



SUPPLEMENT

TO THE

NEW ZEALAND GAZETTE

OF

THURSDAY, SEPTEMBER 15, 1921.

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Extending Period within which Tongariro Timber Company (Limited) shall be required to complete Construction of Railway, and imposing Conditions with respect thereto.

JELlicoe, Governor-General.

ORDER IN COUNCIL.

At the Government House at Wellington, this 12th day of September, 1921.

Present:

HIS EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL.

WHEREAS the Tongariro Timber Company (Limited), (hereinafter called "the said company"), has, under and in pursuance of the provisions of section thirty-seven of the Maori Land Laws Amendment Act, 1908, certain rights under agreements with the Aotea District Maori Land Board (hereinafter called "the said Board") with respect to the lands described in such agreements and the timber thereon, and is under obligations to the said Board (*inter alia*) to construct a railway (hereinafter called "the said railway") within a certain period as set forth in the said agreements:

And whereas by subsection two of section nineteen of the Native Land Amendment and Native Land Claims Adjustment Act, 1915, it is provided that the period within which the said company is bound to complete the said railway may be extended from time to time for such period or periods as the Governor-General may by Order in Council determine:

And whereas the said company has made application for an extension of time within which to construct the said railway, and it is deemed expedient to extend the period within which the said railway must be completed, subject, however, to the conditions and provisions hereinafter contained:

Now, therefore, His Excellency the Governor-General of the Dominion of New Zealand, in pursuance and exercise of the power and authority conferred on him by section nineteen of the Native Land Amendment and Native Land Claims Adjustment Act, 1915, and of every other power and authority enabling him in that behalf, and acting by and with the advice and consent of the Executive Council of the said

Dominion, doth hereby conditionally extend the period within which the said company is bound to complete the construction of the said railway for a total period of seven years from the date of this Order in Council, provided that the following sections of the said railway shall be severally and successively completed within the following periods—that is to say, starting from 0 miles at Kakahi, from 0 miles to five (5) miles within two years, from five (5) miles to nine (9) miles within three years, from nine (9) miles to eighteen (18) miles within four years, and the balance from eighteen (18) miles to Lake Taupo within the said seven years, in each case from the date hereof; and doth hereby declare that such extension of the period for completion shall be subject to the following conditions and provisions:—

1. The construction of the said railway upon the line laid out by the Engineer to the said company and according to the specifications prepared by that Engineer, and lodged with the Department of Public Works and initialled by R. W. Holmes, late Engineer-in-Chief, except that the rails shall be not less than 45 lb. steel rails, is agreed to, but on the following conditions:—

(a.) The question whether and to what extent widening of or deviations from that line are necessary for the proper use of the line by Government engines and rolling-stock is to be in the absolute determination of the Government Railway Engineers.

(b.) The said company shall, within twelve years from the date of this Order in Council, so reconstruct the whole line as to bring it up to the standard of the Government lines in accordance with the requirements of the General Manager of Railways, as defined in the memorandum of the General Manager of Railways to the Commissioner of State Forests dated the thirtieth day of March, one thousand nine hundred and twenty-one, especially as to bridges, grades, and curves, and making new construction upon the deviations required by the Government Railway Engineers for those purposes—the intent being that while the layout of the line by its Engineer is accepted as sufficient for the present purposes of the said company, it is not sufficient for the purposes of the carriage of Government rolling-stock and engines; and the line is to be brought up within twelve years both as to standard and in deviation to the said re-

quirements of the General Manager of Railways." It is expressly contemplated that considerable tunnelling will be necessary for the purpose of reducing the curves and grades upon the Engineer's layout, and that considerable widening or deviation will be necessary for those purposes, and that such tunnelling, widening, and deviation are included in the obligations of the said company.

(c.) To ensure that the reconstruction of the said railway shall be completed within the twelve years the said company shall, within ten years from the date of this Order in Council, substantially commence and proceed with the work of reconstruction.

(d.) As a guarantee that the said company will reconstruct the said railway as hereinbefore provided the said company shall set aside monthly from time to time a sum of not less than one shilling and sixpence per one hundred superficial feet sawn measurement in respect of all timber cut by the said company, its successors or assigns, and carried on the said railway from the areas of the said land known as the Northern and Eastern areas (estimated to contain 1,400,000,000 superficial feet of timber), provided that the obligation to so set aside such sum shall commence from the date of the commencement of cutting operations, and the sums to be so set aside shall not in any year be less than five thousand pounds. Such sums shall be paid monthly, upon the tallies of timber carried, to a trustee to be nominated by the Commissioner of State Forests on behalf of the Crown, to be accumulated with compound interest, and shall be made available for expenditure by the Government in defraying the cost of such reconstruction in the event of the said company failing in any respect to perform its obligations: Provided that such trustee may from time to time pay to the company, out of accumulations of principal and interest accruing from such contributions, sums not exceeding three-fourths of the total amount expended by the company for the time then being upon such reconstruction, if such expenditure has been certified in writing by the Government Engineer-in-Chief to have been duly incurred by the company in execution of the widening, deviation, and reconstruction work hereby required.

2. The said company shall also, if the construction thereof is authorized by Parliament, construct an extension of the said railway for a further four (4) miles towards the Tokaanu Township within nine years from the date of this Order in Council. Such extension shall be laid out on a line to be approved by the Government Railway Engineers, and shall be constructed to the standard hereinbefore required for the said railway when reconstructed: Provided that if such construction is not so authorized by Parliament within seven years from the date of this Order in Council, then the obligation on the part of the said company to extend the said railway a further four miles shall cease and determine.

3. The Governor-General shall be entitled, at any time after the expiration of ten years from the date the entire line of the said railway is completed, upon giving twelve months' notice in writing to the said company, to purchase the said railway at a price not exceeding the cost thereof to the said company, to be determined by arbitration, the award being that of three arbitrators, or any two of them, one arbitrator being chosen by the Governor-General, another by the said company, and a third arbitrator by the two other arbitrators.

4. In determining the price to be paid to the said company the said arbitrators shall not award any compensation to the said company in respect of the lands the use of which for the

line of railway has been acquired from the Governor-General under the provisions of any Act, or which have been transferred to the said company free of purchase-money or other price for the construction of the permanent-way of the line and for railway-stations; but the company may require in respect of such lands, and be entitled to, the fair value of all improvements made by it on such lands, to be ascertained as hereinafter provided.

5. On payment of the compensation to be awarded under the provisions hereof the said company shall convey, assign, and transfer to His Majesty all the estate, property, and interest of the said company in the railway-works, plant, rolling-stock, and everything appurtenant thereto, freed and discharged from any mortgage, charge, incumbrance, or lien.

6. No compensation whatever shall be paid for the goodwill of the said railway; but the arbitrators in determining the price to be paid to the said company shall take as a basis of the valuation the cost of other similar railway-works, plant, and rolling-stock at the time when the works forming the subject of such arbitration were constructed, or the plant or rolling-stock was acquired, as the case may be.

7. The arbitrators shall also take into consideration the depreciation in the permanent-way, plant, and rolling-stock, buildings, and other works of the said railway, including therein any onerous or burdensome provisions respecting the use of the said railway or the works thereof, or any easements, rights, or privileges in connection therewith.

8. If such power of purchase is exercised by the Governor-General as aforesaid between the periods hereinafter respectively mentioned, after the said railway has been completed, there shall be added to the amount of compensation to be ascertained as before provided the percentage hereinafter mentioned, that is to say:—

Ten years and not exceeding fourteen years, five per centum;

Fourteen years and not exceeding twenty-one years, ten per centum.

9. The amount of such percentage, as the case may require, shall be ascertained by the arbitrators, and shall be deemed to be and shall be paid as part of such compensation.

10. The compensation so ascertained as aforesaid shall be accepted by the said company in full of all claims and demands in respect of the purchase of the railway-works, plant, rolling-stock, implements, and all the rights, powers, and privileges of the said company in respect thereof, and shall be paid out of moneys appropriated for that purpose by Parliament: Provided that until Parliament has appropriated money for such purpose no agreement made by the Governor-General to purchase the said railway shall be binding on him or the Government.

And, with the like advice and consent, His Excellency the Governor-General doth hereby further declare that the foregoing provisions of this Order in Council shall not take effect unless and until within twelve months from the date hereof a certificate signed by the President of the Aotea District Maori Land Board that all moneys due by the said company to the said Board, representing the Native owners, for royalties accrued due under the said company's agreement up to the date of such certificate have been duly paid is published in the *New Zealand Gazette*.

And it is hereby further declared that this Order in Council is issued subject to the provisions thereof being confirmed by Parliament.

C. A. JEFFERY,
Acting Clerk of the Executive Council.