1,467	3/3	238 7 9	
Sleepers, including adzing ...	...	2,050	3/	307 10 0	
Laying sleepers ...	l. yd.	1,760	2/	176 0 0	
Haulage of materials ...	ton	132	10/	66 0 0	
Waste and loss ...	...	...	...	20 0 0	
Total for one mile ...	...	...	...	807 17 9	
34m. 55ch. at £807 17s. 9d. ...	...	...	...	28,023 11 11	
Contingencies ...	...	...	...	3,503 8 1	
<i>Sidings.</i>					
Earthwork ...	c. yd.	10,000	1/6	750 0 0	
Permanent way in New Zealand ...	mile	2	807/17/9	1,615 15 6	
Contingencies ...	...	...	...	295 4 6	34,188 0 0
Contractors' profits ...	...	...	...	10,591 0 0	123,330 0 0
Management ...	...	...	...	8,079 0 0	18,670 0 0
Total of contract ...	...	...	...	...	142,000 0 0
Maintenance ...	...	...	...	...	1,835 0 0
					£143,835 0 0

INVERCARGILL AND MATAURA (39 miles 56 chains, and 3 miles of sidings).—J. BROGDEN AND SONS.

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
				£ s. d.	£ s. d.
<i>Fencing.</i>					
20 miles on one side ...	ch.	1,600	25/	2,000 0 0	
Cattle-stops ...	...	40	£16	640 0 0	
Gates ...	pair	40	£11	440 0 0	
Contingencies ...	...	...	...	385 0 0	3,465 0 0
<i>Grading.</i>					
Earthwork,—					
Big cut, lead 45ch. ...	c. yd.	95,000	1/8	7,916 13 4	
Wagons ...	...	30	£25	750 0 0	
Rails ...	ton	35	£8	280 0 0	
Sleepers ...	...	...	...	175 0 0	
Laying temporary way ...	...	...	...	131 0 0	
Other cuttings ...	c. yd.	135,438	1/3	8,464 17 6	
Stream diversions ...	"	10,000	1/3	625 0 0	
Ditches in cuts ...	"	12,540	/9	470 5 0	
" in top of slopes ...	"	6,270	/7	182 17 6	
Swamp ditches ...	"	300	2/	30 0 0	
Sidings ...	mile	3	...	440 0 0	
Forming line ...	ch.	3,176	7/6	1,191 0 0	
Contingencies, 12½ per cent. ...	...	...	...	2,582 6 8	23,239 0 0
Carried forward ...	...	...	...	...	26,704 0 0

INVERCARGILL AND MATAURA—continued.

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
Brought forward	...	...	...	£ s. d.	£ s. d.
<i>Bushing.</i>				...	26,704 0 0
Felling ...	acre	31 $\frac{1}{3}$	45/	70 17 6	
Clearing ...	"	31 $\frac{1}{3}$	£5	157 10 0	
Grubbing ...	ch.	104	£1	104 0 0	
Contingencies ...	...	...	...	41 12 6	
					374 0 0
<i>Road Diversions.</i>					
Excavation ...	c. yd.	1,000	/9	37 10 0	
Making new road ...	ch.	25	£6	150 0 0	
Level crossings—					
1st class ...	...	4	£37/5	350 0 0	
2nd „ (£192 for cattle-guards) ...	...	6	53/17/6	323 5 0	
3rd „ „ „	...	6	39/13/6	238 1 0	
Contingencies ...	...	...	...	137 4 0	
					1,236 0 0
<i>Bridges and Culverts.</i>					
Excavation ...	c. yd.	1,643	1/6	123 4 6	
Outfalls ...	"	1,811	1/	90 11 0	
Stanks at Mataura ...	...	...	...	275 0 0	
Timber, B.M. ...	C b. m.	1,364	30/	2,046 0 0	
Piling ...	l. ft.	1,510	3/6	264 5 0	
Iron ...	lb.	23,400	/6	585 0 0	
Masonry ...	c. yd.	946	40/	1,892 0 0	
Coping ...	l. ft.	150	1/6	9 15 0	
Puddle ...	c. yd.	30	6/	9 0 0	
Loading culverts ...	"	2,330	/9	87 7 6	
Contingencies ...	...	...	...	672 18 0	
					6,055 0 0
<i>Permanent-way in New Zealand.</i>					
Ballast ...	c. yd.	64,050	2/	6,405 0 0	
Laying ...	...	75,152	1/3	4,697 0 0	
Boxing ...	...	75,152	/9	2,818 4 0	
Sleepers ...	...	87,535	3/	13,130 5 0	
Cartage ...	...	5,240	10/	2,620 0 0	
Loss ...	...	...	...	510 0 0	
Contingencies ...	...	...	...	3,772 11 0	
					*33,953 0 0
<i>Rolling-stock in New Zealand.</i>					
Erecting locomotives ...	...	3	£75	225 0 0	
Carriage stock ...	...	12	£25	300 0 0	
Wagons ...	...	24	£10	240 0 0	
Contingencies ...	...	...	...	96 0 0	
					861 0 0
Management ...	...	...	...	...	8,000 0 0
					77,183 0 0
Contractors' profits, 10 per cent. Arrangement ...	...	...	...	...	7,718 0 0
					1,796 0 0
					86,697 0 0
Total of contract	...	...	...	...	2,135 0 0
Maintenance (say) ...	...	...	...	...	£88,832 0 0

* Of this sum £2,385 is for sidings, and £31,568 for main line: total, £33,953.

WAITARA AND NEW PLYMOUTH CONTRACT (11 miles 13 chains 6 links, and $\frac{1}{2}$ mile of sidings).—J. BROGDEN AND SONS.

Dated, 19th July, 1873. Time of Completion, 1st April, 1875.

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
<i>Grading.</i>					
Cutting to banks	c. yd.	58,832	10/	£ 2,451 6 8	£ s. d.
" spoil	"	8,970	10/	373 15 0	
Side cutting	"	38,352	10/	1,598 0 0	
Loose rock to bank	"	948	3/	142 4 0	
Haulage, average 400ft.	"	108,511	6/	2,712 15 6	
Solid rock	"	1,309	5/	327 5 0	
Ditching, not to exceed	"	2,000	1/3	125 0 0	
Catchwater drains above slopes	"	495	6/	148 10 0	
" in cutting	"	495	25/	297 0 0	
Forming line	ch.	103	25/	128 15 0	
Trimming line	"	871	8/6	370 3 6	
Retaining walls, in cement	c. yd.	316	35/	553 0 0	
Pitching, dry stone	sq. yd.	327	5/6	89 18 6	
" backing	c. yd.	60	15/	45 0 0	
Felling, 3ch. wide	acre	11.6	45/	26 2 0	
Clearing, 1ch. wide	"	4.5	£5	22 10 0	
Grubbing	ch.	46	15/	34 10 0	
Clearing furze and fern	mile	4	£10	40 0 0	
Level crossings—					
1st class, exclusive of cattle-stops and drain-pipes	No.	1	£80	80 0 0	
2nd class ditto	"	12	£60	720 0 0	
3rd class ditto	"	4	£40	160 0 0	
Private ditto, and sign-posts	"	22	£17	374 0 0	
Stream diversions—					
Earthwork, not to exceed	c. yd.	2,161	1/3	135 1 3	
Road diversions and approaches to crossings, not to exceed					
Forming ditto	ch.	20	...	20 0 0	
Metalling	c. yd.	440	12/	264 0 0	
					12,063 16 5
<i>Bridges and Culverts.</i>					
Excavation of foundations	c. yd.	640	1/6	48 0 0	
" rock	"	160	2/6	20 0 0	
Inlets and outfalls, not to exceed	"	1,000	1/3	62 10 0	
Timber	£ b. m.	2242.87	37/6	4,205 7 7	
Piling	l. ft.	5,332	5/	1,333 0 0	
Ironwork in bolts, &c.	lb.	44,863	8/	1,495 8 8	
Rubble masonry, in cement	c. yd.	171	35/	299 5 0	
Punning soil	c. ft.	2,760	1/	138 0 0	
Glazed tile drains—					
12in.	l. yd.	137	18/	123 6 0	
9in.	"	132	12/	79 4 0	
6in.	"	156	8/	62 8 0	
					7,866 9 3
<i>Fencing.</i>					
Post and rails	ch.	1,160	27/6	1,595 0 0	
Cattle-stops	No.	5	£16	80 0 0	
Gates and turnstile, not to exceed	"	1	£11	11 0 0	
Turnstiles	"	2	30/	3 0 0	
Slip-panels	"	42	10/	21 0 0	
					1,710 0 0
<i>Permanent-way, per mile.</i>					
Ballast	c. yd.	1,467	4/	293 8 0	
Plate-laying	l. yd.	1,760	2/	176 0 0	
Sleepers	No.	2,020	3/6	358 15 0	
Cartage of material	ton	132	4/6	29 14 0	
Waste and loss ... ..	"	...	...	20 0 0	
For 1 mile					877 17 0
Total for 11m. 13.06ch.					10,237 18 6
Sidings, not to exceed 40ch.	c. yd.	1,000	1/6	75 0 0	
Carried forward					10,312 18 6
					21,640 5 8

WAITARA AND NEW PLYMOUTH—continued.

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
Brought forward ...	...	...	...	£ s. d. 10,312 18 6	£ s. d. 21,640 5 8
<i>Permanent-way—continued.</i>					
Freight, landing, &c., on material from Wellington to New Plymouth—					
Freight, per mile ...	ton	70	£2	} 1,841 16 0	12,154 14 6
Insurance, 2½ per cent. ...	...	...	...
<i>Rolling-stock.</i>					
Freight—					
Locomotives ...	...	2	£100	} 587 10 0	
Carriages and wagons ...	...	12	£25		
Insurance, 2½ per cent. ...	...	...	...
Landing and erecting ditto ...	...	...	...	420 0 0	
Risk of floods, and cofferdams ...	...	...	...	500 0 0	
Wharf at Waitara ...	...	...	...	500 0 0	
					2,007 10 0
Management, 5 per cent. ...	...	...	...	...	35,802 10 2
Profit, 10 per cent. ...	...	...	...	...	1,790 2 6
					3,580 5 0
(Contract £41,000) ...	...	...	...	...	£41,172 17 8
Maintenance ...	...	...	...	...	35,802 10 2
Management and profit ...	...	...	...	...	550 0 0
					4,647 9 10
					£41,000 0 0

£29 10s., cost of shed over engines at Waitara, to be deducted from contract.—P.W. 74-3715.

AUCKLAND STATION-GROUND.—J. BROGDEN AND SONS.

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
Earthwork—				£ s. d.	£ s. d.
Filling in station-ground to foot of grade, at 1m. 46'60ch., from side-cutting, including outer bank to Parnell Point ...	c. yd.	105,000	1/9	9,187 10 0	
Dry stonework—					
Pitching on sea-slope of outer bank ...	"	11,120	9/	5,004 0 0	
Settling above on face ...	s. yd.	11,426	4/	2,285 4 0	
Puddle—					
On sea-slope of outer bank ...	c. yd.	6,314	3/6	1,104 19 0	
Retaining-wall, Fort Britomart—					
Excavation at bottom ...	"	217	2/	21 14 0	
Refilling excavation ...	"	2,077	1/3	129 16 3	
Dry stone (on ground) ...	"	250	5/	62 10 0	
" (to be delivered) ...	"	670	12/	402 0 0	
Masonry—					
Parapet wall (in lime) ...	"	121	32/6	196 12 6	
Road metal—					
Broken, 9in. thick ...	"	1,203	9/	541 7 0	
Scoria, 6in. thick ...	"	802	3/6	140 7 0	
Ballast ...	"	3,672	3/	550 16 0	
					19,626 15 9
Plate-laying (measuring to points) ...	l. yd.	2,985	2/2	323 7 6	
Points and crossings, including sleepers ...	set	20	£10	200 0 0	
12-inch glazed tile-drain ...	l. yd.	200	10/6	105 0 0	
Protection to foot of bank in Mechanics' Bay (any extra length to be paid in proportion) ...	l. ft.	1,000	£20 p. ch.	303 0 7	
Sleepers ...	...	3,485	3/	522 15 0	
Haulage of material, 1¼ miles ...	ton	225	3/	33 15 0	
					1,487 18 1
Management and contingencies ...	...	...	...	...	21,114 13 10
Profits ...	...	...	...	...	1,582 0 0
					2,112 6 2
Total ...	...	...	...	...	£24,809 0 0

PROGRESS ABSTRACTS OF ADDITIONS TO AND REDUCTIONS FROM THE CONTRACT PRICE FOR THE INVERCARGILL TO MATAURA RAILWAY.

INVERCARGILL AND MATAURA RAILWAY.
ABSTRACTS OF AUTHORIZED ALTERATIONS.

Reductions from Contract.	Additions to Contract.						
Work, &c.	Position	Work.	Item.	Quantity.	Rate.	Amount.	Total.
Reductions will be made before completion of contract; at present cannot state the precise quantities	M. ch. 0 22 to 18 48	<i>February, 1873.</i>				£ s. d.	£ s. d.
	}	Culverts	b.m.	16,685	30/	250 5 6	
(Drains and culverts re- quired by landowners, and agreed to on making purchase.)						£250 5 6	

(Certified copy.)

Correct.—W. BRUNTON, Resident Engineer.
C. WALKDEN, Contractors' Agent.*April, 1873.*

From 0 17 to 18 48	}	Brought forward ... ..	...	...	...	...	250 5 6
		Box drains	b.m.	1,677	30/	25 3 1	25 3 1
							£275 8 7

(Certified copy.)

Correct.—W. BRUNTON, Resident Engineer.
C. WALKDEN, Contractors' Agent.*July, 1873.*

Reductions will be made before completion of contract; at present cannot state the precise quantities	1 4 to 1 44	}	Brought forward ... ..	...	...	...	275 8 7
			Box drains	b.m.	712	30/	10 13 2	10 13 2
							£286 1 9

(Certified copy.)

Correct.—W. E. BRUNTON, Resident Engineer.
ALEX. ARMSTRONG, Contractors' Agent.

4th August, 1873.—W. BRUNTON, District Engineer.

August, 1873.

Reductions will be made before completion of contract; at present cannot state the precise quantities	37 0 to 38 50 2 0 to 8 0	}	Brought forward ... ..	...	...	...	286 1 9
			Culvert	b.m.	1,500	23/	17 5 0
			Felt, 18 bolts	No.	18	25/	22 10 0
			Ballast wagons	"	20	£33	660 0 0*
							699 15 0
							£985 16 9

* (£660 deducted in abstract for April, 1874.)

(Certified copy.)

Correct.—W. E. BRUNTON, Resident Engineer.
ALEX. ARMSTRONG, Contractors' Agent.W. BRUNTON, District Engineer.
21—I. 7A.

INVERCARGILL ABSTRACTS OF AUTHORIZED ALTERATIONS—*continued.*
 September, October, November, and December, 1873, and January, 1874.

Reductions from Contract.		Additions to Contract.							
Work, &c.		Position.	Work.	Item.	Quantity.	Rate.	Amount.	Total.	
Position	31 35 Matai and totara, deducted for birch used	11 11	M. ch.	Brought forward ...	...	..	£ s. d.	£ s. d.	
			31 35	Foundations ...	c. y.	170	4/	34 0 0	985 16 9
Work.	31 35 Matai and totara, deducted for birch used	11 11	20 40	Felling and clearing bush for extra slopes in big cutting ...	...	...	...	...
			31 35	Birch ...	acre	2	130/	13 0 0	...
Item.	31 35 Matai and totara, deducted for birch used	11 11	9 0	Chipping fish-bolt holes in rails ...	day	4	15/	3 0 0	...
			25 31	Extra culverts ...	b.m.	5,000	30/	75 0 0	...
Quantity.	31 35 Matai and totara, deducted for birch used	11 11	31 35	„ ironwork ...	lb.	109	/7	3 3 7	...
			31 35	„ „ ...	...	200	/7	5 16 8	...
Rate.	31 35 Matai and totara, deducted for birch used	11 11	31 35	Cast-iron washers ...	No.	36	/6	0 18 0	...
			31 35	Pattern for „ ...	...	...	...	0 5 6	...
Total for Month.	31 35 Matai and totara, deducted for birch used	11 11	4 13	} Spiking sleepers to beams--	...	...	...	...
			5 4						Spikes ...	lb.	66	/7	1 18 6	...
Work.	31 35 Matai and totara, deducted for birch used	11 11	9 7	Carpenter ...	day	2	14/	1 8 0	...
			9 39	Extra timber ...	b.m.	68	50/	1 14 0	...
Quantity.	31 35 Matai and totara, deducted for birch used	11 11	31 35	„ labour ...	...	...	...	7 0 0	...
			31 35	Laying siding at Invercargill Railway - station (1 man) ...	day	105 ⁵ / ₈	9/	47 11 9	...
Rate.	31 35 Matai and totara, deducted for birch used	11 11	31 35	Points and crossings ...	set	1	£12	12 0 0	...
			31 35	Erecting platform—Carpenter ...	days	30	13/	19 10 0	...
Total for Month.	31 35 Matai and totara, deducted for birch used	11 11	31 35	Timber ...	b.m.	30-00	11/	16 10 0	...
			31 35	Nails ...	lb.	88	/7	2 11 4	...
Work.	31 35 Matai and totara, deducted for birch used	11 11	31 35	Points and crossings ...	sets	1	£12	12 0 0	...
							£1,277 14 1		

The abstracts of authorized alterations for the months of September, October, November, and December, 1873, have been cancelled in consequence of the contractors' agent not giving prices. He is now authorized to do so.—W. E. BRUNTON, Resident Engineer.

* (£110 3s. 1d. deducted in abstract for April, 1874.)

(Original.)

Correct.—W. E. BRUNTON, Resident Engineer.

ALEX. ARMSTRONG, Agent for John Brogden and Sons.

February, 1874.

Position	Brought forward	11 11	25 32	Brought forward ...	...	...	...	1,277 18 8	
			28 10	Extra culverts and box drains ...	b.m.	4,461	30/	66 18 4	...
Work.	Brought forward	11 11	25 32	Felt clips ...	No.	3,600	2/ per	3 12 0	...
			28 10	Cutting and fixing felt clips ...	No.	34,200	60/	102 12 0	...
Quantity.	Brought forward	11 11	25 32	} Temporary platform at Woodlands ...	b.m.	826	11/	4 10 10	...
			28 10							Carpenter's time ...	d. h.	15 2	14/	10 13 6	...
Rate.	Brought forward	11 11	25 32	Labourers ...	„	3 6	10/	1 17 6	...
			28 10	Nails ...	lb.	33	/6	0 16 6	...
Total for Month.	Brought forward	11 11	25 32	Lock and hinges for shed door ...	set	1	...	0 8 0	...
			28 10	Extra labour in bracing ...	...	...	...	5 0 0	...
Work.	Brought forward	11 11	25 32	} Extra price paid Contractors for matai, in consequence of cancelling order birch ...	b.m.	6,000	5/	15 0 0	...
			28 15						
							216 5 2		
							1,494 3 10		

* (£18 6s. 4d. deducted in abstract for April, 1874.)

(Certified copy.)

Correct.—W. E. BRUNTON, Resident Engineer.

ALEX. ARMSTRONG, Contractors' Agent.

4th March, 1874.—W. BRUNTON, District Engineer.

INVERCARGILL ABSTRACTS OF AUTHORIZED ALTERATIONS—*continued.*
March, 1874.

Reductions from Contract.		Additions to Contract.							
Work, &c.	Position	Work.	Item.	Quantity.	Rate.	Amount.	Total.		
Brought forward ... £20 14s.	M. ch.	Brought forward ...	...	...	...	£ s. d.	1,486 2 9
	0 16	}	Piling ...	l.ft.	78	3/6	13 13 0	}	
			Timber ...	b.m.	4,212	45/	94 15 5		
			Ironwork ...	lb.	516	/7	15 1 0		
	0 0	}	Earthwork ...	c.yd.	638	2/6	79 15 0		
			Platelaying ...	l.yd.	441	3/3	71 13 3		
	0 22	}	Sleepers ...	No.	503	3/	75 9 0		
			Ballast ...	l.yd.	320	2/	32 0 0		
	12 10 to 12 50	}	Cutting and fixing felt clips ...	No.	1,620	60/	4 17 2		
			Varnishing and painting carriages ...	No.	5	...	9 10 0		
	Station yard, Invercargill	}	Reclaiming land for sidings, &c. ...	c.yd.	1,700	2/	170 0 0		
			Haulage of same ...	day	11	63/	34 13 0		
							601 16 10		†
							2,087 9 7		

* (£258 17s. 3d. + † £204 13s.; total, £463 10s. 3d., deducted in abstract for April, 1874.)

NOTE.—As per telegram from Assistant Engineer-in-Chief, dated 16th March ultimo, the amount £7 16s. 6d. has been deducted from the total for February.

(Certified copy.)

Correct.—W. E. BRUNTON, Resident Engineer.

ALEX. ARMSTRONG, Agent for John Brogden and Sons.

April, 1874.

Brought forward ... £20 14s.	Station-yard, Invercargill	Brought forward ...	...	...	...	...	2,087 9 7	
		33 10 to 35 18 sidings	}	Timber ...	b.m.	3,851	30/	57 15 4
				Excavations ...	yd.	59	2/	5 18 0
				Sleepers ...	No.	81	3/	12 3 0
		0 0	}	Platelaying ...	l.yd.	70	3/3	11 7 6
				Cartage ...	day	6	10/	3 0 0
		12 50 to 14 0	}	Cutting and fixing felt clips ...	No.	4,500	60/	13 10 0
				Fixing points and crossings	„	1	£12	12 0 0
		11 11	}	Carriage and engine-shed	b.m.	2,858	15/	21 8 8
				Galvanised iron	„	11,929	11/	65 12 2
				Screws	cwt.	45 3/6	£38	86 19 6
				Lead washers	lb.	201	/8	6 14 0
				Zinc ridging	„	80	/10	3 6 8
				Freight	ft.	144	/8	4 16 0
				Carpenter	...	...	...	1 19 6
				Labourer	day	151	14/	105 4 0
				Baltic timber in windows	...	24	10/	12 0 0
				Labour in windows	ft.	794	/5	16 10 10
				Masonry	...	...	...	27 16 0
		11 11	}	Points and crossings	c.yd.	35 1/2	43/	76 6 6
				Points and crossings temporary	set	4	27/10/	110 0 0
		11 11	}	Earthwork	„	1	£9	9 0 0
Earthwork	c.yd.			634	1/9	55 9 6		
						718 17 2	†	
						2,806 6 9		
*Deducted and carried to separate account ...						32 8 6		
†Ditto ...						12 0 0		
‡Ditto ...						603 3 4		
Carried forward ...						647 11 10	2,806 6 9	

INVERCARGILL ABSTRACTS OF AUTHORIZED ALTERATIONS—*continued.*
April, 1874—continued.

Reductions from Contract.		Additions to Contract.					
Work, &c.	Position	Work.	Item.	Quantity.	Rate.	Amount.	Total.
Brought forward, £20 14s.		Brought forward ...	...	...	...	£ 647 11 10	£ 2,806 6 9
		Deducted and carried to separate account, see abstract for August, 1873	...	...	...	660 0 0	
		Do., do., September, 1873, to January, 1884	...	...	...	110 3 1	
		Do., do., February, 1874	...	...	...	18 6 4	
		Do., do., March, 1874	...	...	...	463 10 3	
		Total	...	...	...		1,899 11 6
		New total carried forward	...	...	...	...	<u>£906 15 3</u>

(Original.)

Correct.—W. E. BRUNTON, Resident Engineer.
 ALEX. ARMSTRONG, Contractors' Agent.

May, 1874.

Brought forward ... £20 14s.		Brought forward ...	...	...	...	...	906 15 3
	14 0	} Cutting and fixing felt clips	...	No.	7,000	60/	21 0 0	
	to 16 30		...	...	...	...	...
	5 40	} Culverts	...	b.m.	380	30/	5 14 0	
			
		} Fencing and wickets at Clyde Street Crossing	Hinges for wickets	lb.	34	/10	1 8 4	
	0 30		Bolts	...	5	/7	0 2 11	
			Wire and staples	0 12 2
			Carpenter	...	day	14 ³ / ₄	14/	10 3 0
	38 15		Labourer	...	3	10/	1 10 0	
	38 15		Timber	...	b.m.	165	30/	2 9 6
	1 4		Ironwork	...	lb.	80	/7	2 6 8
	to 11 11	} Fencing	ch.	7	25/	8 15 0
	
		Rolling-stock—					57 1 7	
		Wagons	...	No.	20	£33	<u>£963 16 10</u>	
							<u>£660 0 0</u>	

(Original.)

Correct.—W. E. BRUNTON, Resident Engineer.
 ALEX. ARMSTRONG, Contractors' Agent.

June, 1874.

Brought forward ... £20 14s.		Brought forward ...	...	...	...	...	963 16 10
	16 30	} Cutting and fixing felt clips	...	No.	6,500	60/	19 10 0	
	to 18 40		...	...	...	...	...
	38 64	} Culverts	...	b.m.	1,586	30/	23 15 9	
	to 39 42		...	...	...	...	...
	0 0	} Level crossings without cattle-stops	...	No.	19	7/13/6	145 16 6	
	to 12 0		...	...	...	...	...
			Rolling-stock—					189 2 3
			Wagons	...	No.	20	£33	<u>£ 1,152 19 1</u>
			Turning and fitting glands for small engine	660 0 0
							1 16 0	
							<u>£661 16 0</u>	

(Original.)

Correct.—W. E. BRUNTON, Resident Engineer.
 ALEX. ARMSTRONG, Contractors' Agent.

INVERCARGILL ABSTRACTS OF AUTHORIZED ALTERATIONS—*continued.*
August, 1874.

Reductions from Contract.	Additions to Contract.						
Work, &c.	Position	Work.	Item.	Quantity.	Rate.	Amount.	Total.
Brought forward ... £20 14s.	M. ch.	Brought forward ...	...	...	...	£ s. d.	£ s. d.
	20 0	Extracarthwork on account of slips in big cutting ...	c.yd.	2,930	2/	293 0 0	1,977 10 7
		Loading and shifting material in station-yard ...	day	20	10/	10 0 0	
							303 0 0
							£ 2,280 10 7
		Rolling-stock— Brought forward ...	...	...	...	...	£684 14 8

(Certified copy.)

Correct.—W. E. BRUNTON, Resident Engineer.
ALEX. ARMSTRONG, Contractors' Agent.

W. BRUNTON, District Engineer.

September, 1874.

Brought forward ... £20 14s.	20 0	Brought forward ...	...	...	...	...	2,280 10 7
		Extracarthwork on account of slips of slopes in big cutting ...	c.yd.	3,000	2/	300 0 0	
	20 0	Loop-line ...	...	...	...	250 0 0	
		Loading and shifting material in station-yard ...	day	20	10/	10 0 0	
							560 0 0
						£ 2,840 10 7	
		Rolling-stock— Brought forward ...	...	...	...	...	£684 14 8

(Original.)

Correct.—W. E. BRUNTON, Resident Engineer.
ALEX. ARMSTRONG, Contractors' Agent.

October, 1874.

Brought forward ... £20 14s.	20 0	Brought forward ...	...	...	...	...	2,840 10 7
	10 57	Loop-line at Edendale ...	...	...	...	150 0 0	
	40 0	Level crossing ...	No.	1	...	7 13 6		
		Extra timber in floor-beams, Mataura Bridge	ft.	2,480	40/	49 12 0		
	21 24 to 21 46	} Bank, side-cutting ...	c.yd.	1,370	2/	137 0 0		
								Edendale cutting ...	„	1,173	2/	117 6 0
		28 0	Timber for culverts ...	ft.	2,197	40/	43 18 9	
								505 10 3
						£ 3,346 0 10		
		Rolling-stock— Brought forward ...	...	...	...	...	£684 14 8

(Original.)

Correct.—W. E. BRUNTON, Resident Engineer.
ALEX. ARMSTRONG, Contractors' Agent.

November, 1874.

Brought forward, £20 14s.	23 42	Brought forward	3,346 0 10
	to 23 59	} Raising bank ...	c.yd.	708	2/	70 16 0	
	20 0						
			Carried forward	400 0 0

INVERCARGILL ABSTRACTS OF AUTHORIZED ALTERATIONS—*continued.*
November, 1874—*continued.*

Reductions from Contract.		Additions to Contract.					
Work, &c.	Position	Work.	Item.	Quantity.	Rate.	Amount.	Total.
Brought forward £20 14s. ..	M. ch.	Brought forward ...	...	...	...	£ 400 0 0	£ 3,346 0 10
	40 0	Hand-rail at Mataura Bridge (timber, nails, and labour) ...	...	...	...	17 3 9	
	22 12	} Level crossings ...	No.	5	7/13/6	38 7 6	
	23 49						
	24 35						
	25 26						
	25 44	} Felt clips ...	No.	18,108	60/	54 6 0	509 17 3
	21 30						
	to	Rolling-stock—					£ 3,855 18 1
	27 30	Brought forward ...	...	...	...	...	£684 14 8

(Original.)

Correct.—W. E. BRUNTON, Resident Engineer.
ALEX. ARMSTRONG, Contractors' Agent.

January, 1875.

Brought forward, £24 14s.	27 30	Brought forward ...	...	...	...	...	3,855 18 1
	to	} Felt clips ...	No.	20,000	60/	60 0 0	
	34 0						
	20 0	Edendale cutting ...	c.yd.	7,343	2/	734 6 0	794 6 0
		Rolling-stock—					£ 4,650 4 1
	Brought forward ...	...	...	...	...	£684 14 8	

(Original.)

Correct.—W. E. BRUNTON, Resident Engineer.
ALEX. ARMSTRONG, Contractors' Agent.

February, 1875.

Brought forward, £24 14s.	3 ⁴ / ₈ to 3 ⁸ / ₈	Brought forward ...	...	...	...	...	4,650 4 1
	20 0	Felt clips ...	No.	17,400	60/	52 4 0	
	3 ² / ₈ to 3 ⁶ / ₈	Edendale cutting ...	c.yd.	2,736	2/	273 12 0	
		Temporary crossings ...	No.	6	90/	27 0 0	352 16 0
		Rolling-stock—					£ 5,003 0 1
	Brought forward ...	...	...	...	...	£684 14 8	

(Original.)

Correct.—W. E. BRUNTON, Resident Engineer.
ALEX. ARMSTRONG, Contractors' Agent.

March, 1875.

Brought forward, £24 14s.	20 0	Brought forward ...	...	...	...	...	5,003 0 1
	20 0	Edendale cutting ...	c.yd.	3,922	2/	392 4 0	
		Cutting ditch ...	day	162 ¹ / ₂	1/	8 2 6	400 6 6
		Rolling-stock—					£ 5,403 6 7
		Brought forward ...	...	...	...	...	£684 14 8

(Original.)

Correct.—W. E. BRUNTON, Resident Engineer.
ALEX. ARMSTRONG, Contractors' Agent.

INVERCARGILL ABSTRACTS OF AUTHORIZED ALTERATIONS—*continued.*
July, 1875—*continued.*

Reductions from Contract.	Additions to Contract.						
Work, &c.	Position	Work.	Item.	Quantity.	Rate.	Amount.	Total.
£24 14s. ... Brought forward	M. ch.	Brought forward ...	...	...	...	£ s. d. ...	£ s. d. 6,349 8 1
		Slips—					
		Brought forward ...	...	...	...	...	522 0 0
	20 0	Labour incurred removing slips in Edendale Cutting	c.yd.	4,562	2/	456 4 0	
	20 0	Ballast ...	"	550	2/	55 0 0	511 4 0
							£ 1,033 4 0
		Rolling stock ...	...	...	...	...	£684 14 8

(Original.)

Correct.—W. E. BRUNTON, Resident Engineer.
W. H. TOPHAM, (for John Brogden and Sons.)

FINAL ABSTRACT OF ADDITIONS TO AND REDUCTIONS FROM THE CONTRACT
PRICE FOR THE NAPIER TO PAKIPAKI RAILWAY.
ADDITIONS TO CONTRACT.

Work.	Item.	Quantity.	Rate.	Amount.	Total.	Authority.
<i>Earthwork.</i>				£ s. d.	£ s. d.	
2m. 66ch. to 4m. 75ch., raising banks ...	c. yd.	1,333	1/	66 13 0		
6m. 42ch. to 6m. 62ch., raising banks ...	"	688	1/	34 8 0		
6m. 63ch. to 8m. 56ch., raising banks, Waitangi ...	"	6,489	1/	324 9 0		
9m. 78ch. to 10m. 40ch., raising Pakowai Road ...	"	1,350	1/	67 10 0		
18m. 6ch. to 18m. 21ch., raising Pakowai Road ...	"	2,152	1/	107 12 0		
11 bridges suppressed, each of 3 spans of 13ft. ...	"	954	1/	47 14 0		
Bank at Waitangi ...	"	204	1/	10 4 0		
				658 10 0		
Contingencies, 12½ per cent.	...	...	...	82 6 3		
				740 16 3		
Profits, 10 per cent.	...	...	...	74 1 8	814 17 11	
Bank No. 1, extra lead ...	c. yd.	1,707	1/	85 7 0		} By special agreement, gross amount.
Bank No. 7, extra lead ...	"	6,204	1/8	520 0 0		
8m. to 8m. 15ch., extra lead ...	"	618	/6	15 9 0		
9m. 20ch. to 9m. 35ch., extra lead ...	"	820	/4	13 13 4		
1m. 28ch. to 1m. 40ch., earthwork and pitching, as per agreement ...	...	...	...	94 10 7	728 19 11	
27 Culverts from 2ft. to 6ft.—						
Timber ...	100ft.	40,118	£2	802 7 2		} Gross amount agreed upon.
Iron ...	lb.	722	/6	18 1 0		
8m. 10ch., pipes, 12in. ...	ft.	30	7/6	...	11 5 0	
Sm. 15ch., pipes, 9in. ...	"	32	5/	...	8 0 0	
Carried forward ...	...	...	...	820 8 2	1,563 2 10	

NAPIER TO PAKIPAKI FINAL ABSTRACT—*continued.*
 ADDITIONS TO CONTRACT—*continued.*

Work.	Item.	Quantity.	Rate.	Amount.	Total.	Authority.
				£ s. d.	£ s. d.	
Brought forward ...	...	...	...	820 8 2	1,563 2 10	
<i>Earthwork—continued.</i>						
1m. 75ch., culverts at Milton Street—						
Timber ...	100ft.	5,512	£2	110 4 10		
Iron ...	lb.	138	/6	3 9 0		
Earthwork ...	c. yd.	437	2/	...	43 14 0	} Gross amount } agreed upon.
Stone ...	"	11	5/	...	2 15 0	
Outlet to Bank 28 ...	"	592	1/6	44 8 0		
Flood-gates at Bank 6 ...	...	...	...	...	14 11 6	} Gross amount.
Flood-gates at Waitangi ...	...	...	...	...	9 12 0	
6m. 60ch., culvert near Waitangi ...	...	...	...	...	3 11 4	
18m. 1ch., shifting culverts, as per agreement ...	...	...	...	...	3 3 5	
				978 10 0		
Contingencies, 12½ per cent.	...	...	...	122 6 3		
Profit, 10 per cent.	...	...	...	110 1 8		
					1,210 17 11	
<i>Bridges.</i>						
Ironpot—						
Jarrah piles ...	ft.	809	7/	283 3 0		
Timber ...	100ft.	22,143	£2	442 17 2		
Iron ...	lb.	2,567	/6	64 3 6		
Sawing and carting timber for studs and handrails ...	100ft.	5,547	7/	...	19 8 3	Gross amount.
Waitangi Bridge, 7 extra spans—						
Piles ...	ft.	420	4/6	94 10 0		
Timber ...	100ft.	4,515	£2	90 6 0		
Extra braces ...	"	540	£2	10 16 0		
Sheathing ...	"	785	£2	15 14 0		
Iron ...	lb.	1,396	/6	34 18 0		
Floor-beams ...	100ft.	2,736	£2	54 14 4		
Iron for truss-rods ...	lb.	98	1/	4 18 0		
Pitching at Waitangi ...	s. yd.	90	9/6	...	42 15 0	} Gross amount, } per agreement
Rubble ...	c. yd.	108	4/	...	21 12 0	
1st Ngaruroro Bridge—						
Timber ...	100ft.	4,788	£2	95 15 2		
Truss-rods ...	lb.	188	1/	9 8 0		
Sheathing ...	100ft.	366	£2	7 6 5		
Extra bolts ...	lb.	342	/6	8 11 0		
Fascines ...	No.	185	...	12 18 6		
2nd Ngaruroro Bridge—						
Piles ...	ft.	162	4/6	36 9 0		
Timber ...	100ft.	3,885	£2	77 14 0		
Extra floor-beams ...	"	2,052	£2	41 0 9		
Iron ...	lb.	345	/6	8 12 6		
Sheathing ...	100ft.	350	£2	7 0 0		
Extra bolts ...	lb.	308	/6	7 14 0		
Pile shoes ...	"	92	/6	2 6 0		
Iron truss-rods ...	"	74	1/	3 14 0		
Spikes ...	"	7	/6	0 3 6		
Stone pitching ...	s. yd.	100	14/	...	70 0 0	Gross amount.
3rd Ngaruroro Bridge—						
Timber ...	100ft.	739	£2	14 15 7		
Floor-beams ...	"	2,052	£2	41 0 9		
Sheathing ...	"	496	£2	9 18 5		
Bolts and spikes ...	lb.	309	/6	7 14 6		
Truss-rods ...	"	74	1/	3 14 0		
Fascines ...	No.	178	2/	17 16 0		
Labour in above ...	...	...	...	...	16 19 3	Gross amount.
Carried forward ...	...	...	...	1,509 12 1	3,022 2 6	

NAPIER TO PAKIPAKI FINAL ABSTRACT—*continued.*
 ADDITIONS TO CONTRACT—*continued.*

Work.	Item.	Quantity.	Rate.	Amount.	Total.	Authority.
				£ s. d.	£ s. d.	
Brought forward ...	...	...	...	1,509 12 1	3,022 2 6	
<i>Bridges—continued.</i>						
Bridge at 1 mile 78 chains, 13ft. span—						
Timber	100ft.	1,931	£2	38 12 5		
Iron	lb.	35	/6	0 17 6		
				1,549 2 0		
Contingencies, 12½ per cent.	...	...	...	193 12 9		
				1,742 14 9		
Profits, 10 per cent.	...	...	...	174 5 5		
					1,917 0 2	
<i>Diversions, &c.</i>						
Two bridges over outlets at Banks 21 and 24—					4,939 2 8	
Timber	100ft.	1,365	£2	27 6 0		
Iron	lb.	20	/6	0 10 0		
Earthwork	c. yd.	5,261	/10½	224 13 9		
Carting earth	day	35	£1	35 0 0		
Fascines	No.	1,317	1/	65 17 0		
Posts	100	1,300	£6	78 0 0		
Two culverts at main road over outfall drain, Bank 24—						
Timber	100ft.	2,800	£2	56 0 0		
Spikes	lb.	80	/6	2 0 0		
Timber	100ft.	1,250	...	25 0 0		
Spikes	lb.	50	/6	1 5 0		
Lowering culverts, Bank 28	...	...	...	...	4 12 0	} Gross amount.
Deepening ditch, Bank 28	...	...	...	...	34 12 10	
Diversion of creek, Waitangi	...	707	1/6	53 0 6		
Refilling ditches at Waitangi	...	...	...	...	50 0 0	} Gross amount.
Loose stone	...	114	3/6	...	19 19 0	
Stop-bank at Waitangi	...	...	...	...	18 6 6	} Gross amount, per agreement
Ditch at Bank 7	...	...	...	...	7 10 0	
				568 12 3	5,074 3 0	
Contingencies, 12½ per cent.	...	...	...	71 1 6		
Profits, 10 per cent.	...	...	...	63 19 5		
					703 13 2	
Metal and pitching	ch.	26	14/14/	...	382 4 0	} Gross amount agreed upon.
Level-crossings and gates—						
1st class crossing, without cattle-stops	...	5	£50	250 0 0		
2nd ditto ... ..	...	5	£14	70 0 0		
3rd ditto ... ..	...	11	£13	143 0 0		
Extra work and material in check rails	...	...	...	...	37 5 9	} Gross amount.
Cattle-stops—						
Extra materials and labour in altering 13 stops to new design—						
Timber	100ft.	5,148	£2	102 19 2		
Iron	lb.	152	/6	3 16 0		
Excavation	c. yd.	169	1/	8 9 0		
Altering 19 old stops—						
Timber	100ft.	3,484	10/	69 13 7		
Iron	lb.	82	/6	2 1 0		
Excavation	c. yd.	160	1/	8 0 0		
<i>Fencing.</i>						
No. 4, seven-wire fencing	ch.	112	33/	184 16 0		
Posts, 4 rails	...	3½	£2	7 0 0		
Shifting fence	...	39	3/	5 17 0		
Carried forward ...	...	...	...	855 11 9	6,197 5 11	

NAPIER TO PAKIPAKI FINAL ABSTRACT—continued.
ADDITIONS TO CONTRACT—continued.

Work.	Item.	Quantity.	Rate.	Amount.	Total.	Authority.
Brought forward ...	...	...	...	£ s. d. 855 11 9	£ s. d. 6,197 5 11	
<i>Fencing—continued.</i>						
Extra wire at slaughterhouse ...	cwt.	43	28/	5 19 10		
Staples ...	lb.	56	/7	1 12 8		
Shifting fence ...	...	...	...	3 10 0		
Contingencies, 12½ per cent.	...	...	...	108 6 9		
				975 1 0		
Profits, 10 per cent.	...	...	...	97 10 1		
Replacing sleepers ...	...	12,650	/9	...	1,072 11 1	} Gross amount.
Felt in permanent-way ...	mile	20.1	12/2/6	...	474 7 6	
Extra ballast ...	c. yd.	800	2/	80 0 0	243 14 2	} Gross amount.
Ballast sidings ...	"	890	4/6	...	200 5 0	
Sowing grass-seed ...	...	...	...	...	24 11 1	} Gross amount, as per agreement.
Altering line ...	...	...	...	...	5 0 0	
Shifting telegraph poles ...	...	...	...	...	1 3 0	
<i>Rolling-stock.</i>						
Freight and landing of one 2nd class carriage, and taking back to Wellington ...	...	...	...	48 0 0		
Insurance on above, at 2 per cent. on £250 ...	...	...	...	10 0 0		?£5 each way.
Fitting up one wagon ...	...	...	...	25 0 0		
Insurance on £90, at 2 per cent.	...	...	...	1 16 0		
Freight on above ...	...	...	...	16 0 0		
Sundries, account No. 1, £52 0 2 10 per cent. ...	...	...	...	5 4 0		
Contingencies, 12½ per cent.	...	...	...	22 12 0	57 4 2	
Profits, 10 per cent.	...	...	...	20 6 10	223 14 10	
Amounts allowed by Engineer-in-Chief—						
Removing rail-skids ...	...	...	...	3 9 0		
Carting weighing machine ...	...	...	...	3 0 0		
Extra timber, sleepers ...	...	...	...	25 0 0		
Ironwork handed to Storekeeper ...	...	...	...	8 12 0		
				40 1 0		
Percentage on cost of telegraph ...	...	...	...	64 4 0	104 5 0	
				£ 8,604 1 9		

REDUCTIONS FROM CONTRACT.

Work.	Item.	Quantity.	Rate.	Amount.	Total.
<i>Earthwork.</i>					
7m. 17ch. to 7m. 18ch., bank replaced by bridge at Waitangi ...	c. yd.	690	1/	£ s. d. 34 10 0	£ s. d.
11m. 19ch., bank replaced by 2nd Ngaruroro	"	480	1/	24 0 0	
0m. 0.20ch., Bank No. 1 partly omitted ...	"	1,844	1/	92 4 0	150 14 0
20 culverts, 6ft.—					
Timber ...	100ft.	28,440	£2	568 16 0	
Iron ...	lb.	360	/6	9 0 0	577 16 0
Carried forward ...	...	...	...	...	728 10 0

NAPIER TO PAKIPAKI FINAL ABSTRACT—*continued.*REDUCTIONS FROM CONTRACT—*continued.*

Work.	Item.	Quantity.	Rate.	Amount.	Total.
				£ s. d.	£ s. d.
Brought forward	...	...	...	...	728 10 0
<i>Bridges.</i>					
Ironpot, as per original design—					
Timber	100ft.	65,500	£2	1,310 0 0	
Jarrah piles	ft.	2,412	7/	844 4 0	
Iron	lb.	6,180	/6	154 10 0	2,308 14 0
11 bridges, 3 spans of 13ft.—					
Piles	ft.	1,254	4/6	282 3 0	
Timber	"	27,380	£2	547 12 0	
Iron	lb.	3,795	/6	94 17 6	924 12 6
Road diversion	ch.	32	£4	128 0 0	
Level crossings and gates—					
Iron gates		2	£11	22 0 0	
Fixing one pair		...	...	0 18 0	
Cattle-stops		10	£16	160 0 0	310 18 0
Contingencies, 12½ per cent.					534 1 9
Profits, 10 per cent.					4,806 16 3
					480 13 8
					5,287 9 11
Less percentage allowed to Contractors on				5,287 9 11	
Less Ironpot Bridge				790 3 8	
At 10 per cent. on				4,497 6 3	449 14 7
					£4,837 15 4

Napier, 29th March, 1875.

CHARLES WEBER, Resident Engineer.
JAMES DUNBAR, Agent.

Approved.—J. C. 29th March, 1875.

FINAL ABSTRACT OF ADDITIONS TO AND REDUCTIONS FROM THE CONTRACT
PRICE FOR THE PICTON TO BLENHEIM RAILWAY.

ADDITIONS TO CONTRACT.

Position.	Work.	Item.	Quantity.	Rate.	Amount.	Total.
					£ s. d.	£ s. d.
M. ch.	<i>Grading.</i>					
2 0	Slip, Cutting 21, rock (lead 400 ft.)	c. yd.	800	5/7	223 6 8	
7 26-50	Level crossing, earthwork	"	285	/11	13 1 3	
9 33	Slip, Cutting 55, rock (lead 50 ft.)	"	250	4/5	55 4 2	
15 15	Level crossing, earth	"	800	1/4	53 6 8	
15 46-90	"	"	280	1/4	18 13 4	
	Repairing damage due to insufficient design—					
0 58	Earthwork, Bank 6	"	84	1/4	5 12 0	
1 17-50	" " 9	"	58	1/4	3 17 4	
6 20-30	" " 33	"	255	1/4	17 0 0	
6 21-12	" " 33	"	500	1/4	33 6 8	
6 34-17						
6 36-50						
	Carried forward	...	...	...	423 8 1	

PICTON TO BLENHEIM FINAL ABSTRACT—*continued.*
 ADDITIONS TO CONTRACT—*continued.*

Position.	Work.	Item.	Quantity.	Rate.	Amount.	Total.
					£ s. d.	£ s. d.
	Brought forward ...	...	...	...	423 8 1	
M. ch.	<i>Grading</i> — <i>continued.</i>					
15 65	Accommodation road—					
	Levelling and forming ...	ch.	8 $\frac{3}{4}$	£1	8 15 0	
	Rolling ...	...	...	...	1 0 0	
	Metalling ...	c. yd.	193	7/6	72 7 6	
	Four months' maintenance ...	...	...	...	20 0 0	
9 62	In lieu of one 20ft. span, side cutting ...	c. yd.	124	1/6	9 6 0	
	Altering slopes—					
0 61	Cutting 7, earth 100 c. yd. ...					
8 45	" 47, " 87 " ...					
8 49	" 47A, " 95 " ...					
8 71	" 50, " 60 " ...	"	884	1/6	66 6 0	
9 50	" 58, " 375 " ...					
9 75	" 60, " 50 " ...					
10 73	" 70, " 117 " ...					
2 0	" 21, " ...	"	1,414	2/6	176 15 0	
2 0	" 21, rock ...	"	250	5/6	68 15 0	
1 67	" 17 and 18, loose rock, 1,000					
12 0	" 82 " 300	"	1,300	3/	195 0 0	
9 45	" 57, rock ...	"	1,274	4/5	281 6 10	
	loose rock ...	"	300	2/5	36 5 0	
	Approaches and additional level crossings—					
14 60	Buschs, earth 25 c. yd. ...	"	260	1/6	19 10 0	
17 4-25	" S.C. 235 " ...	"	31	2/6	3 17 6	
16 13	Earth carted ...	"				
16 64	Road diversion—					
	Forming ...	ch.	9	£1	9 0 0	
	Metalling 9 chains ...	"	7	7/10/	52 10 0	
	" omitted, 2 chains ...	"				
2 0	Widening road at Elevation—					
	Earth carted to spoil ...	c. yd.	660	2/8	88 0 0	
	Shifting fencing ...	ch.	8 $\frac{1}{2}$	14/	5 19 0	
10 0 to 13 26	Spring Creek, Tuamarina, Wairau—					
	Planting willows ...	...	...	...	11 5 0	
0 22	Approaches to additional level crossing—S.C. ...	c. yd.	310	1/6	23 5 0	
	Clearing and burning off bush—					
6 9 to 6 46	Right hand ...	ch.	37	32/	59 4 0	
6 29	} At bridges ...	"	3	32/	4 16 0	
6 46	} Left hand ...	"	3	32/	4 16 0	
	Stream diversions—					
2 63	Excavation ...	c. yd.	100	2/3	11 5 0	
	Clearing timber ...	...	...	...	1 10 0	
2 73	Excavation ...	c. yd.	144	2/3	16 4 0	
	Clearing timber ...	...	...	...	1 10 0	
2 0	Widening road at Elevation—					
	Metal ...	c. yd.	100	7/	35 0 0	
	Water-table ...	ch.	6	5/	1 10 0	
15 71	Alteration of drainage—					
	Clearing ditch, removing two culverts, filling in ditto, culvert and relaying ...	hour	322	1/	16 2 0	
	Horse, dray, and driver ...	day	2	18/	1 16 0	
	Manuka ...	load	1	...	1 0 0	
15 71 to 16 22	Drainage of public road—					
	Ditch and water-table ...	ch.	31	8/	12 8 0	
15 71	Alteration of drainage—					
	Filling in between bank and road ...	c. yd.	36	2/6	4 10 0	
4 33	Clearing and burning bush, outfall to bridge ...	ch.	8 $\frac{1}{2}$	£2	17 0 0	
	Approaches to level crossings—					
12 51-25	Level crossing ...	c. yd.	104	2/6	7 16 0	
15 76	" carted ...	"	24	2/6	3 0 0	
	Carried forward ...	...	...	...	1,771 17 11	

PICTON TO BLENHEIM FINAL ABSTRACT—*continued.*
 ADDITIONS TO CONTRACT—*continued.*

Position.	Work.	Item.	Quantity.	Rate.	Amount.	Total.
M. ch.	Brought forward ...	...	...	...	£ s. d.	£ s. d.
	<i>Grading—continued.</i>				1,771 17 11	
	Approaches to level crossings— <i>contd.</i>					
15 79	Level crossing, carted ...	c. yd.	29	2/6	3 12 6	
16 16·50	" " ...	"	33	2/6	4 2 6	
16 29·25	" " ...	"	46	2/6	5 15 0	
11 29	New level crossing, " Bank 72—					
	Earth ...	c. yd.	200	1/6	15 0 0	
	Rock ...	"	1,300	3/6	227 10 0	
	Metalling ...	ch.	6	90/	27 0 0	
14 30	Accommodation road—					
	Forming ...	ch.	4·90	£1	4 18 0	
	Metalling ...	c. yd.	45	5/6	12 7 6	
	Altering slopes—					
	Cuttings 17 and 18, rock ...	"	1,615	4/5	356 12 11	
	" 55, rock ...	"	645	4/5	142 8 9	
2 0	Widening road, Cutting 21—					
	Excavation, carted ...	"	573	2/8	76 8 0	
	New fencing ...	ch.	2½	35/	4 16 3	
16 67·70	Raising level crossing—					
	Level crossing ...	c. yd.	150	2/3	16 17 6	
	Metalling four chains ...	"	88	3/6	15 8 0	
	Additional level crossings, 2nd class—					
	14m. 60ch, 15m. 15ch., 15m. 45·90ch., 15m. 75ch., 15m. 79ch., 16m. 15ch., 16m. 16ch., 16m. 29ch., 17m. 4·25ch. ...	No.	9	8/5/	74 5 0	
	7m., 7m. 12ch., 7m. 26·50 ch., 12m. 51·25 ch. ...	"	4	8/5/	33 0 0	
5 72	Additional level crossing—	"	1	190/		
	From 1st class crossing—					
	Two sign-boards ...	...	30/			
	McAdam ...	...	25/			
				55/		
11 6 to)	Raising gradient, S.C. ...	c. yd.	350	2/	6 15 0	
11 15·50)	Road diversion, Opawa—				35 0 0	
	Forming road ...	ch.	17	47/	39 19 0	
	Metal ...	c. yd.	400	5/	100 0 0	
17 to 17 9	Planting willows, near Opawa ...	M.	2·5	2/8/	6 0 0	
2 0	Widening road at Elevation—					
	Earth carted ...	c. yd.	200	2/8	26 13 4	
14 23·60)	Ditch ...	"	215	2/3	24 3 9	
14 26·30)	Forming road ...	ch.	2·70	30/	2 14 0	
	Altering slopes—					
2 0	Cutting 21, earth ...	c. yd.	5,998	2/6	749 15 0	
	" 21, rock ...	"	1,325	5/6	364 7 6	
9 12	" 52, earth ...	"	581	1/6	43 11 6	
	" 52, loose rock ...	"	215	3/	32 5 0	
2 0	Widening road at Elevation—					
	Earth carted ...	"	290	2/8	38 13 4	
	Metal ...	"	40	7/	14 0 0	
12 17	Road at Tuamarina—					
	Extra ballast ...	"	40	3/6	7 0 0	
	Earth ...	"	20	1/3	1 5 0	
16 66 to 17	Road diversion, Opawa—					
	Repairing flooded road previous to metalling—					
	Horse and drays ...	day	6	12/	3 12 0	
	Labour ...	"	21	9/	9 9 0	
	Manuka ...	load	7	5/	1 15 0	
12 14 to 12 35	Alteration of gradient, Tuamarina—					
	Lifting and lowering ...	ch.	21	15/	15 15 0	
	Extra ballast ...	c. yd.	175	3/6	30 12 6	
	Carried forward ...	...	...	...	4,345 5 9	

PICTON TO BLENHEIM FINAL ABSTRACT—*continued*.
 ADDITIONS TO CONTRACT—*continued*.

Position.	Work.	Item.	Quantity.	Rate.	Amount.	Total.
					£ s. d.	£ s. d.
	Brought forward...	...	...	...	1,095 2 11	
M. ch.	<i>Bridges—continued.</i>					
7 47	Bridge altered from 3 15ft. to 3 20ft. spans—					
	Timber	€ b.m.	10.06	25/	12 11 6	
	Add 12½ per cent. ... ..	...	...	...	1 11 5	
16 35	Bridge altered from 3 11ft. to 7 13ft. spans—					
	Piling	l. ft.	174	5/	43 10 0	
	Timber	€ b.m.	28.60	37/	52 18 2	
	Iron	lb.	434	/8	14 9 4	
16 41	Bridge altered from 3 15ft. to 7 13ft. spans—					
	Piling	l. ft.	174	5/	43 10 0	
	Timber	€ b.m.	28.60	37/	52 18 2	
	Iron	lb.	380	/8	12 13 4	
16 76 } 17 1 }	Bridge altered from 3 11ft. to 7 13ft. spans—					
	Piling	l. ft.	210	5/	52 10 0	
	Timber	€ b.m.	28.60	37/	52 18 2	
	Iron	lb.	434	/8	14 9 4	
4 33	New bridge, 5 13ft. spans—					
	Piling	l. ft.	270	5/	67 10 0	
	Timber	€ b. m.	41.54	37/	76 17 0	
	Iron	lb.	520	/8	17 6 8	
	Planked wings to bridges—					
6 29	Piling	l. ft.	232	5/	58 0 0	
	Timber	€ b. m.	25.28	37/	46 15 4	
6 46	Piling	l. ft.	232	5/	58 0 0	
	Timber	€ b. m.	20.79	37/	38 9 2	
1 10	Kent Street Bridge, iron	lb.	26	/8	0 17 4	
2 40	Altering bridge at Bank 23—					
	Piling	l. ft.	288	5/	72 0 0	
	Timber	€ b. m.	4.37	37/	8 0 0	
	Ironwork	lb.	253	/8	8 8 8	
	Taking down and stacking—					
	Carpenter	day	6	11/3	3 7 6	
	Labourer	"	6	8/	2 8 0	
	Excavating foundation	c. yd.	30	2/3	3 7 6	
14 28	Bridge at Spring Creek—					
	Clearing watercress	day	24¼	8/	9 18 0	
	Canoe	"	4	5/	1 0 0	
	Noble and labourer	"	1 each	12/&8/	1 0 0	
	Repairing tools ... ..	...	...	...	0 10 0	
16 35 } 16 41 } 17 1 }	Altering bridges—					
	Increased width between stringers	...	...	...	3 4 0	
4 33	Bridge, Bank 28—					
	Outfall	c. yd.	310	2/3	34 17 6	
	Excavation for bridge	"	156	1/6	11 14 0	
	Planked wings to bridges—					
	Excavation	"	50	2/3	5 12 6	
	Inlet	"	296	2/3	33 6 0	
11 10	Tuamarina Bridge, 2nd crossing—					
	Iron	lb.	360	/8	12 0 0	
12 70	Wairau Bridge, iron	"	2,000	/8	66 13 4	
15 30	3 additional spans—					
	Piles	l. ft.	198	5/	49 10 0	
	Timber	€ b. m.	22.96	37/	42 9 6	
	Iron	lb.	298	/8	9 18 8	
	Excavation	c. yd.	220	2/	22 0 0	
	Taking up and relaying rails	l. yd.	22	3/	3 6 0	
15 67	3 new 13ft. spans—					
	Piles	l. ft.	240	5/	60 0 0	
	Timber	€ b. m.	28.56	37/	52 16 8	
	Carried forward ... ..	...	...	...	2,330 6 8	

PICTON TO BLENHEIM FINAL ABSTRACT—*continued.*
 ADDITIONS TO CONTRACT—*continued.*

Position.	Work.	Item.	Quantity.	Rate.	Amount.	Total.
					£ s. d.	£ s. d.
M. ch.	Brought forward ...	...	...	...	2,330 6 8	
	<i>Bridges—continued.</i>					
15 67	3 new 13ft. spans—					
	Iron	lb.	353	/8	11 15 4	
	Inlet	c. yd.	111	2/	11 2 0	
	Taking up and relaying rails ...	l. yd.	20	3/	3 0 0	
16 66	7 new 13ft. spans, and raising gradient—					
	Piles	l. ft.	360	5/	90 0 0	
	Timber	⊕ b. m.	53'00	37/	98 1 0	
	Iron	lb.	744	/8	24 16 0	
	Inlet	c. yd.	136	2/3	15 6 0	
	S. C.	"	120	2/3	13 10 0	
	Taking up and relaying rails ...	l. yd.	40	3/	6 0 0	
	Lifting line	"	220	1/	11 0 0	
	Ballast	c. yd.	70	3/6	12 5 0	
6 8	Bridge Tuamarina, 1st crossing,					
	Iron	lb.	1,824	/8	60 16 0	
15 67	Bridge, 3 13ft. spans—Inlet ...	c. yd.	35	2/3	3 18 9	
Throughout	Additional spikes on bridges—					
	Iron to 564 sleepers	lb.	1,128	/8	37 12 0	
	Labour to 506 sleepers	No.	1,012	/2	8 8 8	
15 50	Two new 13ft. spans added—					
	Piles	l. ft.	132	5/	33 0 0	
	Timber	⊕ b. m.	17'00	37/	31 9 0	
	Iron	lb.	200	/8	6 13 4	
	Taking up and relaying rails ...	l. yd.	30	3/	4 10 0	
	Excavation	c. yd.	30	1/6	2 5 0	
16 41	Five additional 13ft. spans—					
	Piles	l. ft.	225	5/	56 5 0	
	Timber	⊕ b. m.	41'40	37/	76 11 10	
	Iron	lb.	565	/8	18 15 0	
	Labour and bolts supplied by Government ... ..	...	...	...	0 7 6	
	Taking up and relaying rails ...	l. yd.	40	3/	6 0 0	
	Excavation	c. yd.	40	1/6	3 0 0	
Stored.	Iron-bark timber—					
	23 pieces delivered—	c. ft.	328	5/9	94 6 0	
	Labour stacking same	hour	42	1/	2 2 0	
12 70	Wairau Bridge—					
	Tarring stringers	s. yd.	200	1/6	15 0 0	
	Fascine work to bridges, ten bridges and approaches ... ..	...	...	...	315 8 4	
	Timber for wing-piles ordered, balance not used	⊕ b. m.	12'12	15/	9 1 9	
1 9	Kent Street Bridge, raising pier ...	...	...	...	50 12 0	
6 5	Bridge, raising pier ... ..	...	...	...	8 10 1	
1 10	Kent Street Bridge—					
	Timber	⊕ b. m.	18'30	27/	24 14 1	
	Iron	lb.	61	/6	1 10 6	
					<u>3,497 18 10</u>	
	<i>Culverts.</i>					
7 26'50	Culvert, 18-inch pipe	l. yd.	8	27/6	11 0 0	
0 59	New culvert, Bank 6—					
	Foundations	c. yd.	36	2/3	4 1 0	
	12in. pipe-drain	l. yd.	12	25/	15 0 0	
1 17	New culvert, Bank 9—					
	Foundations	c. yd.	7	2/3	0 15 9	
	12in. pipe-drain	l. yd.	14	25/	17 10 0	
1 49	Culvert, Bank 15—					
	Labour	day	29	8/	11 12 0	
	Cartage	"	2	14/	1 8 0	
	Timber	⊕ b. m.	8'00	12/6	5 0 0	
	Candles	lb.	4	1/2	0 4 8	
	Carried forward ... ..	...	...	...	66 11 5	

PICKTON TO BLENHEIM FINAL ABSTRACT—*continued.*
 ADDITIONS TO CONTRACT—*continued.*

Position.	Work.	Item.	Quantity.	Rate.	Amount.	Total.
	Brought forward...				£ s. d. 66 11 5	£ s. d.
M. ch.	<i>Culverts—continued.</i>					
	Culvert, Bank 15— <i>continued.</i>					
	Rope	lb.	10	1/10	0 8 4	
	Nails	"	25	1/6	0 12 6	
	New culvert, Bank 15—					
	Foundations	c. yd.	216	2/3	24 6 0	
	18in. pipe-drain	l. yd.	66	42/	138 12 0	
	" "	"	2½	42/	5 12 0	
	Puddle "	c. yd.	50	4/	10 0 0	
2 28	New culvert, Bank 22—					
	Foundations	c. yd.	4	2/3	0 9 0	
	12in. pipe-drain	l. yd.	6½	25/	8 2 6	
	New culverts, Bank 41—					
7 79	Foundations	c. yd.	4	2/3	0 9 0	
	18in. pipe-drain	l. yd.	8	42/	16 16 0	
8 2	Foundations	c. yd.	4	2/3	0 9 0	
	18in. pipe-drain	l. yd.	8	42/	16 16 0	
8 44	New culvert, Bank 46—					
	Foundations	c. yd.	8	2/3	0 18 0	
	18in. pipe-drain	l. yd.	8	42/	16 16 0	
11 75·50	New culvert, Bank 81—					
	Foundations	c. yd.	5	2/3	0 11 3	
	12in. pipe-drain	l. yd.	6	25/	7 10 0	
	New culverts, Bank 83 South—					
13 55	Foundations	c. yd.	4	2/3	0 9 0	
	18in. pipe-drain	l. yd.	8	42/	16 16 0	
13 58	Foundations	c. yd.	4	2/3	0 9 0	
	18in. pipe-drain	l. yd.	9	42/	18 18 0	
13 63	Foundations	c. yd.	5	2/3	0 11 3	
	18in. pipe-drain	l. yd.	10	42/	21 0 0	
1 36	New culvert, Bank 14—					
	Foundations	c. yd.	42	2/3	4 14 6	
	12in. pipe-drain	l. yd.	18	25/	22 10 0	
	Outfall	c. yd.	4	2/3	0 9 0	
	New culverts, Bank 28—					
3 67	Foundations	c. yd.	2	2/3	0 4 6	
	12in. pipe-drain	l. yd.	8½	25/	10 8 4	
4 32·60	Foundations	c. yd.	3	2/3	0 6 9	
	18in. pipe-drain	l. yd.	7½	42/	15 8 0	
	Outfall	c. yd.	70	2/3	7 17 6	
4 25	Box culvert—					
	Foundations	c. yd.	6	2/3	0 13 6	
	Timber	C. b. m.	9·20	37/	17 0 5	
1 67	Culvert, Bank 19—					
	9in. pipe-drain	l. yd.	18	20/	18 0 0	
	Excavation	c. yd.	18	1/6	1 7 0	
2 40 to 2 76	Drain through stumps, &c., 6ft. bottom, 9ft. top	ch.	36	5/10/	198 0 0	
1 29	Culvert, Bank 12—					
	Excavation	c. yd.	60	1/6	4 10 0	
	12in. pipe-drain	"	20	25/	25 0 0	
	Culvert ends	No.	2	22/6	2 5 0	
0 22	Culvert to additional level crossings, 12in. pipe	l. yd.	11	25/	13 15 0	
	Stone ends to additional culverts—					
	12in. diameter	No.	18	22/6	20 5 0	
	18in. diameter	"	14	42/6	29 15 0	
3 3	Culvert, Bank 24—					
	Excavation	c. yd.	30	1/6	2 5 0	
	12in. pipe	l. yd.	10½	25/	12 18 4	
	Outfalls	c. yd.	20	2/3	2 5 0	
	New culverts, Bank 2—					
0 35·50	12in. pipe-drain	l. yd.	7½	25/	9 11 8	
4 33	Excavation to forming of inlet	ch.	13	5/10/	71 10 0	
	Carried forward ...	...	...	...	864 1 9	

PICTON TO BLENHEIM FINAL ABSTRACT—*continued.*
 ADDITIONS TO CONTRACT—*continued.*

Position.	Work.	Item.	Quantity.	Rate.	Amount.	Total.
					£ s. d.	£ s. d.
	Brought forward ..	...	...	...	864 1 9	
M. ch.	<i>Culverts—continued.</i>					
1 10	Additional culvert, Bank 8—					
	12in. pipe-drain	l. yd.	6 $\frac{1}{3}$	25/	7 18 4	
	18in. " " " " " "	"	3	42/	6 6 0	
15 71	Additional I. culverts, Bank 91—					
	15in. pipe-drain, railway and road	"	20	33/	33 0 0	
15 71	Excavation	c. yd.	7	2 $\frac{3}{3}$	0 15 9	
15 74·50	18in. pipe-drain at side ...	l. yd.	28 $\frac{2}{3}$	42/	60 4 0	
	15in. " " under railway and road	"	14 $\frac{1}{3}$	33/	23 13 0	
15 76	12in. pipe-drain under l. crossing	"	7	25/	8 15 0	
15 77	" " " " under railway...	"	5	25/	6 5 0	
15 79	" " " " under l. crossing	"	7 $\frac{2}{3}$	25/	9 11 8	
16 2	Excavation	c. yd.	3	2 $\frac{3}{3}$	0 6 9	
16 17·30	12in. pipe-drain under railway...	l. yd.	5	25/	6 5 0	
	" " " " " " " "	"	5	25/	6 5 0	
	Excavation	c. yd.	3	2 $\frac{3}{3}$	0 6 9	
8 35	" " outfall	"	3	2 $\frac{3}{3}$	0 6 9	
	New culvert, Bank 45—					
	12in. pipe	l. yd.	7 $\frac{1}{3}$	25/	9 3 4	
	Foundations	c. yd.	12	2 $\frac{3}{3}$	1 7 0	
	Inlet	"	16	1/6	1 4 0	
	Ends and additional culverts—					
	12in. diameter	No.	16	22/6	18 0 0	
	15in. " " " " " "	"	4	32/6	6 10 0	
	18in. " " " " " "	"	2	42/6	4 5 0	
1 61·80	New brick culvert, Bank 18—					
	Brick sewer	l. yd.	25	£7	175 0 0	
	" " " " " " " "	"	2 $\frac{3}{3}$	£7	18 13 4	
	Wings	c. yd.	6	£5	30 0 0	
	Making good stone-wall ...	...	...	...	10 0 0	
	Concrete	c. yd.	5	47/	11 15 0	
4 14·50 } to 4 19·50 }	Drain through stumps, Inlet, including burning off ...	chains	5	5/10/	27 10 0	
1 59	Culvert, Bank 16—					
	Underpinning frames: Carpenter, 10s.; Labourer, 8s. ...	days	5	18/	4 10 0	
	Timber	C. b. m.	1·70	20/	1 14 0	
11 60	Culvert, Bank 78—					
	9in. pipes	l. yd.	16 $\frac{2}{3}$	20/	16 13 4	
	Timber ends	No.	2	22/6	2 5 0	
	Excavation	c. yd.	22	2/3	2 9 6	
12 51·25	Culvert, Bank 82—					
	9in. pipe	l. yd.	18	20/	18 0 0	
	Timber ends	No.	4	22/6	4 10 0	
15 15	Culvert at level crossing—					
	12in. pipe-drain	l. yd.	10 $\frac{1}{3}$	25/	12 18 4	
	Timber ends	No.	2	22/6	2 5 0	
	Excavation	c. yd.	6	2/3	0 13 6	
77 to 2 07	Box-drain in rock, Cutting 21—					
	Timber	C. b. m.	68·20	37/	126 3 5	
	Iron	lb.	280	/8	9 6 8	
	Excavation, rock	l. ft.	660	1/2	38 10 0	
16 31	Culvert, Bank 91—					
	12in. pipe-drain under railway...	l. yd.	5	25/	6 5 0	
	Timber ends	No.	2	22/6	2 5 0	
	Foundations	c. yd.	3	2/3	0 6 9	
	Culverts in cattle-stops—					
1 30	4in. pipe and excavation ...	l. yd.	13			
1 70	" " " " " " " "	"	3			
			16	10/	8 0 0	
	Carried forward ... ..	...	...	...	1,604 3 11	

PICTON TO BLENHEIM FINAL ABSTRACT—*continued.*
ADDITIONS TO CONTRACT—*continued.*

Position.	Work.	Item.	Quantity.	Rate.	Amount.	Total.
M. ch.	Brought forward ...	...	...	...	£ s. d. 1,604 3 11	£ s. d.
	<i>Culverts—continued.</i>					
2 1	Culverts at road elevation, 6in. pipes in gutter ...	l. yd.	5	13/	3 5 0	
1 49	Lengthening culvert— 18in. pipe ...	"	2	42/	4 4 0	
	Stone wall at end ...	...	...	...	14 18 6	
	<i>Fencing.</i>				£ 1,626 11 5	
	<i>Cattle stops—</i>					
In 21 stops	Additional timber, 126'00 feet ..	} C b. m.	90'00	37/	166 10 0	
" 6 "	Not erected 36'00 " ...					
In 21 "	Excavation 273 c.yd. ...	} c. yd.	195	1/6	14 12 6	
" 6 "	Not erected 78 " ...					
	<i>Altering cattle-stops—</i>					
0 22	Dublin Street ...	No.	2	30/	3 0 0	
0 33'70	Broadway ...	"	1	30/	1 10 0	
0 35'70	Wairau Road ...	"	1	30/	1 10 0	
0 35	Fencing Broadway and Wairau Road, wrought fence between level crossings ...	C b. m.	2'40	45/	5 8 0	
1 71	Cattle stops, extra corner posts and struts ...	"	0'80	37/	1 9 7	
5 70 to 12 3	Taking up cattle-stop, and shifting same—					
	Labour ...	hours	84	1/3	5 5 0	
	Cartage ...	...	...	...	0 10 0	
	Spikes ...	lb.	15	/6	0 7 6	
0 1, 0 7, } and 2 2 }	Shifting fence ...	ch.	8	14/	5 12 0	
	Fencing, additional to contract	"	16	25/	20 0 0	
	Contingencies, 12½ per cent. ...	...	...	...	2 10 0	
					£228 4 7	
	<i>Permanent-way.</i>					
	<i>Extra spacing of sleepers—</i>					
0 0 to 0 68	Previously laid ...	ch.	68	15/	51 0 0	
13 28 to 14 23	" " ...	"	75	15/	56 5 0	
13 28 to 13 48	Extra sleepers put in and removed	"	20	6/	6 0 0	
	Sleepers, stacked and in ballast-road ...	No.	470	1/4	...	31 6 8
	Converting and removing waggons, for ballast ...	...	...	...	87 0 6	
	Conveyance of surplus material, rails and fastenings ...	ton	153	5/3	40 3 3	
0 1 to 0 69	Extra sleepers in curves, labour ...	...	...	...	26 0 0	
	Ironwork for points and crossings incomplete ...	set	10	38/6	19 5 0	
	Felt supplied ...	mile	18'7	12/1/6	...	218 8 2
					£285 13 9	249 14 10

REDUCTIONS FROM CONTRACT.

Position.	Work.	Item.	Quantity.	Rate.	Amount.	Total.
M. ch.	<i>Grading.</i>				£ s. d.	£ s. d.
7 35	Alteration in gradient— Earth ...	c. yd.	90	/11	4 2 6	
6 5	In lieu of new bridge— Earth, side cutting ...	"	766	1/1	41 9 10	
9 0	Altering slopes— Cutting 51, rock ...	"	74	4/3	15 14 6	
	Carried forward ...	...	...	...	61 6 10	

PICTON TO BLENHEIM FINAL ABSTRACT—*continued.*REDUCTIONS FROM CONTRACT—*continued.*

Position.	Work.	Item.	Quantity.	Rate.	Amount.	Total.
M. ch.	Brought forward...	...	...	...	£ s. d. 61 6 10	£ s. d.
	<i>Grading—continued.</i>					
1 70	Removing slips— Paid by Govern- ment ... { £2 5 0 } ... { 1 4 0 }	...	...	...	...	3 9 0
5 65	Removing stump ...	...	...	...	...	0 6 0
					£61 6 10	3 15 0
	<i>Bridges.</i>					
7 79	Bridge, 3 11ft. spans— Timber ...	⊖ b. m.	47·20	25/	59 0 0	
	Iron delivered.					
13 58	Bridge, 3 11ft. spans— Timber ...	"	47·20	25/	59 0 0	
	Iron delivered.					
	Excavation ...	c. yd.	60	1/6	4 10 0	
13 63	Timber ...	⊖ b. m.	47·20	25/	59 0 0	
	Iron delivered.					
	Excavation ...	c. yd.	60	1/6	4 10 0	
6 8	Tuamarina, 1st crossing, timber ...	⊖ b. m.	22·88	25/	28 12 0	
9 62	One 20ft. opening— Foundations ...	c. yd.	15	1/6	...	1 2 6
	Timber ...	⊖ b. m.	19·42	37/	...	35 18 6
0 70	Waitohi Viaduct, timber ...	"	26·88	25/	33 12 0	
7 47	Bridge altered from 3 15ft. to 3 20ft. spans, iron ...	lb.	38	/6	0 19 0	
7 79	Bridge omitted, foundations ...	c. yd.	60	1/6	4 10 0	
12 70	Wairau Bridge, altering spikes ...	...	...	...	...	3 0 0
					£253 13 0	40 1 0
	<i>Culverts.</i>					
4 33	Culvert removed, 18in. pipe re- moved for use elsewhere ...	l. yd.	4 $\frac{3}{8}$	36/	...	8 8 0
1 48	Brick end and culvert, repairing coping and pointing ...	sup. yd.	7	3/6	...	1 4 6
					...	£9 12 6
	<i>Fencing.</i>					
Throughout	Cattle-stops— Omitted ...	No.	19	13/12/	258 8 0	
	Not required ...	"	38	13/12/	516 16 0	
					£775 4 0	
	<i>Permanent-way.</i>					
	Felt supplied by Government— November, 1873 ...	rolls	12 $\frac{1}{2}$	26/	...	16 5 0
	Freight ...	...	...	...	...	0 7 9
	Laying permanent-way— Rails ...	l. yd.	66	2/	6 12 0	
	Ballast ...	c. yd.	21	3/6	3 13 6	
	Sleepers ...	No.	75	1/4	5 0 0	
	Sleepers at switches, superseded by long timbers—699 ...	"	470	1/4	...	31 6 8
		"	229	1/4	15 5 4	
	Deficiencies— Tools and locomotives ...	...	...	...	...	3 6 1
	Duplicates ...	...	...	...	...	0 4 0
	Taking out regulation pipe ...	...	...	...	...	0 16 6
	Coals borrowed ...	...	...	...	...	12 15 0
	Bridles to 6 wagons ...	...	...	...	...	1 10 0
	Use of locomotive and wagons...	...	...	...	...	5 13 6
	Permanent-way materials— Steel joints complete ...	cwt.	3 0 12	£27	...	4 4 1
	" plates and bolts ...	"	5 1 12	£27	...	7 4 4
	Spikes, &c. ...	"	10 0 0	25/	...	12 10 0
					£30 10 10	£96 2 11

SUMMARY OF PICTON TO BLENHEIM FINAL ABSTRACT.

Reductions from Contract.			Additions to Contract.		
Work.	Partial Rate.	Full Rate.	Work.	Partial Rate.	Full Rate.
	£ s. d.	£ s. d.		£ s. d.	£ s. d.
Grading	61 6 10	3 15 0	Grading	5,846 17 7	7 8 11
Bridges	253 13 0	40 1 0	Bridges	3,497 18 10	...
Culverts ... ..	...	9 12 6	Culverts	1,626 11 5	...
Fencing	775 4 0	...	Fencing	228 4 7	...
Permanent-way ...	30 10 10	96 2 11	Permanent-way ...	285 13 9	249 14 10
Contingencies, 12½ p.c.	1,120 14 8	149 11 5	Management and profit, 20 p.c. ...	11,485 6 2	257 3 9
Management, 10 p.c.	140 1 10	...		2,297 1 3	...
	126 1 8	...			13,782 7 5
		1,386 18 2			
		1,536 9 7			
Percentage wrongly added to "Extra ballast" ...	...	522 1 5			
		£ 2,058 11 0			£ 14,039 11 2

J. C. 4/2/76.

ALFRED DOBSON, Resident Engineer.
3rd February, 1876.

MEMORANDA ATTACHED TO FINAL ABSTRACT.

Picton and Blenheim Railway.—Ballast Contract.

SUMMARY CERTIFICATE for the Month of October, 1875.

Permanent-way—extra ballast, 13,259 c. yd. at 3s. 6d.	£	s.	d.
Contingencies, 12½ per cent.	2,320	6	6
Profit, 10 per cent.	290	0	9
	232	0	8
Total	£2,842	7	11

The New Zealand Government, Public Works Department, Dr. to John Brogden and Sons.

October 1875. Province of Marlborough.—From Picton to Blenheim.—Contract for extra railway ballast ... £2,842 7 11

Instalment now due, No. 1 (F. 528) £2,842 7 11

I certify that, to the best of my knowledge and belief, the foregoing account is true and correct in every particular; that the charge is according to contract; and that the service has been satisfactorily performed.

H. P. HIGGINSON.

20th November, 1875.

Received from the Paymaster-General, by cheque No. 7160, countersigned this 9th day of December, 1875, by W. Best, Esq., the sum of two thousand eight hundred and forty-two pounds seven shillings and elevenpence sterling, in full payment of the above account.

J. BILLING.

(Copy of Telegram from Picton.)

As extra ballast is a separate contract I will deduct this month the 15,575 yards charged in October. You had better deduct the 3,000 in Wellington.

ALFRED DOBSON.

For Mr. Higginson's action.—J. K. 20th November, 1875.

Mr. Blow.—£522 1s. 5d. to be deducted from Picton and Blenheim Contract.

Deducted accordingly.—H. J. H. B.

(Copy from Mr. Higginson's Memo. Book.)

EXTRA BALLAST QUANTITIES.—PICTON AND BLENHEIM (MESSRS. J. BROGDEN AND SONS).

Full amount of 1,467 c. yd. on 18m. 10ch.	26,590 c. yd.
Contract quantity, 570 c. yd. on 18m. 10ch.	10,331 "

16,259 "

Less ballast to have been put on during maintenance, not now required 3,000 "

Extra quantity 13,259 "

13,259 c. yd. at 3s. 6d. £2,320 6s. 6d.

H. P. H.

NOTE.—Mr. Higginson instructs that the percentages, amounting to £522 1s. 5d., are to be deducted from contract, the same having been wrongly allowed to extra ballast.

29th January, 1876.

L. E. ST. GEORGE.

MR BLAIR'S FINAL CERTIFICATE OF WORKS ON THE DUNEDIN TO CLUTHA
RAILWAY.—TAIERI CONTRACT.

TAIERI CONTRACT.—FINAL CERTIFICATE of WORKS as executed by Messrs. BROGDEN AND SONS, to
31st December, 1875.

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
				£ s. d.	£ s. d.
Works as per contract	...	...	...	...	143,835 0 0
ADDITIONS.					
<i>Grading.</i>					
Earthwork—					
5m. 68ch., removing and replacing embankment at Abbotsford Bridge	c. yd.	300	3/	45 0 0	
6m. 20ch., alteration in line (rock cutting)	"	990	4/6	222 15 0	
6m. 35ch., slip in slope, 1,125 c. yd., provided for in contract.					
9m., filling between line and road	"	240			
9m. 22ch., raising embankment	"	200			
24m. 15ch. and 24m. 40ch., filling between line and road	"	1,140			
24m. 65ch., widening embankment	"	315			
28m. 40ch., raising embankment	"	1,335			
35m., deviation at Milton	"	900			
38m. 55ch., raising embankment	"	1,535			
		5,665	1/5	401 5 5	
Earthwork in public roads—					
9m. 22ch., 300 c. yd.; 19m. 10ch., 220 c. yd.; 19m. 77ch., 140 c. yd.	"	660			
21m. 60ch., 180 c. yd.; 25m. 35ch., 26m. 75ch., 28m. 30ch., 30m. 9ch., 305 c. yd.	"	485			
Earthwork in private roads—					
6m. 29ch., 150 c. yd.; 10m. 65ch., 150 c. yd.; 11m. 10ch., 225 c. yd.	"	525			
		1,670			
Less provided in contract	...	1,000			
		670	1/3	41 17 6	
Earthwork in private crossings—					
7m. 56ch., 25 c. yd.; 7m. 74ch., 5 c. yd.; 8m. 51ch., 25 c. yd.; 8m. 72ch., 55 c. yd.; 9m. 5ch., 45 c. yd.	c. yd.	155			
9m. 16ch., 20 c. yd.; 9m. 38ch., 20 c. yd.; 9m. 56ch., 10 c. yd.; 9m. 61ch., 10 c. yd.; 10m. 10ch., 15 c. yd.	"	75			
10m. 24ch., 15 c. yd.; 10m. 44ch., 30 c. yd.; 10m. 50ch., 15 c. yd.; 11m. 6ch., 30 c. yd.; 11m. 20ch., 95 c. yd.	"	185			
11m. 57ch., 50 c. yd.; 11m. 66ch., 55 c. yd.; 12m. 8ch., 10 c. yd.; 12m. 9ch., 20 c. yd.; 12m. 42ch., 15 c. yd.	"	150			
13m. 7ch., 25 c. yd.; 13m. 53ch., 35 c. yd.; 14m. 60ch., 15 c. yd.; 15m. 44ch., 205 c. yd.; 16m. 30ch., 160 c. yd.	"	440			
16m. 43ch., 150 c. yd.; 16m. 73ch., 75 c. yd.; 17m. 10ch., 160 c. yd.; 17m. 44ch., 95 c. yd.	"	480			
17m. 56ch., 170 c. yd.; 18m. 33ch., 40 c. yd.; 18m. 56ch., 285 c. yd.; 21m. 5ch., 175 c. yd.	"	670			
Carried forward	...	2,155	...	710 17 11	143,835 0 0

TAIERI CONTRACT FINAL CERTIFICATE—*continued.*

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
Brought forward ...	c. yd.	2,155	...	£ s. d. 710 17 11	£ s. d. 143,835 0 0
ADDITIONS— <i>continued</i>					
<i>Grading—continued.</i>					
Earthwork in private crossings— <i>continued.</i>					
22m. 39ch., 95 c. yd.; 23m. 13ch., 97 c. yd;	..				
23m. 33ch., 30 c. yd.; 23m. 60ch., 156 c. yd.	..	378			
23m. 68ch., 48 c. yd.; 24m. 51ch., 100 c. yd.;	..				
26m. 22ch., 7 c. yd.; 26m. 34ch., 9 c. yd....	..	164			
26m. 56ch., 12 c. yd.; 27m. 9ch., 10 c. yd.;	..				
27m. 64ch., 8 c. yd.; 28m. 40ch., 24 c. yd.	..	54			
28m. 50ch., 10 c. yd.; 28m. 65ch., 22 c. yd.;	..				
29m. 13ch., 7 c. yd.; 29m. 22ch., 50 c. yd.	..	89			
29m. 33ch., 20 c. yd.; 29m. 57ch., 45 c. yd.;	..				
30m. 15ch., 217 c. yd. ....	..	282			
30m. 33ch., 26 c. yd.; 30m. 47ch., 17 c. yd.;	..				
30m. 65ch., 29 c. yd.; 30m. 77ch., 15 c. yd.	..	87			
31m. 41ch., 9 c. yd.; 31m. 39ch., 12 c. yd.;	..				
31m. 67ch., 7 c. yd.; 33m., 10 c. yd. ....	..	38			
34m. 46ch., 8 c. yd.; 35m. 36½ch., 57 c. yd.;	..				
35m. 55ch., 6 c. yd.; 36m. 24ch., 10 c. yd.	..	81			
36m. 56ch., 7 c. yd.; 37m. 40ch., 12 c. yd.;	..				
37m. 53ch., 31 c. yd.; 38m. 48ch., 20 c. yd.	..				
39m. 11ch., 37 c. yd.; 39m. 51ch., 16 c. yd.	..	123			
Earthwork in stream diversions—		3,451	1/6	258 16 6	
9m. 30ch., 1,975 c. yd.; 10m., 65 c. yd.;	..				
11m. 55ch., 390 c. yd. ....	..	2,430			
25m. 27ch., 180 c. yd.; 35m. 5ch., 60 c. yd.;	..				
35m. 33ch., 385 c. yd. ....	..	625			
		3,055	1/3	190 18 9	
11m. 20ch., pitching stream diversions	s. yd.	310	5/	77 10 0	
35m., forming line at diversions	ch.	46	25/	57 10 0	
„ trimming „	..	46	10/	23 0 0	
„ table drains „	..	30	5/	7 10 0	
Driving tunnel	l. yd.	22	£22	484 0 0	
Brickwork in tunnel	c. yd.	60	77/6	232 10 0	
„ „	..	2,315	81/	9,375 15 0	
Pipe-drain „	l. yd.	70	10/	35 0 0	
Rubble masonry in front and well	c. yd.	20	30/	30 0 0	
Ashlar and concrete coping	c. ft.	130	2/	13 0 0	
Metalling in roads and crossings—					
7m. 56ch., 5 c. yd.; 7m. 74ch., 10 c. yd.; 8m.	..				
51ch., 10 c. yd.	c. yd.	25			
8m. 72ch., 13 c. yd.; 9m. 5ch., 12 c. yd.; 9m.	..				
22ch., 100 c. yd.; 9m. 38ch., 6 c. yd.; 9m.	..				
61ch., 12 c. yd.; 10m. 10ch., 6 c. yd. ....	..	149			
17m. 44ch., 15 c. yd.; 17m. 56ch., 13 c. yd.;	..				
18m. 56ch., 25 c. yd.; 23m. 45ch., 26 c. yd....	..	79			
10m. 24ch., 6 c. yd.; 10m. 65ch., 122 c. yd.;	..				
11m. 10ch., 37 c. yd.; 11m. 20ch., 13 c. yd.;	..				
11m. 66ch., 15 c. yd.; 16m. 43ch., 16 c. yd.;	..				
16m. 73ch., 13 c. yd. ....	..	222			
		475			
Provided for in contract	..	600			
Transferred to stations	..	125			
Gravelling in roads and crossings—					
10m. 44ch., 10 c. yd.; 10m. 50 ch., 10 c. yd.;	..				
12m. 9ch., 8 c. yd.; 12m. 42ch., 10 c. yd....	c. yd.	38			
13m. 53ch., 9 c. yd.; 15m. 44ch., 10 c. yd.;	..				
18m. 33ch., 16 c. yd. ....	..	35			
		73	5/	18 5 0	
Carried forward ...	..	...	...	11,514 13 2	143,835 0 0

TAIERI CONTRACT FINAL CERTIFICATE—continued.

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
Brought forward ...	...	...	...	£ s. d. 11,514 13 2	£ s. d. 143,835 0 0
ADDITIONS—continued.					
<i>Grading—continued.</i>					
Timber in guard rails ...	C . m.	8,160	35/6	144 16 9½	
Total Grading ...				£11,659 9 11½	
Page 6, earthwork in sidings				248 5 0	
„ 7, forming and trimming				87 10 0	
				£11,995 4 11½	
<i>Bridges and Culverts.</i>					
Excavation of foundations, inlets and outlets—					
5m. 68ch., 280 c. yd.; 7m. 19ch., 20 c. yd.; 8m. 2ch., 8m. 28ch., 8m. 60ch., 9m. 6ch., 15 c. yd. ...	c. yd.	315			
9m. 22ch., 75 c. yd.; 10m. 17ch. and 11m., 25 c. yd.; 12m. 9ch. and 12m. 27ch., 60 c. yd. ...	„	160			
14m. 64ch., 420 c. yd.; 13m. 77ch., 150 c. yd.; 15m. 15ch., 15 c. yd. ...	„	585			
15m. 42ch., 215 c. yd.; 19m. 77ch., 15 c. yd.; 20m. 69ch., 55 c. yd.; 21m. 60ch., 25 c. yd. ...	„	310			
16m. 73ch., 17m. 44ch., 18m. 20ch., and 20m. 69ch., 40 c. yd.; 18m. 20ch., 330 c. yd.; 20m. 69ch., 1,500 c. yd. ...	„	1,870			
21m. 60ch., 50 c. yd.; 22m. 78ch., 10 c. yd.; 23m. 13 ch., 10 c. yd.; 23m. 41ch., 10 c. yd.; 25m. 27ch., 25 c. yd. ...	„	105			
27m. 37ch., 20 c. yd.; 28m. 37ch., 170 c. yd.; 30m. 32ch., 10 c. yd.; 31m. 77ch., 25 c. yd. ...	„	225			
33m. 3ch., 45 c. yd.; 35m. 5ch., 120 c. yd.; 35m. 23ch., 20 c. yd. ...	„	185			
		3,755	1/6	281 12 6	
Native timber in bridges—					
5m. 68ch., 280 ft.; 9m. 38ch. 1,405 ft.; 11m. 20ch., 3,110 ft.; 11m. 55ch., 2,925 ft. ...	C b. m.	7,720			
11m., 72ch., 2,925 ft.; 13m. 41ch., 2,130 ft.; 22m. 29ch., 4,850 ft. ...	„	9,905			
18m. 40ch. and 22m. 60 ch., 770 ft. ...	„	770			
35m. 29ch., 8,560 ft. ...	„	8,560			
		26,955	35/6	478 9 0	
Australian timber in bridges—					
5m. 68ch., 1,630 ft.; 18m. 40ch. and 22m. 60ch., 17,310 ft.; 25m. 29ch., 1,585 ft.; 37m. 23ch., 1,220 ft. ...	„	21,745	57/	619 14 8	
Painting bridges at 9m. 22ch. and 11m. 20ch. ...	„	...	...	8 3 0	
Native timber in culverts—					
6m. 60ch., 3,535 ft.; 7m. 5 ch., 1,090 ft.; 9m. 22ch., 1,515 ft. ...	„	6,140			
10m. 17 ch., 340 ft.; 12m. 9 ch., 340 ft.; 13m., 140 ft.; 13m. 77ch., 3,360 ft. ...	„	4,180			
14m. 25ch., 560 ft.; 14m. 64ch., 9,800 ft.; 15m. 15ch., 1,400 ft.; 14m. 44ch., 5,410 ft. ...	„	17,170			
15 m. 44ch., 920 ft.; 18m. 30 ch., 700 ft.; 19m. 5 ch., 1,225 ft.; 19m. 77ch., 1,240 ft. ...	„	4,085			
20m. 69ch., 5,470 ft.; 21m. 60ch., 2,220 ft.; 22m. 78ch., 1,025 ft.; 23m. 13ch., 1,120 ft.; 23m. 41ch., 1,025 ft. ...	„	10,860			
25m. 27ch., 360 ft.; 28m. 36ch., 360 ft.; 31m. 32ch., 1,120 ft.; 31m. 77ch., 520 ft. ...	„	2,360			
34m. 47ch., 1,650 ft.; 35m., 23ch., 415 ft. ...	„	2,065			
		46,860	35/6	831 15 3	
Carried forward ...	...	...	...	13,879 4 4½	143,835 0 0

TAIERI CONTRACT FINAL CERTIFICATE—*continued.*

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
Brought forward ...	...	...	...	£ s. d. 13,879 4 4½	£ s. d. 143,835 0 0
<i>ADDITIONS—continued.</i>					
<i>Bridges and Culverts—continued.</i>					
<i>Piling in bridges—</i>					
11m. 20ch., 102 l. ft. ; 11m. 55ch., 120 l. ft. ; 11m. 72ch., 120 l. ft. ; 13m. 41ch., 260 l. ft.	l. ft.	602			
22m. 29ch., 348 l. ft. ; 35m. 29ch., 111 l. ft. ...	"	459			
		1,061	4/	212 4 0	
<i>Ironwork in bridges—</i>					
Bolts and straps, &c. ...	lb.	3,100			
Pile shoes in extra bridges ...	"	600			
" " in bridges in contract ...	"	2,520			
		6,220	/6	155 10 0	
Testing bridge cylinders ...	...	...	...	200 0 0	
Cutting bridge cylinders ...	...	...	...	12 0 0	
<i>Rubble masonry in cement—</i>					
5m. 68ch., 154 c. yd. ; 7m. 15ch., 30 c. yd. ; 7m. 29ch., 20 c. yd. ; 7m. 54ch., 18 c. yd.	c. yd.	222			
8m. 2ch., 6 c. yd. ; 8m. 28ch., 2 c. yd. ; 9m. 22ch., 39 c. yd. ; 10m. 17ch., 14 c. yd. ; 8m. 60ch., 4 c. yd. ; 9m. 6ch., 8 c. yd. ; 11m., 5 c. yd.	"	78			
12m. 8ch., 42 c. yd. ; 12m. 27ch., 6 c. yd. ...	"	48			
		348	30/	522 0 0	
<i>Rubble masonry in lime—</i>					
25m. 27ch., 46 c. yd. ; 27m. 37ch., 46 c. yd. ; 28m. 36ch., 46 c. yd. ; 30m. 32ch., 14 c. yd.	"	152			
31m. 77ch., 63 c. yd. ; 35m. 5 ch., 37 c. yd. ; 35m. 23ch., 51 c. yd.	"	151			
		303	26/	393 18 0	
<i>Concrete—</i>					
5m. 68ch., 232 c. yd. ; 25m. 27ch., 3 c. yd. ; 31m. 77ch., 6 c. yd.	"	241	30/	361 10 0	
Dressed ashlar coping at 9m. 22ch., and 35m. 23ch.	c. ft.	71	4/	14 4 0	
Puddle at various places ...	c. yd.	70	5/	17 10 0	
Removing and repairing culverts at 24m. 62ch., and 31m. 32ch.	No.	2	14/10/	29 0 0	
18in. tile drain ...	l. yd.	21	15/	15 15 0	
9in. " " ...	"	220	7/	77 0 0	
6in. " " ...	"	537	4/	107 8 0	
3in. " " ...	"	95	2/6	11 17 6	
Total Bridges and Culverts, £4,349 10s. 11d.					
<i>Fencing.</i>					
Ordinary fencing ...	ch.	1,341	£2	2,682 0 0	
Panel fencing at crossings ...	"	41	£3	123 0 0	
Removing and re-erecting fence ...	"	113	£1	113 0 0	
9m. 22ch. to 18m. 40ch., ditching at wire fence	"	1,292	2/6	161 10 0	
Gates ...	pair	34	£11	374 0 0	
Wicket gates ...	No.	4	£5	20 0 0	
Timber in cattle-stops ...	£ b.m.	19,000	35/6	337 5 0	
Total Fencing, £3,810 15s.					
Carried forward ...	...	...	...	19,819 15 10½	143,835 0 0

TAIERI CONTRACT FINAL CERTIFICATE—*continued.*

Description.	Unit.	Quantity.	Rate.	Amount.	Total
				£ s. d.	£ s. d.
Brought forward ...	...	...	...	19,819 15 10½	143,835 0 0
<i>ADDITIONS—continued.</i>					
<i>Permanent-way and Sidings.</i>					
Cartage of material from Dunedin to Green Island by dray ...	ton	50	10/	25 0 0	
Cartage of material from Dunedin to Green Island by rail ...	"	540	5/	135 0 0	
Unloading and stacking rails at Green Island...	"	1,200	1/	60 0 0	
Felting ...	mile	20	9/16/	196 0 0	
Earthwork in sidings—					
Mosgiel, 3,000 c. yd.; Owhiro, 345 c. yd.; Greytown, 3,360 c. yd. ...	c. yd.	6,705			
Henley, 3,730 c. yd.; Waihola, 1,270 c. yd. ...	"	5,000			
Clarendon, 455 c. yd.; Milburn, 500 c. yd. ...	"	955			
Milton, 650 c. yd. ...	"	650			
		13,310			
Less provided for in contract ...	...	10,000			
		3,310	1/6	248 5 0	} (Grading.)
Surface forming and trimming at Milton ...	ch.	50	35/	87 10 0	
Laying points and crossings ...	No.	38	8/2/	307 16 0	
Metalling in stations—					
Mosgiel, 585 c. yd.; Greytown, 590 c. yd. ...	c. yd.	1,175			
Henley, 365 c. yd.; Waihola, 45 c. yd. ...	"	410			
Clarendon, 85 c. yd. ...	"	85			
		1,670			
Less deficiency in roads ...	...	125			
		1,545	10/	772 10 0	} (Stations.)
Repairing siding at Green Island ...	...	...	...	12 14 6	
Total Permanent-way				£1,844 15 6	
(Permanent-way ...				£723 16 0)	
(Stations ...				785 4 6)	
Contingencies, 12½ per cent. ...	...	...	...	2,708 1 5	
				24,372 12 9	
Contractors' profits, 10 per cent. ...	...	...	...	2,437 5 3	
Total additions ...	...	...	...	...	26,809 18 0
DEDUCTIONS.					
<i>Grading.</i>					
Earthworks—					
6m. 20ch., alteration of line, embankment ...	c. yd.	2,790	1/	139 10 0	
6m. 20ch., retaining-wall ...	"	1,120	17/6	980 0 0	
11m. 55ch. to 11m. 77ch., earthwork in stream diversions ...	"	4,640	1/3	290 0 0	
Planting willows ...	mile	10	£10	100 0 0	
Ditching at undefined places ...	ch.	100	5/	25 0 0	
Total Grading ...				£1,534 10 0	
<i>Bridges and Culverts.</i>					
Cement masonry—					
7m. 47ch., 25 c. yd.; 8m. 68ch., 2 c. yd.; 10m. 35ch., 10 c. yd.; 12m. 37 ch., 19c. yd.; 37m. 28 ch., 31 c. yd.; 37m. 58ch., 15c. yd. ...	c. yd.	102	30/	153 0 0	
7m. 47ch. archwork ...	"	21	50/	52 10 0	
Timber piling—					
9m. 31ch., 162 l. ft.; 25m. 27ch., 144 l. ft.; 28m. 36ch., 162 l. ft. ...	l. ft.	468			
Carried forward ...	"	468	...	1,740 0 0	170,644 18 0

TAIERI CONTRACT FINAL CERTIFICATE—*continued.*

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
				£ s. d.	£ s. d.
Brought forward ...	l. ft.	468	...	1,740 0 0	170,644 18 0
DEDUCTIONS— <i>continued.</i>					
<i>Bridges and Culverts—continued.</i>					
<i>Timber piling—continued.</i>					
34m. 47ch. (creek), 45 l. ft.; 31m. 75ch., 162 l. ft.; 34m. 47ch. (mill lead), 63 l. ft.; 35m. 24ch., 63 l. ft. ...	"	333			
		801	4/	160 4 0	
<i>Timber work—</i>					
5m. 68ch., 1,225 ft.; 9m. 31ch., 1,850 ft.; 18m. 40ch., and 22m. 60ch., 6,480 ft. ...	⊖ b. m.	9,555	35/	167 4 3	
25m. 27ch., 1,850 ft.; 28m. 36ch., 1,850 ft.; 31m. 75ch., 1,850 ft. ...	"	5,550			
34m. 47ch. (mill lead), 2,100 ft.; 35m. 24ch., 2,100 ft. ...	"	4,200			
		9,750	35/	170 12 6	
<i>Ironwork in bridges—</i>					
9m. 31ch., 270 lb.; 25m. 27ch., 270 lb.; 28m. 36ch., 270 lb. ...	lb.	810			
31m. 75ch., 270 lb.; 34m. 47ch., 180 lb.; 35m. 24ch., 180 lb. ...	"	630			
		1,440	/6	36 0 0	
Sinking cylinders ...	ton	50	£5	250 0 0	
Concrete in ditto ...	c. yd.	76	30/	114 0 0	
12in. tile drains ...	l. yd.	185	10/	92 10 0	
12in. box drains ...	"	39	10/	19 10 0	
Total Bridges and Culverts ...					£1,215 10 9
<i>Fencing.</i>					
Sod fencing ...	ch.	295	17/6	253 2 6	
Total Fencing ...					£258 2 6
Contingencies, 12½ per cent. ...				376 0 5	
Cuttings, from 6m. 53ch. to 7m. 15ch., specially deducted, as per agreement of February, 1874 ...				5,625 0 0	
Total deductions ...					9,009 3 8
Total value of works executed ...					161,635 14 4
Less previous payments ...					155,864 12 1
Total amount of final certificate ...					£5,771 2 3

I certify the above to be correct.

W. N. BLAIR,
District Engineer.

Public Works Office, Dunedin, 16th March, 1876.

PROGRESS AND FINAL SUMMARY-CERTIFICATES OF WORKS, UNDER THE STATION
ACCOMMODATION ETC. CLAUSE, OF THE PICTON TO BLENHEIM RAILWAY
CONTRACT.

Work, &c.	Amounts for Month.		Amounts up to Date.	
	£	s. d.	£	s. d.
January, 1874— Stations	118	1 0	118	1 0
February, 1874— Stations	184	12 0	302	13 0
Less former payments, No. 1, F 155	...	...	118	1 0
No. 2, F 186	184	12 0	184	12 0
March, 1874— Stations	145	13 5	448	6 5
Less former payments, Nos. 1 and 2	...	...	302	13 0
No. 3, F 231	145	13 5	145	13 5
April, 1874— Stations	336	2 2	784	8 7
Less former payments, Nos. 1 to 3	...	...	448	6 5
No. 4	336	2 2	336	2 2
May, 1874— Stations	338	11 2	1,122	19 9
Add 10 per cent. profit	33	17 1	112	5 11
Add interest on £784 8s. 7d.	78	8 10	1,235	5 8
Less former payments, Nos. 1 to 4	...	...	784	8 7
No. 5, F 373	450	17 1	450	17 1
June, 1874— Stations, Nos. 1 to 5	...	...	1,122	19 9
" No. 6	61	2 0	61	2 0
Add 10 per cent. profit	61	2 0	1,184	1 9
Less former payments, Nos. 1 to 5, F 373	67	4 3	118	8 2
No. 6, F 376	...	...	1,302	9 11
No. 6, F 376	67	4 3	1,235	5 8
No. 6, F 376	67	4 3	67	4 3
July, 1874— Stations	312	8 9	1,496	10 6
Add 10 per cent. profit	31	4 10	149	13 0
Less former payments, Nos. 1 to 6, F 376	343	13 7	1,646	3 6
No. 7, F 424	...	...	1,302	9 11
No. 7, F 424	343	13 7	343	13 7
August, 1874— Stations, Nos. 1 to 7	...	...	1,496	10 6
" No. 8	467	1 8	467	1 8
Add 10 per cent. profit	467	1 8	1,963	12 2
Less former payments, Nos. 1 to 7, F 424	46	14 2	196	7 2
No. 8, F 488	513	15 10	2,159	19 4
No. 8, F 488	...	...	1,646	3 6
No. 8, F 488	513	15 10	513	15 10

PICTON STATION ACCOMMODATION CERTIFICATES—*continued.*

Work, &c.	Amounts for Month.	Amounts up to Date.
	£ s. d.	£ s. d.
September, 1874—		
Stations	45 12 6	2,009 4 8
Add 10 per cent. profit	4 11 3	200 18 5
	50 3 9	2,210 3 1
Less former payments, Nos. 1 to 8, F 488	...	2,159 19 4
No. 9, F 554	50 3 9	50 3 9
October, 1874—		
Stations	69 5 6	2,078 10 2
Add 10 per cent. profit	6 18 7	207 17 0
	76 4 1	2,286 7 2
Less former payments, Nos. 1 to 9, F 554	...	2,210 3 1
No. 10, F 622	76 4 1	76 4 1
November, 1874—		
Stations	16 0 0	2,094 10 2
Add 10 per cent. profit	1 12 0	209 9 0
	17 12 0	2,303 19 2
Less former payments, Nos. 1 to 10, F 622	...	2,286 7 2
No. 11, F 711	17 12 0	17 12 0
December, 1874—		
Stations	16 0 0	2,110 10 2
Add 10 per cent. profit	1 12 0	211 1 0
	17 12 0	2,321 11 2
Less former payments, Nos. 1 to 11, F 711	...	2,303 19 2
No. 12, F 86	17 12 0	17 12 0
January, 1875—		
Stations	120 0 0	2,230 10 2
Add 10 per cent. profit	12 0 0	223 1 0
	132 0 0	2,453 11 2
Less former payments, Nos. 1 to 12, F 86	...	2,321 11 2
No. 13, F 164	132 0 0	132 0 0
February, 1875—		
Stations	172 10 0	2,403 0 2
Add 10 per cent. profit on £2,214 10s. 2d.*—less	1 12 0	221 9 0
	170 18 0	2,624 9 2
Less former payments, Nos. 1 to 13, F 164	...	2,453 11 2
No. 14, F 427	170 18 0	170 18 0
March, 1875—		
Stations	801 15 2	3,204 15 4
Add 10 per cent. profit on £3,016 5s. 4d.	80 3 6	301 12 6
	881 18 8	3,506 7 10
Less former payments, Nos. 1 to 14, F 427	...	2,624 9 2
No. 15, F 429	881 18 8	881 18 8
April, 1875—		
Stations	717 10 8	3,922 6 0
Add 10 per cent. profit on £3,733 16s.	71 15 1	373 7 7
	789 5 9	4,295 13 7
Less former payments, Nos. 1 to 15, F 429	...	3,506 7 10
No. 16, F 544	789 5 9	789 5 9

* £188 10s. of the total £2,403 0s. 2d. is exempt from percentage, and in making this deduction it is necessary to deduct £1 12s. from the total for month.

PITON STATION ACCOMMODATION CERTIFICATES—*continued.*

Work, &c.	Amounts for Month.	Amounts up to Date.
	£ s. d.	£ s. d.
May, 1875—		
Stations	269 7 3	4,191 13 3
Add 10 per cent. profit on £208 7s. 3d. and £3,942 3s. 3d.	20 16 9	394 4 4
Less former payments, Nos. 1 to 16, F 544...	290 4 0	4,585 17 7
No. 17, F 665	...	4,295 13 7
	290 4 0	290 4 0
June, 1875—		
Stations	867 7 0	5,059 0 3
Add 10 per cent. profit on £775 2s. and £4,717 5s. 3d.	77 10 2	471 14 6
Less former payments, Nos. 1 to 17, F 665	944 17 2	5,530 14 9
No. 18, F 35	...	4,585 17 7
	944 17 2	944 17 2
July, 1875—		
Stations	896 2 5	5,955 2 8
Add 10 per cent. profit on £775 2s. 5d. and £5,492 7s. 8d.	77 10 3	549 4 9
Less former payments, Nos. 1 to 18, F 35...	973 12 8	6,504 7 5
No. 19, F 152	...	5,530 14 9
	973 12 8	973 12 8
August, 1875—		
Stations	1,515 16 9	7,470 19 5
Add 10 per cent. profit on £1,282 16s. 9d. and £6,775 4s. 5d.	128 5 8	677 10 5
Less former payments, Nos. 1 to 19, F 152...	1,644 2 5	8,148 9 10
No. 20, F 269	...	6,504 7 5
	1,644 2 5	1,644 2 5
September, 1875—		
Permanent-way	...	695 15 0
Stations	187 19 7	6,963 4 0
Add 10 per cent. profit on £187 19s. 7d. and £6,963 4s.	187 19 7	7,658 19 0
Less former payments, Nos. 1 to 20, F 269	18 16 0	696 6 5
No. 21, F 396	206 15 7	8,355 5 5
	...	8,148 9 10
	206 15 7	206 15 7
October, 1875—		
Permanent-way	...	695 15 0
Stations	435 7 8	7,398 11 8
Add 10 per cent. profit on £7,398 11s. 8d.	435 7 8	8,094 6 8
Add Rolling-stock, as per accompanying certificate	43 10 9	739 17 2
Less former payments, Nos. 1 to 21, F 396...	30 10 6	30 10 6
No. 22, F 516	509 8 11	8,864 14 4
	...	8,355 5 5
	509 8 11	509 8 11

PICTON STATION ACCOMMODATION CERTIFICATES—*continued.*

Work, &c.	Amounts for Month.	Amounts up to Date.
	£ s. d.	£ s. d.
November, 1875—		
Permanent-way	...	695 15 0
Stations	94 6 2	7,492 17 10
	94 6 2	8,188 12 10
Add 10 per cent. profit on £94 6s. 2d. and £7,492 17s. 10d.	9 8 7	749 5 9
	103 14 9	8,937 18 7
Less wrongly included in former certificate	30 10 6	...
Less former payments, Nos. 1 to 22, F 516	...	8,864 14 4
No. 23, F 615	73 4 3	73 4 3
December, 1875—		
Permanent-way—		
Subject to 10 per cent. profit...	3 2 0	8 7 0
Not subject	...	710 3 9
Stations	86 19 11	7,560 4 0
	90 1 11	8,278 14 9
Add 10 per cent. profit on £75 13s. 2d.* and £7,568 11s.	7 11 4	756 17 1
	97 13 3	9,035 11 10
Less former payments, Nos. 1 to 23, F 615	...	8,937 18 7
Held over (see final)	97 13 3	97 13 3
January, 1876—		
Permanent-way—		
Subject to 10 per cent profit ...	...	8 7 0
Not subject	25 0 0	735 3 9
Stations	...	7,560 4 0
	25 0 0	8,303 14 9
Add 10 per cent. profit on £7,568 11s. ...	...	756 17 1
Add percentage on cost of telegraph wire along line, £599 7s. 6d., at 10 per cent. ...	59 18 9	59 18 9
	84 18 9	9,120 10 7
Amount held over in former certificate, now to be paid	97 13 3	...
Less former payments, Nos. 1 to 23, F 615	...	8,937 18 7
No. 24 and final, F 73	182 12 0	182 12 0

* This is the £90 ls. 11d., less £14 8s. 9d., on which sum the 10 per cent. was added in error in October certificate.

LEGAL PAPERS CONNECTED WITH THE ACTION BROGDEN AND
OTHERS V. THE QUEEN, ON ACCOUNT OF THE WAITARA TO
NEW PLYMOUTH RAILWAY CONTRACT.

PETITION OF RIGHT (FILED 8TH SEPTEMBER, 1877).

IN THE SUPREME COURT OF NEW ZEALAND, }
WELLINGTON DISTRICT. }

ALEXANDER BROGDEN, HENRY BROGDEN, and JAMES BROGDEN against THE QUEEN.

Transcript of Pleadings.

To the Queen's Most Excellent Majesty:

Your faithful subjects—Alexander Brogden, Henry Brogden, and James Brogden, all of No. 4, Queen's Square, in the City of Westminster, in England, carrying on business as Railway Contractors, in New Zealand, under the style or firm of "John Brogden and Sons," humbly show:—

1. That, on or about the nineteenth day of July, one thousand eight hundred and seventy-three, a contract was entered into under due authority of law in that behalf, between the Governor of New Zealand in the name and on behalf of your Majesty of the one part, and your suppliants of the other part, of which (except the plans annexed thereto) the following is a copy:—

ARTICLES OF AGREEMENT made and entered into this nineteenth day of July, one thousand eight hundred and seventy-three, between the Governor of New Zealand, in the name and on behalf of Her Majesty the Queen, of the one part, and Alexander Brogden, Henry Brogden, and James Brogden, all of Queen Square, in the City of Westminster, in England, Railway Contractors (hereinafter referred to as "the Contractors"), of the other part.

WHEREAS by the sixth section of "The Railways Act, 1871," it is, amongst other things, enacted that the Governor may, if he think fit, construct and maintain, or cause to be constructed and maintained, under the provisions of "The Immigration and Public Works Act, 1870" (hereinafter referred to as "the said Act"), and "The Immigration and Public Works Act Amendment Act, 1871" (hereinafter referred to as "the said amending Act"), certain railways, and amongst others a railway from New Plymouth, in the Province of Taranaki, to Waitara, in the said province (which said railway is hereinafter referred to as "the railway herein mentioned"):

And whereas by the said amending Act it is provided that all contracts under any Act authorizing the construction of any railway under the said Act or the said amending Act shall be entered into in the name of the Queen, her heirs and successors:

And whereas the Governor of New Zealand, on behalf of the Queen, has agreed with the Contractors for the execution and construction by them of the works described or referred to herein, and in the specifications, conditions, drawings, and plans hereto annexed or herein referred to, all of which specifications, conditions, drawings, and plans are signed by the Contractors and John Caruthers, Esquire, the Chief Engineer of the said Colony, on behalf of the colony: Now these presents witness that her Majesty the Queen, for herself, her heirs and successors (all of whom are hereinafter included in the expression "the Queen"), and, so far as the covenants hereinafter contained are to be performed or observed on her or their parts respectively, doth hereby covenant with the Contractors, their executors, administrators, and assigns (all of whom are hereinafter included in the expression "the Contractors"), and the Contractors and each of them, for themselves and himself, and their respective heirs, executors, administrators, and assigns, so far as such covenants hereinafter contained are to be performed or observed on their parts, do and doth hereby covenant with the Queen, her heirs and successors, in manner hereinafter appearing, that is to say,—

1. That they, the Contractors, shall and will, in all respects subject to and in accordance with the said conditions, specifications, drawings, and plans, construct, make, complete, and maintain, and do and perform, all the works, and supply all such plant and materials, as are by the said specifications and conditions to be supplied by the Contractor, whether such works, plant, and materials are described or referred to in the said conditions, specifications, drawings, or plans, or are extra or in addition thereto, within the time mentioned in the said conditions, subject, however, to the provisions contained in the said conditions for extension of time.

2. That the Queen shall and will, free of cost to the Contractors, provide and deliver to the Contractors, at the ship's side at the Harbour of Wellington, the iron rails and fastenings required for the permanent-way and the rolling-stock respectively mentioned in the specification.

3. That the Queen will pay the Contractors for the construction and execution of the said works, and the maintenance thereof, for the period of three months from the completion of the works, and for the supply of all such plant and materials as the Contractors are to supply under the provisions of this contract as aforesaid, the sum of forty-one thousand pounds (exclusive of the supply of such plant and materials as by the said specifications and conditions it is provided the Queen or the Government of New Zealand are to supply, and, subject to the provisions contained in the conditions and specifications for increase and decrease in case of extras or deductions, and to the provisions contained in the said specifications or conditions for extra payment to the Contractors by percentages on the cost of such works as, by such specifications it is provided, the Contractors are to receive payment by way of percentage on the cost thereof).

4. The Queen shall and will make payments to the Contractors upon account of the said sums herein agreed to be paid at the rate and times and upon the terms and conditions mentioned in the said specifications and conditions.

Lastly. The parties hereto shall and will each respectively perform, observe, and fulfil all and singular the conditions and stipulations expressed or contained in the said general conditions and specifications, and which thereby it is provided shall be performed, observed, or fulfilled by such parties respectively.

In witness whereof the Seal of the Colony has hereunto been affixed, and the said Contractors have hereunto set their hands and seals, the day and year first above written.

JAMES FERGUSSON,
Governor.

(Seal of the Colony.)
Sealed with the Seal of the Colony,
and signed by the Governor, in the presence of

EDWARD RICHARDSON.

Signed, sealed, and delivered by
Alexander Brogden, Henry Brogden,
and James Brogden, by their Attorney,
John Henderson, in the presence of
WM. THOS. LOCKE TRAVERS,
Solicitor,
Wellington.

Approved in Council, 25th July, 1873.

ALEXANDER BROGDEN.

(Seal.)

HENRY BROGDEN.

(Seal.)

JAMES BROGDEN.

(Seal.)

By their Attorney, John Henderson.

FORSTER GORING,
Clerk of the Executive Council.

GENERAL CONDITIONS FOR THE WAITARA AND NEW PLYMOUTH RAILWAY.

Interpretation Clause.

1. In these conditions the words "Minister for Public Works" shall mean the Minister for Public Works appointed under "The Immigration and Public Works Act, 1870," or any Minister or person for the time being authorized by the Governor to act for such Minister in respect of the special work contracted for; the word "Engineer" shall mean the Engineer for the time being who shall have principal charge of the works on behalf of the Government; and the word "Contractor" shall mean "Contractors" when two or more persons tender or contract jointly for the work; and the word "month" shall mean "calendar month."

Works, &c., to be according to Drawings and Specifications, and to the satisfaction of the Engineer.

2. All the materials used are to be the best of their respective kinds, and all works of every description throughout are, subject to the provisions hereinafter contained, to be executed conformably to the several drawings and details prepared or that may be prepared for that purpose, and herein referred to, in the strictest accordance with the provisions of the specifications, and in the best, most substantial, and workmanlike manner, and to the satisfaction of the Engineer; and should any work not be so executed, it shall be immediately altered and amended at the cost of the Contractor.

Plans, &c.

3. A copy of the plans and drawings, with the specifications, shall be furnished to the Contractor by the Engineer, and the plans and drawings referred to in the specification, and the specification, shall be taken together to explain each other; and if, in the execution of the works, it shall be found that anything has been omitted or mis-stated either in the drawings or specification which is necessary for the proper performance and completion of any part or parts of the works, the Contractor shall at his own cost and expense execute the same, and provide whatever may be requisite for so doing, provided the extra cost thereof shall not exceed the sum of £200 in each particular case. Any written dimensions on the drawings shall be taken in all cases in preference to measurements by the scale attached, and anything contained either in the drawings or specification shall be equally binding on the Contractor as if it were contained in both; and in case the written or figured dimensions on the drawings shall disagree with the scaling, or in case there shall be any discrepancy between the drawings and specification, or any ambiguity in them, such occurrence shall not invalidate the contract, but the same shall be rectified by the Engineer if thought requisite, and the Contractor shall not be entitled to make any claim or demand for compensation or damages on account of such discrepancy or ambiguity. If neither the drawings nor the specification contain any notice of minor parts, the intention to include which is nevertheless clearly to be inferred, and which parts are obviously necessary for the workmanlike completion and stability of the work, all such parts are to be made and executed by the Contractor without extra charge, and are to be deemed by him as included in the sum at which he contracts for the works.

Extra Works and Alteration of Works.

4. The Contractor is to make and execute, in the like manner as aforesaid, and with the like materials as aforesaid, any additions, deviations, or alterations to, from, or in the works, which the

Engineer may from time to time, previously to the commencement or during the progress of the works, by an order in writing, require, at the rates mentioned in the schedule of prices attached. In case of non-agreement as to price the work shall be done by the Contractor as required by the Engineer, and the price thereof shall be settled by arbitration as hereinafter provided, and shall when so ascertained be added to and thenceforth deemed to be part of the contract-price for the works to be executed under this contract; but no additions, deviations, or alterations whatever, which shall be claimed by the Contractor, will be admitted or recognized under any circumstances, or will be allowed or paid for, which shall be done or executed without or contrary to any previous order from the Engineer in writing as aforesaid: Provided always that no addition, deviation, or alteration from the plans and specifications to be ordered by the Engineer as aforesaid shall involve an increased expenditure in connection with the works or any part thereof, unless distinctly authorized by writing under the hand of the Minister for Public Works, who, before authorizing any such deviation, shall obtain from the Engineer an estimate of the increased expenditure arising therefrom: Provided also that in all cases where such deviation, addition, or alteration as last aforesaid from the plans and specifications shall involve an outlay exceeding £500, the consent of the Governor in Council shall first be obtained. And in all cases it shall be the duty of the Contractor to satisfy himself that such addition, deviation, or alteration (if any) has been duly authorized in manner required by "The Immigration and Public Works Act, 1870," and also that to any such outlay as aforesaid, requiring the consent of the Governor in Council as aforesaid, such consent has been obtained as required by the said Act.

Omission of Portions of Works.

5. To the Minister for Public Works there is reserved the right from time to time of requiring the omission of any particular portion or portions of works described in the specification or shown on the drawings, and of deducting the value thereof from the amount of the contract, such value to be agreed upon between the Minister for Public Works and the Contractor, or in case of difference to be settled by arbitration as hereinafter provided; but the Contractor shall be entitled to be paid a sum of 10 per cent. on the agreed or ascertained value of the work omitted, such sums for omissions to be paid on the completion of the contract.

Materials, Labour, &c.

6. The Contractor shall provide, at his own costs and charges, all materials, labour, tools, plant, tackle, machinery, scaffolding, wagons, cordage, cartage, stores, planking, centres, coffer-dams, diving-bells, staging, diving-dresses, and everything necessary for the proper execution and completion of the several works, and centres must not be struck without the written authority of the Engineer. The Contractor is also to provide, at his cost, for keeping all the trenchings and foundations free from water, and for preventing all slips of ground into the trenches. All material and all prepared work brought upon the ground of the works for use therein is to be considered the property of the Queen, and the Contractor shall not take away any such material or work without the written authority of the Engineer, unless the same shall be required for the purposes of other works under this contract. The Contractor will be required to set out accurately, at his own expense, all the works comprised in this contract agreeably to the drawings and specifications, and shall be held responsible for their being so set out and executed accordingly.

Removal of Improper Materials.

7. It shall be lawful for the Engineer to order the removal from the works of any materials, whether fixed or not, which may appear to him to be of an inferior or improper description, and the Contractor shall remove the same within twenty-four hours after a written notice in that behalf given to him by the Engineer; and, in case of neglect or refusal to remove the same according to such notice, the Engineer shall have power to remove the same at the cost of the Contractor.

Contractor to be represented.

8. The Contractor at all times during the progress of the works, when he is not personally superintending them, must have a responsible agent or overseer stationed on them, to receive instructions from the Engineer, and to represent him for all the purposes of this contract.

Progress of Works.

9. If the Contractor shall, in the opinion of the Engineer, fail to make such progress with the works as the Engineer shall deem sufficient to insure their completion within the specified time, or if the Contractor shall use or employ bad or insufficient materials, or execute any work in an imperfect manner, and shall fail or neglect to rectify any such cause of complaint for fourteen days after being thereunto required in writing by the Engineer, or if the Contractor shall, in the judgment of the Engineer, commit a wilful breach of his contract, then, and in any of such cases, it shall be lawful for the Minister for Public Works, by any instrument in writing under his hand delivered to the Contractor or to his representative on the works, or left at the Contractor's usual or last known place of abode or business, absolutely to determine this contract, and from and after the delivery of the said instrument as aforesaid the contract shall be absolutely determined; and in the event of such determination happening, then it shall be lawful for the said Minister, after having delivered such instrument to the Contractor as aforesaid, to take the works out of the Contractor's possession, and at the option of such Minister either to carry the works on under the Engineer or by another Contractor, and that either after advertising for Contractors or without doing so, as he shall think fit; and all the materials, implements, and plants then upon or used in connection with the works may be used in and applied for the purpose of completing the works; and on the final completion of the works, if it should be found that the balance of the contract-price remaining unpaid, if any, and the deposit-money and percentages, together with the net proceeds realized by the sale of the then residue of such materials, implements, and plant as aforesaid, after being sold in any way that may appear to be most advisable to the

Minister for Public Works, is not sufficient to meet the outlay incurred in completing the works in all respects, then the Contractor, his executors or administrators, shall be bound to pay to the Minister for Public Works the surplus expenditure above such balance, and other sums as aforesaid. But if on the other hand, the works shall be completed within the contract-price, then there shall be paid to the Contractor, or his executors, administrators, or assigns, such balance as may be due to him or them, including the deposit-money and percentages or retention-money, if any, but without any interest thereon; and the Engineer shall, within fourteen days after such balance has been ascertained to be due, grant authority to the Contractor or his representatives for the removal of all surplus material, implements, and plant belonging to him or them, and remaining on the works after their completion, if not sold as before mentioned. But it is herein expressly provided that, in the event of any materials, implements, or plant being returned to the Contractor or his representatives, or being allowed to be removed by him or them as aforesaid, Her Majesty the Queen shall not be in any way liable for any loss, diminution, wear and tear, or injury such materials, implements, or plant may have sustained during the completion of the work.

Contractor not to Sublet Works to persons previously objected to.—Bankruptcy, Insolvency, or Death.

10. The Contractor shall not sublet any portion of the works to any person who shall have been previously objected to by the Engineer by notice in writing to the Contractor. If the Contractor become bankrupt or insolvent, or shall make an assignment of his estate for the benefit of his creditors, or shall die before the final completion of the contract, then it shall be lawful for the Minister for Public Works, on behalf of the Queen, summarily, and of his own authority, and without any process of law for that purpose, to take possession of the works, and to take them out of the hands of the Contractor, or of his executors or administrators, or of the assignees or trustees of his estate, and to employ persons for the execution and completion of the same, and that either after advertising for contractors or without doing so, as he shall think fit; and all the then remaining materials, implements, and plant aforesaid may be used in and applied for the purposes of the works; and on the final completion of the works, if it should be found that the balance of the contract-price remaining unpaid, if any, and the deposit-money and percentages aforesaid, together with the value of the remaining materials, implements, and plant as aforesaid, after being sold in any way that may appear to be most advisable to the Minister for Public Works, is not sufficient to meet the outlay incurred in completing the works in all respects, then the Contractor, his executors or administrators, shall be bound to pay to the Minister for Public Works the surplus expenditure above such balance, and other sums as aforesaid; and in the case of bankruptcy or insolvency, then Her Majesty the Queen shall rank as a creditor to the amount of such surplus. But if, on the other hand, the works shall be completed within the contract-time, then there shall be paid to the Contractor, or his executors, administrators, or assigns, such balance as may be due to him or them, including the deposit-money and percentages or retention-money, if any, but without any interest thereon; and the Engineer shall, within fourteen days after such balance has been ascertained to be due, grant authority to the Contractor or his representatives for the removal of all surplus material, implements, and plant belonging to him or them, and remaining on the works after their completion, if not sold as before mentioned. But it is herein expressly provided that, in the event of any materials, implements, or plant being returned to the Contractor or his representatives, or being allowed to be removed by him or them as aforesaid, Her Majesty the Queen will not be in any way liable for any loss, diminution, wear and tear, or injury such materials, implements, or plant may have sustained during the completion of the work.

Liabilities of Contractor.

11. The exercise by the Minister for Public Works, or Engineer, of any of their respective powers shall not relieve the Contractor from any liability to which he may be subject for any breach of the contract.

Time of Completion.

12. Subject as herein provided, the Contractor shall complete the whole of the works of this contract on or before the first day of April, one thousand eight hundred and seventy-five, failing which the Minister for Public Works shall be entitled to deduct from the final balance due to the Contractor a sum calculated at the rate of £3 per cent. per annum on all moneys which shall have been paid to the Contractor under this contract, computed from the date on which the work ought to have been completed under this contract up to the date of the completion of the work: Provided that if the Minister for Public Works shall have taken over as completed any portion of the work, the cost of that portion shall not be included in the calculation last aforesaid. But in the event of the Contractor being prevented by earthquake, tempest, flood, or otherwise by the act of God, or by the act of the Queen's enemies, rebellion, restraint of princes, or otherwise by anything in the nature of *vis major*, or by reason of any strike amongst the workmen engaged upon the works, or by reason of any alterations, deviations, or additions, or extra works being required, or in case of any delay in furnishing any material to be supplied to the Contractor by the Governor, the Engineer shall allow such an extension of time as he shall think adequate for such enforced delay, or for such alterations, deviations, additions, or extra works; and at the expiration of the time so allowed the deductions or sets-off for delay shall come into operation.

Suspension of Works.

13. The Contractor, on receiving a written notice from the Engineer, shall suspend or stop the whole or any portion of the works as may be directed, and the Governor, on behalf of the Queen, shall make good to the Contractor any loss or damage he may sustain through such suspension or stoppage, to be ascertained, in case of non-agreement between the Contractor and the Minister, by arbitration, as hereinafter mentioned; and the Minister for Public Works shall in no case be bound to give the Contractor possession of the ground or work until thirty days after the signature of the contract by the

Contractor; but a commensurate extension of time for completing the works will be allowed to the Contractor, such extension of time to be at the discretion of and to be decided by the Engineer.

Damages to be made Good.

14. The Contractor shall also provide for effectually securing and covering the several walls and works from the weather, as occasion may require, or as the Engineer may direct; and if any damage or loss should happen to any of the works, plant, or materials—whether from fire, theft, or weather, force of waves, or from any other cause—while the works and buildings are unfinished, or remain in possession of the Contractor, the Contractor must properly and immediately repair and make good the same at his own expense, and to the satisfaction of the Engineer; unless it can be shown that the damage arises from insufficient or imperfect designs, when the Contractor will not be held responsible, and, in case of dispute, the matter shall be settled by arbitration, as hereinafter provided.

Trespass.

15. The Contractor shall not enter upon any lands outside the line of fences for the construction of the works, or for any purpose whatever in connection with this contract, without the consent of the occupier or owner, except at his own cost and risk; and shall not, without the consent of the Engineer, remove any trees or buildings within the line of the railway fences, nor shall he open or throw down any part of a fence without making sufficient provision by temporary fences, to be erected and maintained at his cost, for keeping cattle, sheep, or other stock from straying from or into any enclosure affected thereby; and any legal process causing costs or damage to the Government for any trespass incurred by the act or negligence of the Contractor or his workmen shall be deducted from the contract-price, and be taken as payment made on account of his contract.

Maintenance of Works.

16. The Contractor shall be bound to keep and maintain in good and sufficient repair the whole works executed under the contract, and shall provide all labour, tools, &c., necessary for such maintenance for a period of three months from and after the time when all the works under the contract have been fully completed; and the Contractor shall on the expiry of the said period of maintenance be bound to deliver up the whole works in good and sufficient condition, and to the satisfaction of the Engineer. The Contractor shall also be liable for any accident, damages, or injury whatsoever to the public or any private person which may be caused by his operations during the progress of the works or during their maintenance. He shall also maintain all night-lights and temporary footpaths required by any municipal or other authorities, or for the safety of the public, and shall make all necessary arrangements, by siding or otherwise, as required by the Engineer, to prevent stoppage of public traffic.

Land.

17. The Minister for Public Works shall, free of all expense, put the Contractor in possession of all land required for the permanent works of the railway, including land required for side-cutting, ballasting, spoil-banks and road approaches, road diversions, and slips, and also from time to time, as occasion may require, but at the cost of the Contractor, and so far only as the parliamentary powers possessed by the Governor or the Minister for Public Works will extend to enable them so to do, of all such land as may be necessary for temporary purposes in connection with the works.

18. The Minister for Public Works shall, within thirty days after the signing of the contract by the Contractor, put the Contractor in possession of such parts of the land for the permanent works as may be necessary for the commencement thereof, and will from time to time, after fifteen days' notice in that behalf shall have been given by the Contractor to the Engineer, put the Contractor in possession of all such other parts of the lands required for the permanent works as may be necessary for the immediate prosecution thereof.

Delay in giving Possession of Land.

19. If any delay shall take place in giving to the Contractor possession of any land required for the permanent works as aforesaid, such delay shall not be deemed to be a breach of the contract, but the Contractor shall be entitled to such reasonable extension of time for the completion of the works as shall be fixed by the Engineer, or, in case of any dispute, by arbitration, as hereinafter provided.

Power to require Dismissal of any Workman.

20. The Engineer may require the dismissal within twenty-four hours by the Contractor of any agent, overseer, foreman, workman, or other person employed by him on the works, for incompetency or misconduct, and any man so dismissed shall not be again employed upon the works.

Truck System not allowed.

21. The workmen, tradesmen, and labourers of every class employed on the works to which these conditions refer shall be paid their wages in full in money of the current coin of the colony, and no ticket or other system of payments by provisions, liquors, or goods will on any pretence be allowed, nor shall the Contractor or any person or persons employed by him, or in any way connected with him, establish any shop for the supply of liquors, provisions, or goods, nor shall the contractor oblige his workmen to take provisions, liquors, or goods from any person in particular. The workmen of every class shall be paid on the works if it be possible, or in some building adjoining, and in no case shall they be paid at a publichouse or other place where liquors or refreshments are sold.

Payments.

22. Payments will be made monthly, for each calendar month, as the works proceed, on the certificate in writing of the Engineer, at a rate not exceeding 90 per cent. on the value of the work actually done, as estimated by the Engineer, having due regard in such estimate to the actual value thereof, and at a rate not exceeding 50 per cent. on the value of such plant and materials on the ground

as may be approved by the Engineer as fit and necessary for the work, as estimated by the Engineer, having due regard in such estimate to the actual value thereof, such certificates for work done, and materials and plant supplied, in each calendar month, to be delivered to the Contractor within fourteen days after the termination of such month, and the balance, less 5 per cent., together with the amount deposited as cash security, if any, in fourteen days, or as nearly as may be, after the Engineer shall have certified under his hand that the works have been finally and satisfactorily completed, and that such balance, together with the cash security, is due to the Contractor. The said 5 per cent. will be retained for three months to insure the fulfilment of clause 19 of these conditions, and from which sums may be deducted the costs of any repairs or defects, failing the Contractor executing the same: Provided always that no sum or sums of money shall be considered to be due or owing to the Contractor, nor shall the Contractor make any claim for or on account of any work executed or maintained by him, or for or on account of plant or materials supplied by him, unless such certificate as aforesaid shall have been given by the Engineer as aforesaid; nor shall any sum or sums of money so certified be considered to be made payable to the Contractor until the expiration of fourteen days after such certificate shall have been presented to the Minister for Public Works; nor shall any omission to pay the amount of such certificate at the time the same shall be held payable be deemed or held to be a breach of or to vitiate the contract, but in case of such omission the Contractor shall be entitled to interest on the amount certified for, at the rate of £10 per centum, for such time as such omission shall continue.

Neglect to certify.

23. In case the Engineer shall neglect or refuse to certify the amount due to the Contractor in respect of the work, or plant or materials, in manner and within the times mentioned in the foregoing condition, and shall continue such neglect or refusal for a period of fourteen days succeeding the fourteenth day after the end of the month in which the work was done, or the plant or materials supplied, as the case may be, the Contractor shall be entitled to measure and value the same, having due regard in his estimate to the actual value thereof, and the measure and value so estimated by the Contractor shall be temporarily accepted by the Governor so far as regards the progress payment to be made to the Contractor in respect thereof under the foregoing condition, and the payment provided by that condition shall be made accordingly, with interest thereon, at the rate of £10 per centum per annum, during the period of delay occasioned by the neglect or refusal of the Engineer: Provided always that in all cases in which a certificate shall, within the period or further period hereinbefore provided, as the case may be, have actually been delivered to the Contractor, such certificate shall, for the purpose of the progress payment to be made thereunder, be conclusive; and in case of any dispute between the Contractor and the Engineer as to the estimate therein made of value of work done, or plant or materials provided, as the case may be, of which dispute notice shall have been given by the Contractor to the Minister for Public Works within fourteen days after the delivery of the certificate to the Contractor, such dispute shall be referred to arbitration as hereinafter mentioned.

Progress Payments without Prejudice, &c.

24. No certificate given to the Contractor for the purpose of any progress payments shall prevent the Engineer, at any future time before the termination of the contract, from rejecting all unsound materials and improper workmanship discovered subsequently to the giving of the last previous certificate; and, notwithstanding the giving of any certificate that portions or the whole of the works have been satisfactorily performed, the Engineer may require the Contractor to remove and amend, at any future time previously to the final payment on account of the construction or maintenance of the works, any work that may be found not to be performed in accordance with the contract, and the Contractor must remove and amend, at his own cost, all such work when so required, notwithstanding any approval made or given by the Assistant Engineer or Inspector. The Minister for Public Works shall have power, on the report of the Engineer that the work approved of as aforesaid is not in accordance with the contract, to deduct from any moneys that may be due or that may become due to the Contractor the whole amount that has been paid on account of such work.

If, in the opinion of the Minister for Public Works, further inquiry is desirable or necessary before any certificate is paid, the Minister for Public Works shall have power to suspend the payment of all or any part of the amount mentioned in any such certificate for a period not exceeding one month from the date at which, in the ordinary course, the money would have been paid; and in such case, on payment of the amount payable, the Contractor shall be entitled to receive interest at the rate of £10 per centum per annum during such additional delay.

Stamps, License Fees, &c.

25. The Contractor shall bear and pay all costs, charges, and expenses for preparing, executing, and completing this contract, and all duty stamps, licenses, Building Surveyor's fees, or other charges or fees whatsoever lawfully demanded by the municipal or other authorities.

Customs and Wharf Duties, &c.

26. In the event of the Contractors being compelled to pay any Customs duties or wharf dues or fees on any goods imported into New Zealand by them for the purposes of the said works, or transhipped or carried by them from any port or place in New Zealand to any other place in New Zealand, the Queen shall and will repay the same to the Contractors after one month's notice in writing by the Contractor to the Minister demanding payment thereof, and giving details of such payment, and the production of vouchers or other proof of such payment.

Arbitration.

27. Should any dispute arise between the Contractor and the Engineer, or the Contractor and the Minister for Public Works or the Government, relative to the force and intent and meaning of the specification, drawings, or conditions, or to the mode of carrying on the works, or the nature or quality of materials used or supplied to be used, or workmanship of work done, or as to the main-

tenance of the works, or as to the expense of additional works, or of alterations or deviations from the specifications or plans, or as to any other matter connected with the execution of the works, or with the contract, specifications, drawings, or conditions, or as to any matter which by this contract it is expressly provided is to be settled, ascertained, or determined by arbitration, such dispute shall be referred in writing to the sole determination, arbitration, and award of the Judge of the Supreme Court assigned to that judicial district of the Supreme Court in which the works relative to which the dispute shall have arisen, have been or are to be executed, whose award shall be final, binding, and conclusive on all parties: Provided, however, that, before any such dispute as aforesaid shall be so referred, the Contractor shall give to the Minister for Public Works one calendar month's notice in writing of such dispute, and of the matter and cause thereof, and in such notice the Contractor's claim shall be explicitly stated; and, if such claim be for pecuniary compensation, the amount thereof shall also be stated.

SPECIFICATION OF THE MANNER OF CONSTRUCTING THE WAITARA AND NEW PLYMOUTH RAILWAY.

General Description.

1. The line of railway included under the title "Waitara and New Plymouth Railway," and to which this specification applies, begins at Waitara and terminates at New Plymouth, as delineated on the accompanying plans and sections; the total length of the contract being eleven miles thirteen chains and six links or thereabouts, with an addition of half a mile of sidings.

Drawings.

2. The drawings, including general plans and longitudinal sections, as shown on List A, accompany this specification. These show the character of the works to be executed. Further drawings of details will be issued from time to time as may be necessary.

The general plan is drawn to a scale of three chains to an inch, and shows the course of the railway, the centre line of which has been staked out on the ground, and is represented on the general plan by a red line.

The road and stream diversions are shown on the general plan.

The longitudinal section is drawn to a horizontal scale of three chains to the inch, and to a vertical scale of thirty feet to the inch. It represents the natural profile of the ground along the centre line of the railway. The red line shows the level of the bottom of the ballast. On the longitudinal section are shown the positions and sizes of the culverts and bridges described in the specification.

Alignment of Structures.

3. In the construction of bridges, culverts, road-crossings, and generally, it is to be understood that they are to intersect the line of railway at such angle or curve as may be necessary and approved in each case, although they may be shown on the drawings straight and at right angles; and in the interpretation of the drawings and schedules, and of this specification, it shall be distinctly understood that all works or materials necessary to the due and workmanlike completion of every erection are to be provided, whether specially described or not.

Contractor to provide Labour, Plant, and Materials.

4. The Contractor is to provide all labour, tools, implements, plant, and materials, and is well and substantially to construct and complete the railway in accordance with the plans and specifications, and to deliver the same complete, on first of April, one thousand eight hundred and seventy-five, and is to maintain and keep the said railway, and all works connected therewith, in perfect order and repair for the space of three months from the delivery of the same to the Government.

The said railway shall be made in accordance with this specification, and with the plans and sections herein referred to, or with such modifications of the plans and sections as the Engineer shall order.

Felling, Clearing, and Grubbing.

5. The whole of the timber within one chain and a half of the centre line is to be felled over a length of about 38.6 chains. Of this extent the central chain is to be cleared by removing all logs and under brushwood half a chain from the centre line, and to a greater distance where the formation requires it. Throughout all cuttings and along formations on the level all stumps and roots are to be grubbed out entirely and removed, so as to leave no loose timber whatever, and no stumps within two feet of formation level along centre or within one foot of the surface in the slopes.

Fencing.

6. Seven and a quarter miles of the line are to be fenced on two sides; and wherever present fences are disturbed or interfered with they are to be made good at the expense of the Contractor. At all crossings of roads, and other places where cattle-stops are used, fences are to be completed across the line up to the cattle-stops.

The description of fencing used shall be that described in General Fencing Specifications attached, viz., post and four rails, with slip panels, to the number of forty-two, as shown and described therein.

Earthworks.

7. All flax, scrub, rushes, or other vegetation growing on the line of the railway shall be cut down and removed to the full width between the outside of the slopes, and there burnt.

No public or private road that crosses or intersects the railway or works thereof shall be obstructed by excavation or otherwise until the Contractor shall have provided such temporary roads as may be necessary for the traffic.

The cuttings are to have a base at formation level of 10 feet in rock, 11 feet in loose rock, and 13 feet elsewhere, and are to be made in accordance with plan and section attached; but should the Engineer require any of the cuttings or banks to be made with different slopes from those shown in

Drawing No. 3, the difference in cost shall be added to or deducted from the contract sum. Such alteration to be ordered in writing.

A drain is to be cut along the bottom of slopes of cuttings, as shown in drawings, and in all cases they must be provided with a proper outfall of at least the same size. Catchwater drains are to be dug above the top of one slope of cuttings, at a distance of from a quarter of a chain to a chain from the top of slopes; these ditches are not to average less than 5 cubic feet per lineal yard, and are to be true and regular to the inclinations directed; no stumps or roots to be left in them.

The embankments must be carried forward uniformly of the proper shape, with such an addition to the heights and widths as a due allowance for the shrinking of the material requires, so as to avoid as far as practicable the necessity for making subsequent additions either to the heights or widths of the embankments, to bring them to the correct levels and dimensions.

Whenever the foundation of an embankment is on sloping ground, the Contractor, if required, must at his own expense cut steps and benches under the base of the embankment.

The top of the embankment at formation level is to be 10 feet wide; the slopes to be trimmed off to an inclination of one and a half horizontal to one vertical, and to be maintained full and true until the completion of the contract.

The Contractor shall, unless otherwise directed by the Engineer, take care not in any way to interfere with or divert the existing drainage areas, and shall leave such stops and stanks in the side cuttings, and take such other precautions, as the Engineer shall think necessary for that purpose.

The side cuttings must be made in a regular and approved manner, and, unless specially authorized, not less than 10 feet from the foot of any embankment; and when material is run to spoil it must be done in such a way and in such places as shall be approved by the Engineer.

Behind and around culverts and abutments of bridges the embankments shall be wheeled in and carefully rammed.

Where shown on drawings or longitudinal section the slopes of embankments shall be pitched with approved stone, and not less than 9 inches thick, and to a height of 2 feet above flood-line; to be carried round the ends of the embankments 20 feet on the upper side and 10 feet on the lower side; the bottom edge of the pitching to be sunk into the ground at least 1 foot; the pitching to be backed with broken stone or shingle at least 6 inches thick.

Ditches and Drains.

8. When the line crosses swamps of a peaty nature, catchwater drains are to be cut on the upper side of the line obliquely across the valleys, so as to tap the surface water. These ditches shall not exceed, on an average, one and one-third cubic yards, per lineal yard, and are to be made at the commencement of the works, and cleaned out from time to time as may be ordered.

Stream Diversions.

Stream diversions at 1 mile 73 chains, 1 mile 76 chains, and 3 miles 24 chains to be grubbed out, as described for drains, and excavated with regular slopes and inclinations as will be set out.

Road Alterations.

9. At the places shown on the plan and sections, and wherever necessary, the present roads are to be diverted.

All such diversions and road approaches to the level crossings are to be completed in a convenient, substantial, and proper manner, with the necessary drains, water-tables, and side slopes. Such approaches and road diversions are to be formed with an inclination not steeper than 1 in 12 for public roads, and 1 in 12 for private roads, except where the present inclination exceeds these rates, in which case the inclination of the new road shall not exceed that of the present road, unless, in the opinion of the Engineer, a steeper is unavoidable.

Public roads and approaches to first-class crossings are to be metalled with coarse river gravel or approved hard stone, laid on and spread as directed, so as to average 22 cubic yards per lineal chain of road. Private roads are to be metalled with coarse river gravel or broken stone of approved quality, laid on and spread as directed, so as to average 9 cubic yards to a lineal chain. The whole of the metal is to be broken to pass through a 2½-inch ring.

One first-class, twelve second-class, and four third-class crossings, with two cattle-stops to each crossing, as per Drawing No. 22, shall be constructed at public and private roads where directed. They shall be carefully placed as to line and level, and finished in strict conformity with the drawing and the notes thereon. Each level crossing shall be metalled for a length of 66 feet on each side of the centre line, as above specified for the roads, and tile or timber box drains shall be put in the formation ditches where necessary for the drainage of the line or road.

One pair of malleable iron tubular or other approved gates, 12 feet wide, hung to strong posts, and furnished with bolts and padlocks, shall be provided and hung at a private crossing where directed; also two turnstiles of approved pattern.

Cattle-stops, as shown in Drawing No. 22, are to be put in where directed, not exceeding five in number, besides those at level crossings.

Twenty-two private crossings, with guard balks same as third-class crossings, and metalled for a distance of 33 feet on each side of the centre line, shall be placed where directed. The metalling shall be 12 feet wide and 9 inches thick, or of equal quantity otherwise disposed as to width and thickness. Box drains or drain pipes, as shown in drawings, shall be placed where directed.

Materials.

10. Except where otherwise specified, all the materials used under this contract shall be of the following kinds and descriptions:—

All masonry to be of rubble laid in cement mortar. Bond stones, 2 feet long, or to go right through the wall, to be put in every square yard of both face and back of work. All spalls are to be

set in mortar, and not laid dry and afterwards grouted. Face works must have no stone containing less than one quarter of a cubic foot. The work shall be grouted every foot in height. The whole of the masonry is to be neatly pointed and finished on top and ends with a coating of cement.

Cement mortar shall consist of three parts, by measure, of sharp clean sand and one part of Portland cement.

Concrete, if required, shall be composed of three parts, by measure, of broken stone, two parts of sharp sand, and one part of fresh Portland cement; or, two parts of broken stone to two parts of gravel, one part of sand, and one part of fresh Portland cement. The cement shall be of approved brands, and subject to such tests as the Engineer may from time to time direct. The concrete shall be laid in 12-inch layers, and well rammed as the work progresses.

Piles to be of totara, kauri, puriri, or other approved timber as may be directed.

Rail strings and floor beams shall be of puriri, ironbark, or jarrah, and all other timber shall be of matai, kauri, or totara, or other specially approved timber; the whole shall be straight and sound, free from shakes, large knots, and other imperfections, and each side of any scantling shall show nowhere less than $\frac{3}{4}$ heart.

The whole of the straps and bolts shall be made of B.B. Crown iron, or other iron of the dimensions shown; the whole to be finished and fixed in a workmanlike manner.

Bolts shown or specified shall have a square head, of which the thickness shall be equal to the diameter of the bolt, and the width twice the diameter of the bolt. They are to be screwed with a good clean thread, and shall have a nut equal in size to the head of the bolt, and shall be provided with one or more washers 3 inches in diameter.

Bridges and Timber Openings.

11. Bridges, as per general and detailed drawings, shall be erected where shown on longitudinal section.

All joints, shoulders, and sides of tenons and scarfs to be worked perfectly true, and to fit accurately, and to be covered with red lead before being put together. Tenons generally to be 5 inches long, and to be draw-bored to receive trenails of hard wood made with hollow auger or trenailing machine. All trenails to be well seasoned and kept dry, and to be one-sixteenth of an inch more in diameter than the hole bored for them, and to be covered with red lead before being driven. All capsills and mudsills to be mortised on to the posts or piles. All string pieces to be accurately notched down to capsills or floor-beams by notching $\frac{3}{4}$ inch from each, to be scribed and accurately fitted. Diagonal braces, where placed inside the panel, are to be notched together as described for string-pieces.

All piles are to be rung before driving with a 3-inch by $\frac{3}{4}$ -inch round hoop. The piles are to be shod with substantial iron shoes weighing not less than 30 lb. each, securely fixed, in all bridges except the Waiwakaiho, in which the pile-shoes for the main piers shall be 70 lb. each, and chisel pointed; and in the over-bridges, in which the pile-shoes will be 20 lb. each, the point of the pile to be cut true, and to be squared off at the ends to 3 inches square, and to have true bearing against the shoes. No pile-driving is to be commenced at any bridge, opening, or other works, without giving six days' notice previously to the Engineer in charge of the works.

The Contractor shall provide all proper rods and gauges for setting out and testing the dimensions of bridges and timber openings that the Engineer may require.

Culverts and Drains.

12. Timber and masonry culverts shall be erected where shown on longitudinal section.

The frames of timber culverts shall be accurately mortised and tenoned, and pinned; the planking to be securely spiked on to the frames, the whole of the timber to be heart of puriri for the closed culverts, and of puriri or totara for the open culverts; the outer side of the planking need not be reduced to the dimensions given, but there must in every case be the full thickness specified of heart timber; the edges of the planking must fit truly for the whole thickness, and the planks must extend over at least two panels, and break joint as much as possible.

Sufficient catchwater and outfall drains are to be dug at culverts, and all stumps and roots occurring in the line of ditch to be taken out.

Ballasting and Permanent-way.

13. The ballast is to consist of shingle or broken stones previously approved of, and is to be disposed as shown in drawings. In all cases the embankments and cuttings are to be cleared from mud, and brought to an uniform formation level before the ballast is laid on.

The permanent-way is to consist of a single line of rails laid to a gauge of 3 feet 6 inches, and sidings provided and laid where directed, amounting in all to half a mile of sidings.

The Contractor is to provide and have upon the ground at all points when the work is proceeding a sufficient supply of all such templates, tools, gauges, and other implements as are necessary and usually required in the laying of permanent-way, or as may be required by the Engineer.

About three thirty-seconds of an inch of space is to be left between the ends of the rails when fixed in place, or such other space as the Engineer may direct, according to the season.

For the curves the rails will require bending. This, as well as the straightening of all bent rails, must be effected by a press, or by striking with wooden hand-beetles on wooden blocks. In all cases, whether of straightening of bent rails or of bending rails to the necessary curves, the rails must be set permanently to the form required before being laid, and no temporary bending, springing, or straightening, either by dragging with a lever and hook, or by any other means of a like character, will on any account be permitted.

Great care must be taken to lay all the sleepers square to the rails on straights, and as near as may be on curves. Where the line is straight the rails will be level across the line; but where the line is curved the rails will be canted, the difference of level between the two rails being such as the Engineer shall order.

When suitable material for ballast is not found immediately on the line, the sleepers may be laid on formation, being carefully tamped with dry earth. The Contractor will be permitted to run ballast and material trains over the line thus laid at a speed not exceeding ten miles an hour, but the ballasting and lifting must be proceeded with with all possible despatch.

The changes of gradients shall be made by a gradual curve.

There are to be 2,050 sleepers per mile, to be spaced as directed. The following timbers to be used to the extent of not less than 75 per cent. of the whole: Totara, jarrah, Oregon pine, kauri, or puriri. The remaining 25 per cent. may be of matai (*Podocarpus spicata*) or birch (*Fagus fusca* or *Solandri*). They shall be 7 feet long, and 7 inches by 5 inches, all of heart. They are to be flatted top and bottom, true and out of wind; but any extra width beyond 7 inches need not be removed. The rail seats are to be accurately adzed to a correct bevel.

The rails will weigh 40 lb. to the yard; they will be jointed with Ibbotson's patent steel clip-joint, weighing about 12 lb. each joint, and fastened to the sleepers by six fang-bolts to each rail, and two spikes to each sleeper where fang-bolts are not used. The rails and fastenings will be delivered to the Contractor at the ship's side at Wellington, and he shall be responsible for all materials delivered to him.

Use of Permanent-way Materials by Contractor.

14. Permanent-way materials shall not be laid down or employed, without written permission of the Engineer, within 100 yards of the face of any excavation or the end of any embankments, nor used for hauling earthwork before the ballast is laid. When the Contractor shall have complied with the above requirements he may use the rails and other permanent-way materials for the purpose of hauling earthwork or materials on other parts of the line.

Sidings.

15. The Contractor shall construct at his own cost, at such points as may be indicated by the Engineer, half a mile of sidings, including the necessary earthworks ballast, sleepers, and laying of permanent-way, similar to that of the main line, without the points and crossings. He shall also make and construct, wherever required, such station-grounds, buildings, points, crossings, extra sidings, telegraph and other things required for station accommodation, and shall furnish the Engineer monthly with a detailed statement showing their actual cost, exclusive of all cost of management, properly supported by vouchers or as otherwise directed, and to this cost a sum equal to £10 per centum shall be added for Contractor's profits, and this amount shall be in addition to the contract sum.

Rolling-stock.

16. The Contractor shall take delivery from the ship's side at Wellington of the articles of rolling-stock enumerated below, and shall land, erect, and place the same on the line in working order, and bear all costs of the same.

List of Rolling-stock.—2 locomotives, 6 carriages and brake-vans, and 6 wagons.

Use of Rolling-stock.

17. The Government will furnish the Contractor with such locomotives and rolling-stock as they may have on the line, the Contractor to pay the wages of the engine-drivers and stokers, who must be approved by the Engineer, and to furnish fuel, water, oil, grease, waste, &c., at his own expense. The Contractor shall also return such rolling-stock as may be lent to him in as good order as when received by him—reasonable wear and tear excepted. In the event of the Government being unable to supply locomotives and rolling-stock when needed by the Contractor, an extension of time will be granted for the completion of the contract; such extension of time to be fixed by the Engineer.

Contingencies, &c.

18. The Contractor shall include in his tender a sum of £500 to be expended in the erection of a shipping wharf at the termination of the line in the River Waitara, according to plans hereafter to be furnished, the work to be done at such schedule prices as will apply.

19. The Contractor shall include in his tender a sum of £500 to be expended in coffer dams if required. Any sum not so expended shall be deducted from his contract.

WAITARA AND NEW PLYMOUTH.—LIST A.

Drawing No.	1.—Plan and sections, Sheets No. 1A and 1 to 8.
"	2.—Road crossings.
"	3.—Cross sections, cuttings, and embankments.
"	*4.—Over-bridge (Liardet Street) at 0 mile 32 chains.
"	*5.—Bridge at 0 mile 35 chains.
"	*6.—Bridge over Huatoki River at 0 mile 39 chains.
"	*7.—Over-bridge (Powderham Street) at 0 mile 48 chains.
"	*8.—Bridge over Mangotuku River at 0 mile 55 chains.
"	9.—Bridge over Henui River at 0 mile 39 chains.
"	10.—Details for ditto.
"	11.—Over-bridge (Mangorei Road) at 0 mile 50 chains.
"	12.—Bridge over Waiwakaiho River at 1 mile 30 chains.
"	13.—Bridge at 1 mile 38 chains.
"	14.—Bridge at 1 mile 74 chains.
"	15.—Bridge at 2 miles 19.50 chains.
"	16.—Bridge at 2 miles 27.50 chains.
"	17.—Bridge over Mangaoraka River at 6 miles 20 chains.

* These are within township (on Sheet No. 1A).

- Drawing No. 18.—Over-bridge (Lepper Road) at 6 miles 46 chains.
 „ 19.—Bridge over Waiongona River at 7 miles 25 chains.
 „ 20.—Details for ditto.
 „ 21.—Stone and timber culverts.
 „ 22.—Level crossings and cattle-guards.
 „ 23.—Fencing, &c.

GENERAL SPECIFICATIONS FOR FOUR-RAIL FENCING.

The fence is to consist of posts and four rails either split or sawn, as shown in accompanying sketches, which also show details of slip-panels.

All posts to be entirely of heart of totara, sound, and of full dimensions. Ordinary posts to be 8 inches x 3 inches, 6 feet 9 inches long, mortised to receive four rails with mortises 6 inches x $1\frac{3}{4}$ inches. To be placed 8 feet 6 inches between centres, sunk 2 feet in the ground, and securely rammed. End and corner posts to be same length and depth in ground, securely rammed, 7 inches square in section, and to have mortises 4 inches x $1\frac{3}{4}$ inches.

The rails shall be of any of the following kinds of timber, viz.: Red birch (as known in Wellington) totara, black birch, or rimu of Taranaki growth, all of good sound wood, containing at least four-fifths of heart, and free from winding. To be at least 5 inches deep by $2\frac{1}{4}$ inches thick, or of equal strength, and not exceeding 9 feet in length, properly bevelled at ends so as to pass $1\frac{1}{2}$ inches through posts one above the other in ordinary posts, and so as to drive home in end and corner posts in all cases driven tight and perfectly fitting and filling the mortises. The stoutest rails to be chosen for the top, and rails slightly bent to camber upwards; straight and bent rails not to be put in the same panel.

The number of slip-panels and their positions will be fixed by the Engineer. Posts at the slip-panels to be 10 inches x 5 inches x 8 feet 3 inches long, placed 10 feet apart, sunk 3 feet 6 inches in the ground, and securely rammed.

Each post to have eight mortises; four mortises to be 4 inches x $1\frac{3}{4}$ inches for the ordinary rails, and four mortises to be 5 inches x 2 inches for slip-rails. Those on one side to be fitted with a $\frac{3}{4}$ inch hardwood pin to fasten each slip-rail.

Rails at slip-panels to be four in number, of black or red birch as above described, finished to a length of 10 feet 7 inches x 6 inches x $2\frac{1}{2}$ inches, reduced at ends to go freely into the mortises.

The fence is to be erected upon the boundary line of the land occupied by the railway, or upon such other line as may be directed by the Engineer, and is to be made good up to the ends of all bridges, and up to all cattle-stops; and all existing fences crossed by this fence are to be securely made good up to it either by placing a 7-inch x 7-inch corner post at the junction or by an additional post, as in sketch.

Posts of any length and depth in ground additional to those specified are to be provided and fixed by the Contractor, as may be required by the Engineer, in swampy or loose ground, for which a fair allowance will be made.

Where fencing between the road and railway occurs on the very edge of the road formation the bottom end of the posts will be mortised and pinned into a sole piece of the same size as the posts and $3\frac{1}{2}$ feet long, and a brace 6 inches x 2 inches x 4 feet long will be spiked to each, with two 6-inch spikes at each end, the sole piece projecting under the road.

This means that the posts must measure 8 inches wide and 3 inches thick in the centre, or of equal strength, so that they will have an area of 24 inches in section, or equal to 2 feet of timber to the foot run.

This means that the rails must measure 5 inches deep by $2\frac{1}{4}$ inches thick in the centre, or of equal strength, so that they will have an area of 11 inches in section, or equal to 11 inches of timber to the foot run.

SCHEDULE.

WAITARA AND NEW PLYMOUTH RAILWAY.

Time of Completion, 1st April, 1875. Completed—

Length of main line, 11 miles 13 chains.
 „ sidings, 40 chains.

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
<i>Earthwork.</i>					
Excavation, earth to bank ...	c. yd.	58,832	/10	£ 2,451 6 8	£ s. d.
„ „ spoil ...	„	8,970	/10	373 15 0	
„ „ side cutting ...	„	38,352	/10	1,598 0 0	
Loose rock to bank ...	„	948	3/	142 4 0	
Hard rock ...	„	1,309	5/	327 5 0	
Haulage, average 400ft. ...	„	108,511	/6	2,712 15 6	
Ditching, not to exceed ...	„	2,000	1/3	125 0 0	
Catchwater drains above slopes ...	ch.	495	6/	148 10 0	
Drains in cutting, double ...	„	495	12/	297 0 0	
Retaining walls, in cement ...	c. yd.	316	35/	553 0 0	
Stone pitching ...	„	327	5/6	89 18 6	
Backing ditto ...	„	60	15/	45 0 0	
Surface-forming ...	ch.	103	25/	128 15 0	
Trimming for ballast ...	„	871	8/6	370 3 6	
Carried forward ...	...	...	...		9,362 13 2
					9,362 13 2

WAITARA AND NEW PLYMOUTH RAILWAY—*continued.*

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
				£ s. d.	£ s. d.
Brought forward ...	...	...	...	...	9,362 13 2
<i>Bushwork.</i>					
Felling, 3ch. wide ...	acre	11.6	45/	26 2 0	
Clearing, 1ch. wide ...	"	4.5	£5	22 10 0	
Grubbing ...	ch.	46	15/	34 10 0	
Clearing furze and fern ...	mile	4	£10	40 0 0	
Stream diversions—					
Earthwork, not to exceed ...	c. yd.	2,161	1/3	135 1 3	
Road diversions and approaches to crossings, excavation not to exceed ...	"	11,000	1/6	825 0 0	
Forming ditto, not to exceed ...	ch.	20	20/	20 0 0	
Metalling ditto, not to exceed ...	c. yd.	440	12/	264 0 0	
Level crossings—					
1st class, exclusive of cattle-stops and drain-pipes ...	No.	1	£80	80 0 0	
2nd class ditto ...	"	12	£60	720 0 0	
3rd class ditto ...	"	4	£40	160 0 0	
Private ditto, without cattle-stops and sign-posts ...	"	22	£17	374 0 0	2,578 1 3
<i>Fencing.</i>					
Post and 4 rails ...	ch.	1,160	27/6	1,595 0 0	
Slip-panels ...	No.	42	10/	21 0 0	
Cattle-stops ...	"	5	£16	80 0 0	
Gates and turnstiles, not to exceed ...	"	1	£11	11 0 0	
Turnstiles ...	"	2	30/	3 0 0	1,710 0 0
<i>Bridges and Culverts.</i>					
Timber ...	∅ b. m.	2242.87	37/6	4,205 7 11	
Piling ...	l. ft.	5,332	5/	1,333 0 0	
Ironwork ...	lb.	44,863	/8	1,495 5 8	
Rubble masonry, in cement ...	c. yd.	171	35/	299 5 0	
Earthenware pipes—					
12in. ...	l. yd.	137	18/	123 6 0	
9in. ...	"	132	12/	79 4 0	
6in. ...	"	156	8/	62 8 0	
Punning ...	c. yd.	2,760	1/	138 0 0	
Excavation in foundations, earth ...	"	640	1/6	48 0 0	
" " rock ...	"	160	2/6	20 0 0	
Inlets and outfalls, not to exceed ...	"	1,000	1/3	62 10 0	7,866 9 7
<i>Permanent-way.</i>					
Ballast, per mile ...	c. yd.	1,467	4/	293 8 0	
Sleepers ...	No.	2,050	3/6	358 15 0	
Rail-laying ...	l. yd.	1,760	2/	176 0 0	
Haulage ...	ton	132	4/6	29 14 0	
Waste and loss ...	...	...	...	20 0 0	
Main line, 11m. 13ch., at per mile ...	...	...	...	877 17 0	9,799 0 0
<i>Sidings.</i>					
Earthwork, not to exceed ...	c. yd.	1,000	1/6	75 0 0	
40ch. permanent-way ...	mile	$\frac{1}{2}$	£877/17/	438 18 6	513 18 6
Freight, landing, and insurance, permanent-way material from Wellington to New Plymouth or Waitara—					
Freight, per mile ...	ton	70	40/	140 0 0	
Insurance on £1000 ...	p.c.		2 $\frac{1}{2}$	25 0 0	
11m. 13ch., at per mile ...	...	...	...	165 0 0	1,841 16 0
<i>Rolling-stock.</i>					
Freight—					
Locomotives ...	No.	2	£100	200 0 0	
Carriages ...	"	6	} £25	300 0 0	
Wagons ...	"	6			
Insurance on £3,500 ...	p.c.		2 $\frac{1}{2}$	87 10 0	587 10 0
Carried forward ...	...	...	...	...	34,382 10 6

WAITARA AND NEW PLYMOUTH RAILWAY—*continued.*

Description.	Unit.	Quantity.	Rate.	Amount.	Total.
Brought forward	£ s. d. ...	£ s. d. 34,382 10 6
Landing and Erecting—					
Locomotives	2	£60	120 0 0	
Carriages	6	} £25	300 0 0	420 0 0
Wagons	6			
Management and profit: Lump sum by special arrangement, as per letter to Government 9th July, 1873...	4,647 9 6
Risk of floods, and cofferdams	500 0 0
Wharf at Waitara, specified	500 0 0
Maintenance for three months without extra ballast	550 0 0
Contract sum	£41,000 0 0

2. That your Suppliants, with all convenient speed on their behalf after the making of the said contract, entered upon the execution of the works therein mentioned, and thenceforth carried on the same, and also the extra works hereinafter mentioned, with all convenient speed and despatch, and completed the same, together with such extra works, according to the terms and provisions of the said contract in that behalf, except in this, that, without any default or unavoidable delay on the part of your Suppliants, and solely by reason of default and wrongful delays on the part of your Majesty, your Suppliants were unable to complete the said works and extra works respectively on the 1st day of April, 1875, as by the said contract provided; and your Suppliants say that they completed the said works and extra works respectively on the 13th day of January, 1876, and that the time intervening between the said 1st day of April, 1875, and the said 13th day of January, 1876, was time to which your Suppliants were rightfully entitled in extension for the construction and completion of the said works and extra works respectively, by reason of such default and wrongful and unnecessary delays on the part of your Majesty, as aforesaid, in divers matters to be done and performed by your Majesty in connection with the said contract and the works and extra works aforesaid, and your Suppliants have become entitled to the sum of forty-one thousand pounds in the said contract mentioned.

3. That your Suppliants, pursuant to orders in that behalf duly given to them during the progress of the works specifically mentioned in the said contract, and pursuant to and under the provisions of the said contract in that behalf, executed certain extra works, including station accommodation, as in and by the contract provided, to the value, computed according to the provisions of the said contract, of eleven thousand eight hundred and seventy-five pounds sixteen shillings and eightpence.

4. That on the said 13th day of January, 1876, the works specifically mentioned in the said contract, together with such extra works as aforesaid, were taken over as completed by your Suppliants to the full intent of the said contract by the Governor of New Zealand on behalf of your Majesty.

5. That during the progress of the said works and extra works respectively your Suppliants received in respect of the same, by way of progress payments, divers sums of money, amounting in the whole to the sum of fifty-one thousand one hundred and five pounds eleven shillings, leaving a balance due and payable to your Suppliants in respect of the same on the said 13th day of January, 1876, of one thousand seven hundred and seventy pounds five shillings and eightpence, which your Suppliants then and frequently since applied to your Majesty to pay to them, but which your Majesty has hitherto wholly neglected and refused to do, and the same is still due and owing from your Majesty to your Suppliants.

6. That the particulars hereunto annexed, written on twelve sheets of paper, and collectively marked A, and numbered from two to thirteen, both inclusive, show the claim of your Suppliants in respect of the several matters mentioned in the third paragraph of this petition.

7. That all conditions were fulfilled and all times elapsed and all things happened to entitle your Suppliants to the payment of the said several sums of forty-one thousand pounds and eleven thousand eight hundred and seventy-five pounds sixteen shillings and eightpence, on the said 13th day of January, 1876, of the said balance or sum of one thousand seven hundred and seventy pounds five shillings and eightpence, and to maintain their claim thereto.

8. That during the progress of the works in the said contract mentioned, and before the completion of the same as aforesaid, your Suppliants, at the request of your Majesty, did and performed certain works and labour for and on behalf of your Majesty, and provided materials for the same in connection with the said contract, not being extra works within the provisions of the said contract, to the value in the whole of two thousand and twenty-seven pounds seventeen shillings and twopence, which your Majesty agreed to pay to your Suppliants on demand, but although your Majesty has taken over and accepted the said works and has had all the benefit of the same, yet, although your Suppliants have frequently demanded payment for the same from your Majesty, your Majesty has hitherto wholly failed and neglected to pay the said sum of two thousand and twenty-seven pounds seventeen shillings and twopence, or any part thereof, to your Suppliants, and the same is still due and owing from your Majesty to your Suppliants.

9. That the particulars hereunto annexed and marked B, and written on the sheet of paper

numbered fourteen, show the claim of your Suppliants in respect of the said sum of two thousand and twenty-seven pounds seventeen shillings and twopence.

10. That all conditions were fulfilled and all times elapsed and all things happened to entitle your Suppliants to payment of the said sum of two thousand and seven pounds seventeen shillings and twopence as aforesaid, and to maintain their claim thereto.

11. That during the progress of the works in the said contract mentioned, and before the completion of the same as aforesaid, your Suppliants, at the request of your Majesty, supplied to your Majesty, for the purposes of the said works, certain plant and materials, for the use of which your Majesty agreed to pay to your Suppliants, on demand, a reasonable price.

12. That the sum of one hundred and thirty-five pounds is a reasonable price to be paid by your Majesty to your Suppliants for the use of the said plant and materials, but, although your Suppliants have frequently demanded payment of the said sum of one hundred and thirty-five pounds from your Majesty, your Majesty has hitherto wholly failed and neglected to pay the same, and the same is still due and owing from your Majesty to your Suppliants.

13. That the particulars hereunto annexed, and marked C, and written on the sheet of paper numbered fourteen, show the claim of your Suppliants in respect of the said sum of one hundred and thirty-five pounds.

14. That all conditions were fulfilled, and all times elapsed, and all things happened to entitle your Suppliants to payment of the said sum of one hundred and thirty-five pounds as aforesaid, and to maintain their claim thereto.

15. That during the progress of the said works, and extra works as aforesaid, it became, and was the duty of your Majesty, according to the provisions of the said contract, to do, or cause to be done, with all reasonable speed, divers acts and things to be done and performed by or on behalf of your Majesty, in order to enable your Suppliants to carry on and complete the said works and extra works with all convenient speed on their part within the time in the said contract in that behalf mentioned; and particularly to furnish to your Suppliants certain rolling-stock, plant, and materials suitable for the works in the said contract mentioned; and, as provided thereby, and to give to your Suppliants all necessary orders for alterations, deviations, additions, or extra works which might, during the progress of the said works, be required by your Majesty to be done, and to give to your Suppliants the possession of lands required for the purposes of the said works; and to make progress payments to your Suppliants in accordance with the provisions of the said contract, and to cause the amounts from time to time payable to your Suppliants to be duly certified to them, and otherwise to do, or cause to be done, other things necessary for enabling your Suppliants to carry on and complete the said works within the time mentioned in the said contract, or within a reasonable time thereafter, and otherwise so as not to impede or hinder your Suppliants from carrying on the said works to profit.

16. That your Majesty, in breach of your Majesty's said contract in that behalf and to the great damage of your Suppliants, wholly neglected and refused to do, or cause to be done, with reasonable and convenient speed in that behalf, the several acts and things by your Majesty agreed to be done as aforesaid, in order to enable your Suppliants to carry on and complete the said works, and extra works, with all reasonable speed on their part, and within the time in the said contract mentioned, or within a reasonable time thereafter, whereby your Suppliants were greatly hindered and impeded in the execution of the said works, and extra works, and were compelled to expend large sums of money, which they would not otherwise have been compelled to expend, and otherwise suffered great loss and damage to the damage of your Suppliants of seven thousand nine hundred and forty pounds seventeen shillings and eightpence.

17. That the particulars hereunto annexed and marked D, and written on the sheet of paper numbered fifteen, show the claim of your Suppliants in respect of the said sum of seven thousand nine hundred and forty pounds seventeen shillings and eightpence.

18. That although your Suppliants have frequently requested your Majesty to pay to them the said sum of seven thousand nine hundred and forty pounds seventeen shillings and eightpence, your Majesty has hitherto wholly failed and neglected so to do, or to pay to them any part of the same.

19. That all conditions were fulfilled and all times elapsed, and all things happened to entitle your Suppliants to payment of the said sum of seven thousand nine hundred and forty pounds seventeen shillings and eightpence, and to maintain their claim thereto.

20. That your Suppliants also claim interest on the several sums payable to them as aforesaid from the several dates on which the same, or any part of the same, became payable until payment.

Your suppliants therefore most humbly pray that your Majesty will be most graciously pleased to order that right may be done in the several matters aforesaid, and that your Majesty's Attorney-General in New Zealand may be required to answer the same, and that your Suppliants may henceforth prosecute their complaint in the said Court, and take such other proceedings as may be necessary.

And your Suppliants, as in duty bound, will ever pray, &c.

JOHN BROGDEN AND SONS.

Here follow the details of the claim.

PLEAS.

In the Supreme Court of New Zealand, Wellington District.

ALEXANDER BROGDEN, HENRY BROGDEN, and JAMES BROGDEN, *against* THE QUEEN.

The 19th day of October, 1877.

WALTER SCOTT REID, Solicitor-General of our Lady the Queen for the Colony of New Zealand, for and on behalf of our said Lady the Queen, saith,—

I. That he denies all the material allegations in the petition of the suppliants contained.

And for a second plea the said Walter Scott Reid saith,—

II. That, before the filing of the suppliants' petition herein, Her Majesty the Queen paid and satisfied the claim of the suppliants in respect of the matters in the said petition mentioned.

III. And for a third plea the said Walter Scott Reid saith,—

1. That by the third clause of an Act of the General Assembly of New Zealand intituled "The Government Contractors Act, 1872," it is provided that, in case where under the provisions of any contract it might be provided that any disputes arising between the parties thereto, or between the Contractor and the Government, such dispute should be referred to the sole arbitrament and award of the Judge of the Supreme Court assigned to the judicial district of the Supreme Court within which the works relative to which the dispute should have arisen shall have been executed, then and in any such case such dispute should be referred to the decision of the Judge of the Supreme Court in the manner thereafter provided.

2. That by the twenty-eighth clause of the same Act it is further provided that neither of the parties shall bring any action, suit, or proceeding against the other for or in respect of any matter so agreed to be referred as aforesaid.

3. That by the interpretation clauses of the said Act it is also declared that the word "Contractor," used in the said Act, should mean the said suppliants, and the word "contract," also used in the said Act, should mean any contract then or after the passing of the said Act to be entered into between the Governor, in the name of the Queen, and the said suppliants for the execution of any public works.

4. That the said contract set out in the said petition is a contract between the suppliants and Her Majesty the Queen for the execution of a public work within the meaning of the said Act.

5. That, by the twenty-seventh clause of the said contract, it is agreed that if any dispute should arise between the Contractor and the Government relative to the forces and intent and meaning of the specifications, drawings, or conditions, or to the mode of carrying on the works, or the nature or quality of the materials used, or supplied to be used, or workmanship of work done, or as to the maintenance of works, or as to the expense of additional works, or of alterations and deviations from the specifications and plans, or as to any other matter connected with the execution of the works, or with the contract, specifications, drawings, or conditions, such dispute shall be referred in writing to the sole determination, award, and arbitrament of a Judge of the Supreme Court assigned to that judicial district within which the works relative to which the dispute shall have arisen have been, or are to be executed, whose award shall be final, binding, and conclusive between the parties.

6. That the said matters set forth in the said petition, and for which the suppliants claim redress, are disputes between the suppliants and the Government of New Zealand, acting on behalf of Her Majesty the Queen, within the meaning of the said Act and the twenty-seventh clause of the said contract; and that the said matters in dispute have not been referred to the decision of a Judge of the Supreme Court as by the said Act provided.

IV. And for a fourth plea the said Walter Scott Reid saith,—

1. That by the third clause of an Act of the General Assembly of New Zealand intituled "The Government Contractors Act, 1872," it is provided that, in any case where under the provisions of any contract it might be provided that any disputes arising between the parties thereto, or between the Contractors and the Government, such dispute should be referred to the sole arbitrament and award of the Judge of the Supreme Court assigned to the judicial district of the Supreme Court within which the works relative to which the dispute should have arisen shall have been executed, then, and in any such case, such dispute should be referred to the decision of the Judge of the Supreme Court in the manner thereafter provided.

2. That by the twenty-eighth clause of the same Act it is further provided that neither of the parties shall bring any action, suit, or proceeding against the other for or in respect of any matter so agreed to be referred as aforesaid.

3. That, by the interpretation clauses of the said Act, it is also declared that the word "Contractor," used in the said Act, should mean the said suppliants; and the word "contract," also used in the said Act, should mean any contract then or after the passing of the said Act to be entered into between the Governor, in the name of the Queen, and the said suppliants for the execution of any public works.

4. That the said contract set out in the said petition is a contract between the suppliants and Her Majesty the Queen for the execution of a public work within the meaning of the said Act.

5. That, by the twenty-seventh clause of the said contract, it is agreed that, if any dispute should arise between the Contractor and the Minister for Public Works relative to the forces and intent and meaning of the specifications, drawings, or conditions, or to the mode of carrying on the works, or the nature or quality of the materials used or supplied to be used, or workmanship of work done, or as to the maintenance of works, or as to the expense of additional works, or of alterations and deviations from the specifications and plans, or as to any other matter connected with the execution of the works, or with the contract, specifications, drawings, or conditions, such dispute shall be referred in writing to the sole determination and arbitrament of a Judge of the Supreme Court assigned to that judicial district within which the works relative to which the dispute shall have arisen have been or are to be executed, whose award shall be final, binding, and conclusive between the parties.

6. That the said matters set forth in the said petition, and for which the suppliants claim redress, are disputes between the suppliants and the Minister for Public Works appointed under "The Immigration and Public Works Act, 1870," acting on behalf of Her Majesty the Queen, within the meaning of the said Act and the twenty-seventh clause of the said contract; and that the said matters in dispute have not been referred to the decision of a Judge of the Supreme Court as by the said Act provided.

AMENDED REPLICATION.

In the Supreme Court of New Zealand, Wellington District.

ALEXANDER BROGDEN, HENRY BROGDEN, and JAMES BROGDEN *against* THE QUEEN.

The 22nd day of October, 1877.

The suppliants by way of replication say,—

I. As to the first plea pleaded on behalf of Her Majesty the Queen, that they take and join issue thereon.

II. As to the second plea pleaded on behalf of Her Majesty the Queen, that they deny all the material allegations therein contained.

III. As to the third plea pleaded on behalf of Her Majesty the Queen—(1) That they deny the allegations contained in the fourth and sixth paragraphs thereof; (2) That in so far as the matters set forth in the petition in the said plea mentioned are disputes between the suppliants and the Government, as in the said plea mentioned, such disputes arose more than six calendar months before the filing of the said petition, as Her Majesty well knew, and neither the Government nor the Minister for Public Works took or adopted any of the ways, means, or proceedings provided by the Act in the said plea mentioned for referring the same to arbitration under the provisions thereof.

IV. As to the fourth plea pleaded on behalf of Her Majesty the Queen, That they deny the allegations contained in the fourth and sixth paragraphs thereof; that in so far as the matters set forth in the petition in the said plea mentioned are disputes between the suppliants and the Government, as in the said plea mentioned, such disputes arose more than six calendar months before the filing of the said petition, as Her Majesty well knew, and neither the Government nor the Minister for Public Works took or adopted any of the ways, means, or proceedings provided by the Act in the said plea mentioned for referring the same to arbitration under the provisions thereof.

FURTHER PLEA.

In the Supreme Court of New Zealand, Wellington District.

ALEXANDER BROGDEN, HENRY BROGDEN, and JAMES BROGDEN *against* THE QUEEN.

On Tuesday, the 11th day of December, 1877.

AND for a further plea the said Walter Scott Reid, Solicitor-General for our Lady the Queen for the Colony of New Zealand, for and on behalf of our said Lady the Queen, says that, before the filing of the said petition in the Supreme Court at Wellington, by a deed dated the fifth day of September, 1877, and made between the said suppliants of the one part, and James Brunless, of 5, Victoria Street, in the City of Westminster, civil engineer, and James Brogden, one of the said suppliants, of the other part, and which said deed is not in the possession or under the custody or control of Her Majesty the Queen, or any person on her behalf, the said suppliants assigned unto the said James Brunless and James Brogden all their interest in, amongst other things, the contract set out in the said petition, and all principal moneys and interest payable in respect thereof, and in respect of the construction of the railways therein mentioned, and all additional works connected therewith: And, further, that the said suppliants did, by the said deed, empower the said James Brunless and James Brogden to demand, sue for, recover, and receive all principal moneys and interest thereby assigned, and to give effectual discharges in respect thereof; that thereby the said suppliants ceased to have any right or interest in the said contract, and the principal moneys and interest payable in respect thereof, and that the said James Brunless and James Brogden became entitled thereto.

NOTICE OF ENTRY OF DISCONTINUANCE.

In the Supreme Court of New Zealand, Wellington District.

Between ALEXANDER BROGDEN, HENRY BROGDEN, and JAMES BROGDEN, *against* THE QUEEN.

TAKE notice that the suppliants have this day entered a discontinuance herein.

Dated the 26th day of September, 1878.

HENRY H. TRAVERS,
Solicitor for the Suppliants.

To Walter Scott Reid, Esquire, Solicitor-General for and on behalf
of Her Majesty the Queen for the Colony of New Zealand.

APPENDIX I.

PAPERS PRODUCED BEFORE THE COMMITTEE BY COUNSEL FOR THE MESSRS. BROGDEN, AND NOT PRINTED IN THE PRECEDING APPENDICES.

EXTRACT FROM MESSRS. TRAVERS AND OLLIVIER'S BILL OF COSTS AGAINST MESSRS. JOHN BROGDEN AND SONS, REFERRED TO IN THE STATEMENT OF MR. W. T. L. TRAVERS BEFORE THE COMMITTEE (page 27 of Minutes of Evidence).

Date.	Particulars.	Amount.
1872. August 13	Attending you as to Contractors Arbitration Bill, and conferring and advising and receiving instructions	0 13 4
	Perusing and considering the Bill, and drawing alterations and additional clauses, and making fair copy thereof	1 1 0
	Attending Attorney-General thereon and conferring, when he agreed to introduce these amendments	0 13 4

CORRESPONDENCE RELATIVE TO THE ERECTION OF THE TELEGRAPH ALONG LINES OF RAILWAY CONTRACTED FOR BY THE MESSRS. BROGDEN.

The MINISTER for PUBLIC WORKS to Messrs. JOHN BROGDEN and SONS.

GENTLEMEN,—

Public Works Office, Wellington, 10th January, 1873.

It is proposed by the Telegraph Department to move the telegraph poles which interfere with the works on your Wellington to Hutt Railway Contract; and, as this involves the delicate handling of the wires now in constant use, I beg to suggest to you that this work should be done entirely by the officers of the Telegraph Department.

With reference to the erection of railway telegraph along this line, and others under contract by you, I also suggest that it will be better that this should be done in the same way. I quite recognize the fact that the telegraph is to be constructed and paid for as station-accommodation under your several contracts; but, considering the nature of this work and the liability of serious inconvenience to the public service of the colony which may be caused from a variety of circumstances contingent on the erection of these lines, I propose, if you agree to the same, that the Telegraph Department should do the work, that accounts be kept, and that 10 per cent. on the cost, as per your contract, should be paid to you.

I shall be glad to hear from you at an early date, and to have an interview with you on this subject if you consider it necessary.

I have, &c.,

Messrs. John Brogden and Sons, Wellington.

EDWARD RICHARDSON.

The UNDER-SECRETARY for PUBLIC WORKS to Messrs. JOHN BROGDEN and SONS.

GENTLEMEN,—

Public Works Office, Wellington, 10th February, 1873.

With reference to the Hon. Mr. Richardson's letter of the 10th January, and your reply of the day following, relative to the erection of the telegraph along the lines of railway under contract to your firm, I am directed to request the favour of your informing Mr. Richardson whether you concur in extending the arrangement made in respect to the line from Wellington to the Hutt to all the other lines above mentioned.

I have, &c.,

JOHN KNOWLES,

Messrs. John Brogden and Sons, Wellington.

Under-Secretary for Public Works.

Messrs. JOHN BROGDEN and SONS to the Hon. the MINISTER for PUBLIC WORKS.

SIR,—

Wellington, 12th February, 1873.

Referring to your letter, as per margin (P.W.O., 10th Jan., 1873, and P.W.O., 10th Feb., 1873), and to ours of the 11th ultimo, relative to the erection of the telegraph along the lines of railway under construction by our firm, we have the honour to inform you that we concur in the arrangement proposed in your letter of the 10th ultimo, viz., that this work should be executed by the Government through the Telegraph Department, and that we receive 10 per cent. on the cost.

We have, &c.,

JOHN BROGDEN AND SONS,

The Hon. the Minister for Public Works, Wellington.

(per JOHN HENDERSON.)

CORRESPONDENCE RELATIVE TO NON-PAYMENT OF MONEY DUE ON MOERAKI CONTRACT.

The UNDER-SECRETARY for PUBLIC WORKS to MESSRS. JOHN BROGDEN AND SONS.

GENTLEMEN,—

Public Works Office, Wellington, 12th May, 1877.

Referring to the applications that have been personally made by Mr. Billing for the payment of the sum of £7,910 4s. 11d., being the amount still unpaid on the Moeraki Contract, the Hon. the Minister for Public Works directs me to inform you that the following items, amounting to £3,325 5s., will require to be deducted therefrom, viz. :—

	£	s.	d.
Penalties on Kakanui Bridges Contract	...	...	...
" Moeraki deviation	...	...	...
Maintenance failed to be performed	...	...	...
Penalties on Moeraki Contract	...	...	...
	2,749	0	0
	<hr/>		
	£3,325	5	0
	<hr/>		

As the above amount, together with the overpayment of £4,582 15s. 1d. on the Waitara and Invercargill Contracts (together £7,908 0s. 1d.) will nearly absorb the amount applied for, the Minister is unable at present to direct any further payment to be made. The equity of this decision will no doubt meet with your concurrence.

I have, &c.,

JOHN KNOWLES,

Under-Secretary for Public Works.

Messrs. John Brogden and Sons, Wellington.

CORRESPONDENCE RELATIVE TO SETTLEMENT OF ACCOUNTS ON THE TAIERI CONTRACT OF THE DUNEDIN AND CLUTHA RAILWAY.

Messrs. JOHN BROGDEN and SONS to the Hon. the MINISTER for PUBLIC WORKS.

Wellington, 17th August, 1877.

SIR,—

Taieri Contract, Dunedin and Clutha Railway.

We have the honour to request a reply to our letter of the 16th March last, and having reference to yours of the 8th and 16th March relating to the accounts we forwarded to you in connection with the Taieri Contract, Dunedin and Clutha Railway.

We are anxious for an early settlement of the balance due on this contract, and have several times expressed our willingness to go through the accounts with your Engineers for this purpose, and in accordance with the wishes of the Engineer-in-Chief, our Mr. Williams proceeded to Dunedin in May last, and requested the District Engineer, Mr. Blair, to go through the accounts with him, and in case of any difference as to measurement or the execution of certain extras, to go out on to the works and settle such differences.

The District Engineer, Mr. Blair, however, refused to go through the accounts, stating he had received no instructions to do so. We therefore request an early reply as to when the balance due the above contract will be paid to us.

We have, &c.,

JOHN BROGDEN AND SONS,

(per JOHN HENDERSON.)

The Hon. the Minister for Public Works.

CORRESPONDENCE RELATIVE TO RETAINING MR. BRUNTON AS A WITNESS IN THE INVERCARGILL-MATAURA CASE.

Mr. ALEXANDER BROGDEN to W. E. BRUNTON, Esq.

(Telegram.)

Wellington, 5th August, 1881.

By all means give Mr. Higginson all the information he wants. We shall rely on you for our compensation claims.

ALEX. BROGDEN.

W. E. Brunton, Esq., Oamaru.

Messrs. JOHN BROGDEN and SONS to W. E. BRUNTON, Esq., C.E.

DEAR SIR,—

Wellington, 10th August, 1881.

In reference to our claim against the Government in respect of the Invercargill and Mataura Railway we wish to retain you as a witness for us, and herewith send you a cheque for £10 as a retainer.

We do not object to your giving Mr. Higginson any information he may require as to the measurements.

Yours truly,

W. E. Brunton, Esq., C.E., Oamaru.

JOHN BROGDEN AND SONS.

SUNDRY ACCOUNTS.

AUCKLAND AND WAIKATO RAILWAY.

The General Government of New Zealand Dr. to John Brogden and Sons.

	£	s.	d.
To 3,806½ft. 2in. piping at 1s. 9d.	331	1	5
424½ft. 1½in. „ 1s. 6d.	31	17	2
1,147ft. 1½in. „ 1s. 2d.	66	18	2
	<hr/>		
	431	16	9
Add percentage	<hr/>		
	£	<hr/>	

Vide evidence of
H. W. Williams,
p. 37.

Correct, JAS. STEWART, with the exception that the last item should be only 1s. 1d. per foot.
Received triplicate voucher.—J. S.

INVERCARGILL AND MATAURA RAILWAY.

Government Certificate ending 31st December, 1875.

	£	s.	d.
Contract sum	88,832	0	0
Additions to contract	9,729	17	6
	<hr/>		
	98,561	17	6
Deductions	1,452	2	0
	<hr/>		
	97,109	15	6
Previously certified	93,773	18	10
	<hr/>		
This month	£3,335	16	8

Do, p. 37.

January 7th, 1876.

Correct: W. E. BRUNTON, Resident Engineer.

The New Zealand Government, Public Works Department, Dr. to John Brogden and Sons.

	£	s.	d.	£	s.	d.
Dec., 1875. Province of Otago.—From Mataura to Invercargill.—Contract of 10th August, 1872.						
For Railway—Invercargill Contract	88,832	0	0			
Additions authorized to 30th December, 1875	10,883	17	0			
	<hr/>					
Total				99,715	17	0
Previous payments, No. 1/75 (624)	95,296	5	1			
Reductions	1,778	16	5			
	<hr/>					
Total				97,075	1	6
	<hr/>					
Balance				£2,640	15	6
	<hr/>					
Instalment now due, No. (93)				1,153	10	5
	<hr/>					
Total				£1,153	10	5

Do, p. 37.

I CERTIFY that, to the best of my knowledge and belief, the foregoing account is true and correct in every particular; that the charge is according to contract, and that the service has been satisfactorily performed.

28th February, 1876.

JOHN BLACKETT.

MEMORANDUM.—The additions and reductions to this contract have lately been revised, and certain items in the reductions removed or reduced, leaving the amount as stated above.

The New Zealand Government, Public Works Department, Dr. to John Brogden and Sons.

	£	s.	d.	£	s.	d.
Jan., 1876. Province of Taranaki.—From Waitara to Patea—Contract of 19th July, 1873.—For						
Railway—Waitara Contract	41,000	0	0			
Additions authorized to January, 1876	5,299	0	1			
	<hr/>					
Total				46,299	0	1
Previous payments, No. 1/48 (737)	42,648	4	4			
Reductions	224	0	6			
	<hr/>					
Total				42,872	4	10
	<hr/>					
Balance				£3,426	15	3

Instalment now due, No. 49 (7)	2,460 2 7
Total	£2,460 2 7

I CERTIFY that, to the best of my knowledge and belief, the foregoing account is true and correct in every particular; that the charge is according to contract, and that the service has been satisfactorily performed.

JOHN CABRUTHERS.

The New Zealand Government, Public Works Department, Dr. to Brogden and Sons.
28th February, 1879.

Amount payable to above firm as per statement below	£ s. d.
Interest thereon from 17th April, 1877, to 28th February, 1879, inclusive	588 4 3
... ..	110 1 4

Vide evidence of
H. W. Williams,
p. 36.

Account.	Total Due.	Total Paid.	Underpaid.	Overpaid.
	£ s. d.	£ s. d.	£ s. d.	£ s. d.
Auckland	267,848 15 6	267,883 14 1	...	34 18 7
Napier	61,904 2 7	61,799 17 7	104 5 0	...
Waitara	48,825 14 2	51,105 11 0	...	2,279 16 10
Moeraki	177,901 7 4	173,668 0 9	4,233 6 7	...
Taieri	186,580 1 5	185,773 8 3	806 13 2	...
Invercargill	109,080 6 2	111,321 11 3	...	2,241 5 1
Balance	852,140 7 2	851,552 2 11	5,144 4 9	4,556 0 6
	...	588 4 3	588 4 3	...
Total ... ..	...	...	...	£698 5 7

I CERTIFY that, to the best of my knowledge and belief, the foregoing account is true and correct in every particular, and that the payment has been directed by the Minister for Public Works on P.W. 78/4689

JOHN KNOWLES,
Under Secretary, Public Works.

N.B.—The above is copied from a printed form; but it contains all that is necessary to show how the Government have made out the account.—H. M. W.

EXTRAS AND ADDITIONS AS RENDERED TO GOVERNMENT.

	1876.			1881.
	February.	May.	December.	March.
	£	£	£	£
Invercargill	44,308	44,354	45,715	39,118
Picton	29,567	32,661	33,378	37,882
Napier	17,574	18,062	18,848	22,447
Waitara ... ..	...	12,858	12,968	15,797
Taieri ... ..	...	...	132,400	116,443
Total ... ..	...	...	243,309	231,687

Oamaru—Not finished in 1876.
Auckland—