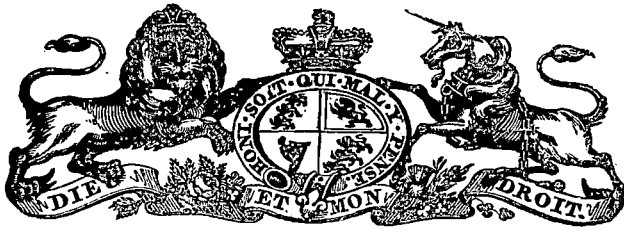


(No. 84.)



1875.

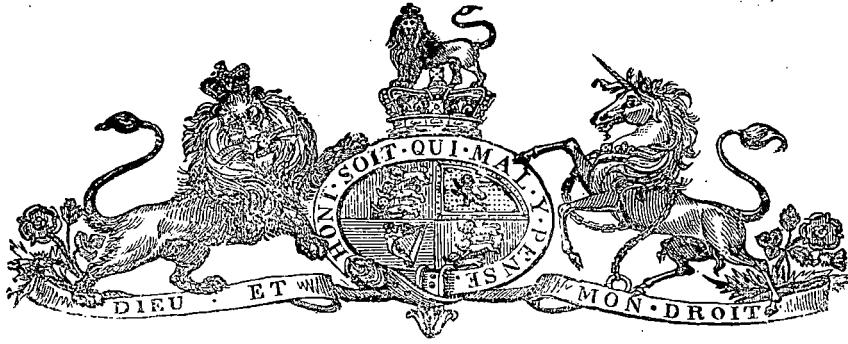
T A S M A N I A.

H O U S E O F A S S E M B L Y.

R A I L W A Y I N S P E C T I O N B I L L.

C O R R E S P O N D E N C E.

Laid upon the Table by the Attorney-General, and ordered by the House to be printed, September 1, 1875.



RAILWAY INSPECTION BILL.

Attorney-General's Office, 7th August, 1875.

SIR,

I HAVE the honor to forward for your perusal and consideration a draft Bill for the Inspection and Supervision of Railways in this Colony, which I purpose in the course of a few days to submit to the House of Assembly.

The provisions are all such as are in force in Victoria, and almost all such as are also in force in England. I should be glad to be favored with any suggestions from you which would assist me in making the measure as full as the circumstances of a small Colony may seem to require.

I have, &c.

W. R. GIBLIN.

C. H. GRANT, *Esq.*, Chief Engineer,
Tasmanian Main Line Railway Company.

*Tasmanian Main Line Railway Company, Limited, Engineer's Office,
Hobart Town, Tasmania, 11th August, 1875.*

SIR,

I HAVE the honor to acknowledge your letter of the 7th instant, with which you kindly forward me a copy of a draft Bill for the Inspection and Supervision of Railways, that you propose to submit to the House of Assembly.

You further do me the honor to state that you will be glad to receive any suggestions that would assist you in making the measure as full as the circumstances of a small Colony will permit.

Having given a very careful consideration to the Bill, I must candidly state that it does not at the present time seem applicable to this Colony, and would, I think, lead to some embarrassment in carrying it into operation.

In the first place, as most of the Australian and New Zealand Railways are owned, and directly controlled, by the Colonial Governments, there has been no necessity to create a professional examining authority, competent to deal with all branches of Railway construction and management, as are the Inspectors of the Board of Trade in England. Although well acquainted with most British Colonies, I do not know one where such an Act as you propose has become law, although a far larger amount of professional railway knowledge has been available.

The Clauses 4, 5, and 7 appear to me in some degree inconsistent with the Main Line Railway legislation and contracts, by which the whole *onus* of fulfilling the contract is thrown upon the Company; while the Public are fully protected by Lord Campbell's Act, and the innumerable precedents of Railway jurisprudence.

Under the proposed Act the Government would at least share in the responsibility after the line had once been inspected and passed.

The contract now specifies all that the Parliament required of the Company; and it would appear *ultra vires* for the Parliament to seek to vary the terms of the contract, to a most important extent, without the consent of the other contracting party.

I fear that clause 4 of the Bill may practically conflict with clause 15 of the Contract; clause 5 with the 5th clause of the Schedule, and clause 7 with clause 15 of the same; and these, with clauses 6, 8, 9, and 13, appear quite inconsistent with clause 2 of the Contract. Clause 7 in the Bill must, I believe, be found in practice quite unworkable, and clauses 8 and 9 inoperative, because no signals whatever are used on most single lines of railway worked—as the Main Line will be—with the electric telegraph and train staff.

Under clause 11 it will be absolutely necessary to clearly and technically define what would be considered an “accident, whether attended with personal injury or not.”

The very strong objections, on public grounds only, that must be made in placing the Main Line Railway in any way under the control of the Minister of Lands and Works are too well known to you to need that I should dwell upon them.

I really cannot see that the public could derive even the smallest safety or advantage through the Bill becoming law; while, on the other hand, I think it might lead to much unpleasantness and litigation, and even absolve the Company from the fulfilment of their liability under the Contract.

Trusting that you will excuse the direct and frank manner in which I have stated my objections, which are really disinterested,

I have, &c.,

CHARLES H. GRANT.

Hon. W. R. GIBLIN, *Attorney-General.*

*Tasmanian Main Line Railway Company, Limited, Engineer's Office,
Hobart Town, Tasmania, 16th August, 1875.*

SIR,

IN the *Mercury* report of your speech delivered in Parliament last Friday evening, on the subject of the Financial proposals of the Hon. Colonial Treasurer, you are made to state, in special reference to the Main Line Railway, that “they did not want an inferior article; what they wanted was, to use the words of the contract, ‘a railway constructed of the best possible material, and in a thoroughly substantial manner.’ If they found that every iota of the Contract was fulfilled, then the country would be prepared to fulfil everything it had undertaken to do.” In the report of the *Tribune* you are made to say that “the country wanted a railway constructed in the best possible way.”

I feel assured that you did not intentionally go far beyond the terms of the contract in stating your requirements; but if you will kindly refer to that document, you will find the only general specification of the work is to this effect: “The said Railway, together with all stations, rolling stock, and all other works connected with such Railway, shall be constructed of the best material, and in a thoroughly substantial manner.” The contract then specifically defines that the gauge shall be 3 feet 6 inches; the bridges shall be constructed of brick, stone, iron, or timber, as the Company's Engineer may determine; the weight of the rails shall average 40 lbs. to the yard; the sleepers shall not be less than 6 feet 6 inches in length by 8 × 4½ inches in breadth, or depth, and to be half round or squared timber, and fastened with dog spikes, or other equally efficient fastening; the ballast shall not be of less width than 8 feet 6 inches, nor of less depth than 18 inches, from top of rail; no curve shall have a less radius than four chains, and no gradient shall be steeper than 1 in 40; the station buildings shall be of brick, stone, or wood, and with such offices and accommodation as the Company's Engineer may consider necessary.

You will therefore see that the contract itself interprets, in a most peremptory form, the meaning to be given to the terms, “best material, and in a thoroughly substantial manner,” and that such interpretation is inconsistent with your rendering that the Railway is to be made of the “best possible material,” or in the “best possible way.”

The specification to the Contract is exactly that used for the system of “Light Railways” generally, which is simply another expression for the “good, useful, lightly constructed line” recommended in Mr. S. V. Kemp's Report on the Main Line Railway.

That the Main Line Railway is not constructed entirely on such a system is simply owing to the intervention of the private company who own the line, and therefore desire to get the best possible work and value for their money. Had the Government dealt direct with the Contractors, I am sure that a very inferior line must have resulted from the same Contract.

Again, the Government and yourself are very emphatic in stating on all occasions that the Colony contracted for and always believed that they were to have a superior railway, and would not

be satisfied with anything short of it; but on looking through the preliminary correspondence I cannot find any warrant for this impression, or any reference whatever to the quality of the line in the numerous letters that passed between the Hon. Colonial Secretary and Messrs. Coote and Dobson in 1870 and 1871, otherwise than that the Government refused to accept the offer to make a broad gauge line for a guarantee of 6 per cent. on £850,000, and kept bargaining until they reduced the terms to the present Contract of 5 per cent. on £650,000 for the inferior narrow gauge railway. The conditions of quality were evidently left entirely to the consideration of the Company; and that the Government and Colony did not wish to interfere therewith is shown by the letters of the Hon. the Colonial Secretary of the 9th, 12th, and 15th August, and the 31st October, 1870, which have been hitherto alluded to by the Government as the "Provisional Contract."

The conditions laid down in the first letter were:—

1st. The Tasmanian Main Line Railway Company to construct the Railway on a 3 feet 6 inch gauge, with the necessary Stations, Rolling Stock, and all other requisites to the proper and efficient working and maintenance of the Line.

2nd. The Company to work the Line with such engines, and run such trains daily, as may be agreed upon with the Government.

3rd. The Government to guarantee interest at the rate of £5 per cent. per annum on the actual cost of the Railway, complete, as in paragraph 1, up to and not exceeding £650,000.

The remaining Clauses Nos. 4 to 7 refer only to financial considerations, and the terms of purchase.

In the letter of the Hon. the Colonial Secretary, dated 31st October, 1870, which is really the whole basis of the Contract, the only remarks in any way respecting the quality of the line are those contained in the 4th paragraph,—“One advantage of the proposal embodied in the Act of this Session (34 Vict. No. 13, The Main Line of Railway Amendment Act) is, that it limits and fixes the extent of the responsibilities of the Colony. It presupposes that the contracting Company have satisfied themselves that the proposed Line of Railway can be constructed, the necessary Rolling Stock and *all expenses met* for a sum of £650,000, and then guarantees a definite rate of interest upon the capital as raised. I would therefore urge upon the attention of the gentlemen who instruct you that it is essential that the engineers should be at once despatched to the Colony for the purpose of having an accurate survey completed of a narrow-gauge line, and upon this being done the final contract may be then prepared and signed.”

Again, in the letter of the 25th March, 1871, the Hon. Colonial Secretary remarks:—“Of course the total cost of construction upon which the Government guarantee interest, including all costs of survey, interest on advances, and *other expenses*, must not exceed £650,000.”

In the detailed specification furnished by the Government as an instruction to Mr. Coote when he was appointed their Agent to negotiate for the construction of the Main Line Railway (see letter of Hon. Colonial Secretary dated 19th November, 1869, No. 11, Main Line Correspondence, 1870), the following are the only clauses that treat of the quality of the railway:—

2. “Conditions.”

2. “Construction of Railway.”

“(a) Gauge to be 5 feet 3 inches, and only under the strongest necessity can its reduction to 4 feet 8½ inches be allowed.

“(b) Weight of rail to be not less than 40lbs. to the yard.

“(c) Railway and all works connected therewith to be good and substantial.

“(d) No part of railway to be opened until the Governor in Council is satisfied that it is sufficiently completed for the safe conveyance of passengers, and that the opening would not be attended with danger to the public.”

3. “One train daily each way.”

“(a) To start at any hour between the hours of 6 a.m. and noon, or such other hours as may be approved by the Governor in Council.

“(b) To travel at an average speed not less than *twelve (12) miles an hour*, for the whole distance, including stoppages.

“(c) To take up and set down passengers at every passenger station on the line.”

13. “Damages for breach of contract.”

“The Company to be liable to liquidated damages in case of breach of any of the provisions of the Contract.”

From this it will be seen that a speed of twelve miles per hour is the most that was then proposed for a *broad* (Victorian) *gauge* line: it therefore appears *extremely remarkable* that when the gauge was reduced to 3½ feet only, the speed of the trains should be nearly doubled.

The above quotations are absolutely the *sole expressions* that can be found throughout the whole of the correspondence, preliminary to the signature of the Contract, that in any way bear upon the quality of the line; and I most respectfully contend that, so far from verifying your statement of their providing for a railway constructed in the “best possible manner,” they simply show that the Colony left the quality and making of the railway entirely to the Company, who would own and work it; but most anxiously provided that—however the railway might be built—its cost to the Colony, including every expense connected therewith, should not exceed the very low sum they had bargained to allow interest upon.

I venture to submit, as the only rational conclusion on the terms of treaty, that the Government were well aware they were not offering the *quid pro quo* for a superior line, and were therefore quite willing to accept any workable railway that could be procured on their terms, while anxious not to lose the proposed contractors by demanding that the line should be constructed on any restrictive specification.

I have, &c.,

(Signed) CHARLES H. GRANT.

Hon. W. R. GIBLIN, M.H.A., Attorney-General.

Attorney-General's Office, 21st August, 1875.

SIR,

I REGRET that I have been unable sooner to reply to your letter of the 11th instant as to the Railways Inspection Bill. I desire, however, to assure you that, although the second reading of that Bill stands on the Notice Paper of the House of Assembly as an Order of the Day for Tuesday next, I do not intend to proceed with it until you have had a full opportunity of making your views known upon the matter, and I should desire to consult your convenience as to what time you would require for that purpose.

It appears to me that the grounds of objection stated in your letter to the proposed Bill are such as might be possibly removed or obviated by a personal interview; and I should be happy to see you with your Solicitor, if you think such a course desirable.

You will find on reference to the Victorian Railways Act, No. 289, that you have been misinformed as to the state of the law there; all the provisions of the proposed Bill are contained in the Victorian Act, and many more stringent.

I need, perhaps, hardly assure you that the Government would not willingly recommend Parliament to pass any Act which would in any way invalidate the Contract, the object of the proposed legislation being merely to take those ordinary and usual precautions for the safety of the travelling public which the commencement of private railways in Tasmania would seem to demand.

I have, &c.,

W. R. GIBLIN.

C. H. GRANT, Esq., Chief Engineer
Main Line Railway Company.

Tasmanian Main Line Railway Company, Limited, Engineer's Office,
Hobart Town, Tasmania, 23rd August, 1875.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 21st instant, respecting the “Railways Inspection Bill” you have introduced into the House of Assembly.

You kindly inform me that it is not your intention to press the Bill if it really conflicts with the terms of the Contract between the Government and the Railway Company; and suggest that any such difficulties might be removed at a personal interview, so that at least a portion of the Bill might become law.

In reply I have the honor to assure you of the pleasure with which I should attend on you, and have requested Mr. Henry Dobson to arrange an interview.

It will be necessary to consider that—under the provisions of the Contract—portions of the line have been opened for more than 12 months, and both passengers and goods (in considerable quantity) are being daily carried by the Contractors, with the most satisfactory results.

I have, &c.,

CHARLES H. GRANT.

The Hon. W. R. GIBLIN, M.H.A., Attorney-General.

Attorney-General's Office, 31st August, 1875.

SIR,

I HAVE the honor to acknowledge the receipt of your letter dated the 16th instant, which however did not reach this office until the afternoon of the 27th instant.

Of course I cannot possibly undertake to be responsible for newspaper reports of my utterances in the House of Assembly; and as some little time has elapsed since the debate referred to by you took place, I can only now state that what I then intended to say, and what I believe I did in effect say, was, that the Main Line Railway Company had contracted to supply a certain article capable of fulfilling certain conditions, and that the Colony had a right to expect and would expect a fair compliance with such agreed conditions. I do not apprehend that you can object either to such a statement, or to any fair inference deducible therefrom.

I have, &c.,

W. R. GIBLIN.

C. H. GRANT, *Esq., Chief Engineer,*
Tasmanian Main Line Railway Company, Limited.