

(No. 64.)



1874.

---

T A S M A N I A.

LEGISLATIVE COUNCIL.

---

**LAUNCESTON AND WESTERN RAILWAY  
RATE:**

**RETURN OF SEIZURES; OF MAGISTRATES' RESIGNATIONS, &c.**

*Return to an Order of the Council dated August 1, 1874. (Mr. Aikenhead.)*

---

Laid upon the Table by Mr. Chapman, September 2, and ordered by the Council to be printed, September 4, 1874.



*NOMINAL Return of the Magistrates who have resigned the Commission of the Peace between  
1st January and 30th March, 1874.*

---

Theodore Bryant Bartley, of Kerry Lodge, near Launceston, Esquire.  
William Archer, of Brickendon, near Longford, Esquire.  
John Ralston, of Logan, near Evandale, Esquire.  
James Denton Toosey the younger, of Richmond Hill, Cressy, Esquire.  
Robert M'Kenzie Ayre, of Quamby, Hagley, Esquire.  
Henry Berkley Nicholls, of Longford, Esquire.  
Ernest Alfred Wigan, of Launceston, Esquire.  
John Gibson, of Pleasant Banks, Evandale, Esquire.  
William Robert Stewart, of Evandale, Esquire.  
William Henry Davies Archer, of Brickendon, near Longford, Esquire.  
Allan Mackinnon, of Dalness, Esquire.  
Robert DeLittle, of Launceston, Esquire.  
Rodham Catherine Davison Home, of Quamby, Esquire.  
Alexander Murray Milligan, of Launceston, Esquire.  
Thomas Chalmers Archer, of Woolmers, Longford, Esquire.  
Robert Hall Munce, of Drumreagh, Deloraine, Esquire.  
Adolphus Frederick Rooke, of the Retreat, Deloraine, Esquire.  
John Griffin, of Deloraine, Esquire.  
Kendrick Flexmore, of Glenfern, Esquire.  
Henry Laird, of Westbury, Esquire.  
John Drysdale, of Launceston, Esquire.  
James Cox, of Clarendon, Esquire.  
John Lowe Smith, of Rhodes, Longford, Esquire.  
George Ritchie, of Belmont, Longford, Esquire.  
Henry Rowland Dumaresq, of Mount Ireh, Longford, Esquire.  
Alexander Webster, of Launceston, Esquire.  
William Tyson, of Launceston, Esquire.  
The Honorable James Aikenhead, of Rosemount, Launceston, Esquire.

W. R. GIBLIN.  
13 August, 1874.

---

*Colonial Treasury, 2nd September, 1874.*

**MEMO.**

WITH reference to the preparation of Return No. 1 of the three asked for by Mr. Aikenhead, the Colonial Treasurer desires to point out that it will be furnished as early as practicable; but, with the clerical strength at the disposal of the Government, it is impossible to prepare the elaborate returns called for by the Council with that promptitude which the Colonial Treasurer would wish.

P. O. FYSH,  
*Colonial Treasurer.*

*The Hon. the Colonial Secretary.*

---

Launceston, 20th December, 1873.

To His Excellency CHARLES DU CANE, Esquire, Governor of Tasmania, &c.

SIR,

As Magistrates and Landholders of the Launceston and Western Railway District, we have the honor respectfully to submit for the information and consideration of Your Excellency the following particulars :—

1. That previous to 1859 the promoters of the Launceston and Western Railway applied to the Government to guarantee the interest upon the capital required for the construction of the Railway.

2. That the Government, of which the present Chief Justice Sir Francis Smith was Attorney-General and Premier, and the Hon. F. M. Innes, Colonial Treasurer, informed the promoters that the Government had recommended, and the Legislature had established, one general principle of local liability, which must govern the action both of the Legislature and the Executive with respect to the application of the promoters, and all similar applications.

3. That Your Excellency's predecessor, Sir Henry Young, in his speeches upon the opening of Parliament in 1859 and 1860, referred to such application of the promoters of the Launceston and Western Railway, and to such determination of the Government and the Legislature.

4. That, in his speech upon the opening of Parliament in 1859, the Governor stated that the Government "were unwilling to propose the guarantee of the Government to any scheme until those whose properties would be benefited by it have first given satisfactory evidence of their own assurance in its feasibility and financial soundness."

5. That the promoters of the Railway, as a preliminary manifestation of such assurance, forthwith subscribed £1500 to go towards obtaining a proper engineering survey and estimates of the projected Railway.

6. That, in his speech on the opening of Parliament in 1860, the Governor referred to such manifestation, and defined the determination at which the Government and the Legislature had arrived in respect to the application of the promoters, and all future similar applications, in the following words :—

To the repeated and earnest representations of the promoters of the movement in favour of a Railway for the districts lying between Deloraine and Launceston, according to the line of survey made some years since by Surveyor-General Sprent, my Government have been constrained to give their renewed attention. Opposed to the adoption of any course in respect to the construction of public works in one district which they would not be prepared to recommend for any other, they consider that the principles should be adhered to which appear to them already to have received the assent of Parliament as those which ought to govern the action both of the Legislature and of the Executive in respect to undertakings of public utility, and which they apprehend to be these :—

1st. That the guarantee of the Legislature may be afforded where it is shown that the undertaking for which it is sought will prove to be remunerative, and where also the district interested in the projected undertaking becomes security against possible loss to the public revenue, thus rendering that guarantee only a commercial facility for raising the necessary funds.

2nd. That a contribution may be made to works of public utility from the Land Fund in proportion to the estimated advantages to be derived by that revenue from the works.

Adopting these principles, and prepared to follow in that course which may after due enquiry be indicated as required by them, I would remit the whole question to the careful consideration of Parliament; with this further observation, that while on the one hand I would not be deterred by the novelty or the magnitude of any undertaking of public advantage from lending to it the sanction of the Legislature; on the other hand I am deeply sensible of the necessity of carefully protecting the credit of the Colony, and of not giving the countenance of the Government to any scheme by which the serious risk of that credit being impaired would be incurred, or by which any merely local object would be achieved at other cost than that of the locality interested in it.

With a view, however, to the subject of the Western Railway being brought into a tangible and authentic shape, the projectors of the scheme having subscribed funds for the purpose of obtaining a proper engineering survey and estimates, I think it is due that a fair contribution to that preliminary outlay should be made from the Land Fund, which derives a large annual amount from the Western Districts.

7. That the promoters accepted such determination upon the part of the Government and Legislature as final, and subsequently entered into negotiations with the Government as to the precise terms and conditions upon which they would recommend to the Legislature to sanction the guarantee of the Government for the required capital, such negotiations extending over several years.

8. That the Government finally stated that the following were the only terms and conditions upon which such guarantee would be given :—

(1.) That the Launceston and Western Railway Company should subscribe and pay up the sum of £100,000, and give bonds to the Government for £300,000, the remainder of the required capital to be borrowed, on the guarantee of the Government.

(2.) That a Railway District should be constituted and defined, and that the landholders resident therein should, by a certain majority of votes at a poll to be taken for that purpose, express their willingness to be chargeable with a rate in the event of any deficiency of interest upon the £300,000 so to be guaranteed by the Government; such rate to be charged upon a re-valuation of all the properties in the said district by Commissioners to be appointed by the Governor, such re-valuation to be made with reference to "the railway accommodation or the benefit each property might be reasonably expected to receive from the Railway."

9. That the Launceston and Western Railway Company agreed to subscribe and pay up the said sum of £100,000, and to give their bonds to the Government for £300,000, upon their guaranteeing the interest upon the same; the carrying out of such agreement to be governed by the determination of the landholders of the proposed district, as to giving the security required by the Government, upon the conditions named by them.

10. That the Government after on several occasions bringing such proposed agreement, with the terms and conditions thereof, under the notice of Parliament, introduced, and in September, 1865, the Parliament passed "The Launceston and Western Railway Act," embodying such agreement with the Company, with the terms and conditions, and also constituting and defining the Railway District, that they might be carried out. The proposed contract with the landholders was embodied and clearly set forth in the 107th section of such Act, which enacted that "the landholders resident in the district should not be liable to any rate until and after the said landholders had by a majority of two out of three votes, at a poll to be taken for the purpose, expressed their willingness to be chargeable with such rate,"\* which was defined by the 70th section of such Act as chargeable on a re-valuation by Commissioners with reference to the railway accommodation afforded to each property, and by the 9th section of "The Railway Act, No. 6," as "the benefit each such property has received, or which it may be reasonably expected to receive, from the construction of the Railway."

11. That such poll was so taken in December, 1865, and the landholders, by the required majority of votes, expressed their willingness to be chargeable with such rate as so defined by the said Acts.

12. That the Company in 1866, having been unable to raise more than £50,000 on account of the said required capital of £100,000, applied to the Government to recommend to the Legislature to sanction the guarantee by the Government for £300,000, and the construction of the Railway, upon their (the Company) paying up such sum of £50,000.

13. That the Government thereupon introduced, and on the 20th February, 1867, the Parliament passed, "The Launceston and Western Railway Act, No. 2," sanctioning such guarantee and the construction of the Railway, upon the Company paying up £50,000 instead of the £100,000 required by the Railway Act.

14. That in 1869 the Company, finding that their capital of £350,000 was insufficient to complete the Railway, applied to the Government to recommend to the Legislature to sanction the guarantee by the Government of a further loan to the Company; and the Government thereupon introduced, and the Parliament on the 29th October, 1869, passed, "The Launceston and Western Railway Act, No. 5," sanctioning such loan of £100,000, and the guarantee of the Government for such amount.

15. That the landholders of the district were not in any way consulted either by the Company, the Government, or the Legislature, nor was any reference whatever made to them as to their consent or otherwise to the action of the Government and the Legislature in passing the said Railway Acts, Nos. 4 and 5, nor to their respective provisions sanctioning the alterations in, and departures from, the contracts so made with the landholders by the Government and the Legislature, and embodied in the Railway Act, upon the faith of which contracts they had so voted at such poll.

16. That the Railway District, so constituted by the Railway Act, was formed of several Road Districts, through some portions of which it was intended the Railway should pass. The adoption of such course caused the Railway District to be of a very irregular shape, and a large portion of the area of country so comprised in it, from its want of proximity to the Railway and from other local causes, could not derive any benefit whatever from the Railway, and other large portions could derive but little benefit; but no regard was had to these considerations either by the Government or the landholders in such Road Districts, because it had been agreed upon between them, and the Railway Act provided, that the Railway rate to which the landholders might become liable should be computed upon a re-valuation of the respective properties in the district, to be made by Commissioners by a fair valuation with reference solely to the Railway accommodation or the benefit each property might reasonably be expected to receive from the Railway.

---

\* The Interpretation Clause of the Act states that the term "Landholder" shall mean Proprietor.

17. That Your Excellency appointed the Hon. F. M. Innes, R. C. Gunn, T. B. Bartley, R. M. Ayre, and the late George Gibson as Commissioners "to re-value, as required by the 70th section of the Railway Act, by a fair valuation with reference to the railway accommodation, the several properties within the said District then described in the Valuation Roll for the time being."

18. The Commissioners, immediately upon their appointment, proceeded so to re-value the respective properties in the said district, and having completed such re-valuation, and made up the re-valuation Roll as required by the 72nd section of the Railway Act, and complied with all the provisions of such Act, and also of "The Railway Act, No. 6," having reference to such re-valuation, forwarded such roll to "The Court of Appeal" constituted under the provisions of the 8th section of "The Railway Act, No. 6," which Court, considering that the Commissioners had erred in not attaching a rateable value to every property inserted in such roll, declined to entertain it upon the ground "that it was not a Valuation Roll within the intent and meaning of the Acts of Parliament regulating the same."

19. That the Commissioners forwarded to the Government a report (a copy of which is hereunto annexed), dated 29th February, 1872, signed by all the Commissioners, stating "that immediately upon their appointment as Commissioners under the 70th section of the Launceston and Western Railway Act, for the purpose of re-valuing the several properties within the Railway District, they proceeded to do so, as they submitted, in strict compliance with the intents and meaning of the said Act; that they re-valued every property in the said district solely with reference to the railway accommodation afforded to each such property respectively, as directed by the said 70th section of the said Act, such railway accommodation being clearly defined by 'The Launceston and Western Railway Act, No. 6,' as 'the benefit each such property has received, or which it may be reasonably expected to receive, from the construction of the said Railway;'" that they could not conscientiously interpret the intent and meaning of the Railway Acts with reference to such re-valuation in any other manner but that which had governed all their operations in making their re-valuation and the Valuation Roll founded thereon; that they had forwarded such roll to the Court of Appeal, who had so declined to entertain the same as before stated.

20. That in their Report the Commissioners, who had, and were held in general repute as having, an extensive local knowledge as respects the properties in the Railway District, and as men of integrity and general intelligence, stated "that in so re-valuing every property in the Railway District with reference solely to the railway accommodation or benefit from the railway which it had received, or might be reasonably expected to receive, they had unconsciously adopted and were governed by the same interpretation of the intents and meaning of the Railway Acts, with reference thereto, as the landholders of the district, previously to the poll being taken, had been assured by the promoters of the railway would be adopted by, and would govern the action of the Commissioners who might be appointed to make such re-valuation. That such assurance was contained in a publication entitled "The Railway Banner," dated 27th October, 1865, (about a month before the said poll was taken), in which was a notice, that a copy of such publication was forwarded to every landholder in the district; and the Commissioners stated that they had good reason to believe that such assurance influenced many property holders when such poll was taken.

21. That the Commissioners furnished in their said Report a printed copy of the article containing such assurance extracted from "The Railway Banner" of such date, and also annexed to their Report a printed copy of such "Railway Banner."

22. That such publication was edited by a gentleman who acted as Secretary to the Railway League, then and now employed in the office of Messrs. Douglas and Collins, the Solicitors to the Company; the former of whom, Mr. Adye Douglas, M.H.A., succeeded in carrying through Parliament "The Railway Act" under the provisions of the 70th section of which the Commissioners were appointed, and their re-valuation made. And it has been, and is, reasonably assumed that he, Mr. Douglas, approved of and endorsed the assurance therein made to the landholders, as neither in his place in Parliament nor otherwise did he intimate that he had not done or did not do so.

23. That upon ascertaining that the Court of Appeal had so refused to entertain the Valuation Roll so forwarded by the Commissioners, upon the ground "that it was not a Valuation Roll within the intents and meaning of the Acts regulating the same," the Government referred to the Crown Officers the question whether or not the Valuation Roll so made up and forwarded to the Court of Appeal by the Commissioners "is a Valuation Roll within the meaning of the Launceston and Western Railway Acts?"

24. That to this question the Crown Officers replied, that they considered the Commissioners had committed an error in judgment in not attaching a rateable value to every property included in their Valuation Roll, and that the Court of Appeal had committed a similar error in not supplying such omissions and generally revising the Roll; and added—"We cannot say that the inchoate Valuation Roll prepared by the Commissioners is in effect not a Valuation Roll within the intent and

meaning of the Launceston and Western Railway Acts." And in reply to a question subsequently referred by the Government to the Crown Officers, "whether the Governor could appoint other Commissioners in the event of the resignation of the Commissioners already appointed?" the Crown Officers replied—"As we stated in a previous opinion, we do not think it competent for the Governor to treat the roll already prepared as a nullity."

25. That the Government having received such opinions from the Crown Officers, did not attempt to take any action whatever with respect to such re-valuation so made by the Commissioners, with a view to the amendment or completion of the Re-valuation Roll, but on the contrary altogether ignored such opinions, and in direct opposition thereto, did treat the roll as a nullity; and just before the close of the Session of 1872, introduced and succeeded in getting the Parliament to pass, without affording time to the landholders of the Railway District to petition against it, "The Railway Act, 1872," constituting the same area of country the Railway District as under "The Railway Act" was originally made the Railway District, for the purposes before stated, and imposed an uniform rate upon all the properties therein.

26. That upon the promoters of the Main Line Railway applying to the Government to cause an engineering survey of the line and estimates of its cost to be made, the Government and Legislature, carrying out the principle applied to the Launceston and Western Railway, called upon them to "give satisfactory evidence of their own assurance in its feasibility and financial soundness" by subscribing a certain proportion of the cost of such survey and estimates, which the promoters agreed to do previous to the ensuing session of Parliament. In this, however, they altogether failed, and the Legislature thereupon sanctioned the payment of the whole of the cost of such survey and estimates from the General Revenue, and thereby, and also in sanctioning the construction of the Main Line Railway and guaranteeing the interest upon the capital, without requiring the districts through which it was to pass to give security against any possible loss to the revenue, distinctly ignored and violated the general principle of "local liability" so established by the Legislature, and to which the Launceston and Western Railway Company and the landholders of the district were required to, and did conform. And further, in passing such Railway Act, 1872, and imposing such uniform rate, altogether ignored the agreement made by the Government and the landholders, and embodied in the Railway Act, more especially in the 70th section, which distinctly defines the principle on which the re-valuation by the Commissioners should be made; and also directly violated the contract made by the Government and the Legislature with the landholders; and embodied in the said 107th section of such Act as we have before shown.

27. That the said "Railway Act, 1872," suspended the operation of the clauses of "The Railway Act" and of "The Railway Act, No. 6," having reference to the re-valuation by the Commissioners, which clauses had already been acted upon by them, and implicitly governed them in the re-valuation so made by them, and contained in that Valuation Roll, which the Crown Officers had stated "it was not competent for the Governor to treat as a nullity;" but the said "Railway Act, 1872," did not suspend or repeal the said 107th section of "The Railway Act," nor in any way refer to it, but left it in all its integrity—unimpeached and unimpeachable—enacting that the landholders of the district "shall not be liable to any rate" but that which they polled for, as defined by the Railway Acts. We are aware that "The Launceston and Western Railway Act, 1873," repeals the whole of "The Launceston and Western Railway Act," containing such 70th and 107th sections to which we have referred; but it cannot repeal the contract made by the Government and the Legislature with the landholders before the said Act was framed—that the landholders should not be liable to any rate but that for which they should vote; and which contract, so made beforehand, was embodied, or we may say recorded, in the said 70th and 107th sections; and the landholders consider such unjust and arbitrary action of the Government and the Legislature, in endeavouring to repudiate such distinct contract so made and recorded, ignores and violates their constitutional rights.

28. That the said "Railway Act, 1872," authorised the Governor in Council to levy an uniform rate, amounting to 2s. in the £, for the current year upon all the properties in the district defined by such Act without any reference to the accommodation or benefit which each property had received, or might reasonably be expected to receive, from the railway; but upon the then Premier (the Hon. F. M. Innes) intimating his intention, during the ensuing recess, to determine upon some general measure for dealing with the railways of the Colony, and to submit it to the next session of Parliament, and recommending that in the meantime only one moiety of such rate should be collected, such recommendation was complied with, and a rate of 1s. in the £ was accordingly proclaimed as payable for the first six months.

29. That the landholders of the district regarded the passing of such Act and the imposition of any special rate under it as involving a direct violation of the agreements and contracts so made with them by the Government and the Legislature; but having respect to the intimation of the Premier, and firmly believing that, acting upon such intimation, the Government would not demand the second moiety for 1873, they, for the sake of arriving at a peaceful and amicable settlement of the questions at issue between them and the Government and the Legislature, voluntarily paid such first moiety and a considerable amount in excess.

30. That notwithstanding such intimation of the late Premier, Mr. Innes, and such confident expectation of the landholders, that they would not be called upon to pay the second moiety of the Railway Rate for the current year, notwithstanding that numerous petitions from all parts of the Railway District signed by some two thousand ratepayers, setting forth the violation by the Government and the Legislature in the case of the Main Line Railway of the principle of local liability to which they had been obliged to conform, with other grounds of complaint on their part, and also their well-founded expectation of not being called upon to pay the said second moiety, and praying that no further special rate might be levied upon the district, but that some general measure for dealing with the railways of the Colony might be determined upon, the present Government introduced and succeeded in inducing the Parliament to pass "The Launceston and Western Railway Act, 1873," which authorises the levying of the said second moiety of the rate for 1873, and £10,000 per annum for 1874 and 1875.

31. That the Government, upon finding the Company unable to pay the interest upon the borrowed capital, obtained possession of the railway under a judgment obtained in the Supreme Court against the Company, whose subscribed capital of £50,000 expended in the construction of the railway, and the said sum of £1500 subscribed and expended by the Company in surveys, together £51,500, may be said to have been gained by the Government and the community in the construction of the railway now vested in Her Majesty the Queen, whilst the further sum of about £115,000 of the capital of the Company was expended on that portion of the line extending from the Main Line Terminus at Evandale to Launceston, for the use of which the Main Line Railway Company will have to pay the Government.

32. That although the landholders were altogether freed from any legal liability whatever for the interest on any portion of the Company's capital from the time that the Legislature passed the Railway Act, No. 2, authorising the construction of the railway and the guarantee by the Government for the £300,000 of borrowed capital so soon as the Company had subscribed and paid up £50,000 instead of £100,000 as required by the Railway Act, and upon the payment of which sum any liability of the landholders was distinctly based; and although the landholders came under no legal liability whatever for the interest of the further loan of £100,000 to the Company, without any reference to the landowners, yet as they had not petitioned or protested against such respective concessions to the Company they considered they were equitably liable for any deficiency of interest upon £400,000 up to the period that the Government took possession of the line; and had not the Government and the Legislature violated their engagements with the landholders as respects the Main Line Railway and their contract with them as contained in the said 107th Section of the Railway Act, "that they should not be liable" to any rate but that for which they voted, they would from the time the Government took possession of the railway have considered themselves equitably liable for the interest upon the sum of £250,000, for which the Government assert that they are both legally and equitably liable, and for which the Parliament in the said "Railway Act, 1872," authorised the levying of an uniform rate upon the district; but as the Government and the Legislature have so violated their engagements and contracts in respect to the Main Line Railway, and by imposing such uniform rate, the landholders consider and assert that they are altogether freed from any liability to any special rate whatever.

33. That the landholders so considered they could only be equitably liable for the interest upon £250,000, at the most, from the time the Government took possession of the line, because the Government and the country have got the value of the £51,500 expended by the Company in the construction of the Railway now vested in the Crown, and can make the Main Line Railway Company pay for the use of the said portion of the line which connects their terminus at Evandale with Launceston, on which portion, as we have said, about £115,000 of the Company's capital was expended.

34. That, whilst such have been the facts of the case, the Government and their supporters in Parliament have been continually expatiating upon the very great concessions they and the Legislature have made to the landholders, and the extraordinary generosity they have manifested in only demanding the interest upon £250,000; but the landholders deny that any concession whatever has been made to them; and, instead of being treated with generosity by the Government and the Legislature, the treatment they have experienced is of an exactly opposite character.

35. That the Government in proposing, and the House of Assembly in sanctioning, the purchase and finishing by the Government of the Mersey and Deloraine Railway, without requiring the Districts through which it is to pass to give security against any loss to the Revenue upon such expenditure, again violated and altogether ignored the principle of local liability so established by the Legislature, and to which the landholders of the Launceston and Western Railway District were required to conform; and, whilst the substantially finished Railway, upon which the Company had so expended £51,500, was taken possession of by the Government without any bonus in land or other compensation to the Company, and when "The Railway Act, 1873," imposing special rates upon the Launceston and Western Railway District had just been passed, the Government proposed, and the House of Assembly sanctioned, the payment by the Government to the Mersey and

Deloraine Company of the sum of £12,500, besides the bonus of upwards of 21,000 acres of land of which they are in possession, for some 17 miles of a very inferior and unfinished Railway; and the remaining portion, about 13 miles, of the intended line not having even been surveyed, the Government asked the Parliament to sanction, and the House of Assembly did sanction, the expenditure of £2500 for such survey, of which the Districts interested were not to pay any portion. Such conduct on the part of the Government, and of that majority in the House of Assembly who voted for such proposition, is rightly regarded by the landholders of the Launceston and Western Railway District as manifesting a contemptuous disregard of their rights, and of every principle of justice and equity.

36. That, whilst the landholders assert that the Government and the Legislature have so violated the principle of local liability in respect to the Main Line and the Mersey and Deloraine Railways, which had been so established by the Legislature, and which was insisted upon by the Government and the Legislature with respect to the Launceston and Western Railway, the Government and their supporters in the Parliament have invariably denied that any such general principle of local liability was ever established by the Legislature, or that the Government had informed the promoters or the landholders that such general principle had been so established.

37. That, during the Debate in the House of Assembly on "The Launceston and Western Railway Act, 1873," on the 15th ultimo, the Hon. Mr. Innes (who, as we have before stated, was a Member of the Ministry in July, 1860, when the speech of the Governor on the opening of Parliament, to which we have referred, was delivered, and who could therefore speak authoritatively on the subject) having asserted that a general principle of "local liability" had been established by the Legislature, and had been insisted on by the Government, as governing their action as respects the guarantee given for the interest upon the Launceston and Western Railway, the late Minister of Lands, Dr. Butler (we quote from the published reports), "denied the assertion of Mr. Innes that the Railway was made upon the principle of local liability, on condition of that being also applied to future Railways." The Minister of Lands, Mr. Moore, "repudiated the idea that there was an understanding that all Railways should be undertaken on the principle of local liability." The Attorney-General, Mr. Giblin, asserted "that the House had never laid down the principle of local liability as applicable to all Railways."

38. That, knowing that the Governor, in his speech upon the opening of Parliament in 1860, referred to the said application of the promoters of the Launceston and Western Railway, and distinctly stated that such general principle of local liability had been recommended by the Government, and had been established by the Parliament; and also that His Excellency had in the same speech defined such principle as requiring any District interested in any projected undertaking for which the guarantee of the Legislature was asked "to become security against any possible loss to the Revenue," one of the Hon. Members for the Tamar, Mr. Grubb, was requested by the landholders to bring these statements so made by the Governor under the notice of the Legislative Council during the approaching debate upon "The Launceston and Western Railway Act, 1873."

39. That Mr. Grubb accordingly during such debate produced and, with all confidence, read such statements from the Governor's speeches to the House as incontestably establishing that the principle of local liability, for which he was contending as applicable to the Main Line Railway, had been agreed upon and established by the Government and the Legislature.

40. That it being impossible to dispute or evade the fact that the Governor had in his said speeches on the opening of Parliament distinctly asserted that such principle had been so agreed upon and established by the Government and the Legislature, the Hon. the Colonial Secretary and the Hon. Mr. Whyte ventured to repudiate the force of such assertions, on the ground that they were only made in the said speeches of the Governor upon opening of former Parliaments, and denied that there was any importance to be attached to them,—the Colonial Secretary and Mr. Whyte, who succeeded him as Premier, both being Members of Parliament when such speeches were delivered by His Excellency the Governor, as the Representative of Her Majesty the Queen, and entered upon the records of both Houses. Mr. Whyte, in his reply to Mr. Grubb's confident expression of reliance upon the assertions so made in the said speeches of the Governor, said—"Reference has been made to the Governor's speeches; but, if the Honorable Member knew as much about Governors' speeches as I do, he would not attach much importance to them." (A laugh.) Upon the Hon. Dr. Crowther saying that "he was very sorry to hear the statement as contained in the Governor's speech denied by a Minister of the Crown," the Colonial Secretary responded—"The Ministry of the day were bound by it, but not succeeding Ministries." The reply of the Hon. Mr. Aikenhead to this assertion so completely expresses the feelings of the landholders that we venture to quote it for Your Excellency's information. Mr. Aikenhead said he had heard with surprise the remark—

"disavowing a solemn declaration of the Queen in the person of her representative as to the terms on which the Railway was to be constructed. It was all very well to say no statement in a Queen's speech a hundred years ago should be binding, but he (Mr. Aikenhead) said all succeeding Governments were bound by what



was said in the Governor's speech in 1859 and 1860 ; if not, all confidence between man and man would be at an end. A solemn declaration laid down the terms on which the Railways would be constructed, and a few years afterwards they found that was entirely forgotten, and a new Railway was sanctioned by the Government of the day without any reguarantee. He therefore maintained that the Launceston and Western Railway District was entitled to take a stand against a special assessment after that agreement had been broken."

Mr. Aikenhead rightly said that "such disavowal of a declaration of the Queen in the person of her representative" must tend to destroy "all confidence between man and man." We would go further, and respectfully submit to Your Excellency that it undoubtedly must tend to destroy all respect and confidence on the part of the community towards a Government who could venture to make such disavowal, and the Legislature who could tolerate it, in order to justify their breaches of good faith towards the landholders of the Launceston and Western Railway District.

41. That the said Railway District—so constituted and defined by "The Railway Act" for the sole and express purpose of enabling the said landholders by such required majority of votes taken at a poll to express their willingness to be chargeable with the rate so clearly defined by the said Railway Acts, and thereby render the district liable to such rate—comprised, as before indicated, a large extent of country, more particularly at and in the neighbourhoods of Carrick, Hadspen, Norfolk Plains East, Breadalbane, and Franklin Village, which could not in any way be benefited or be likely to be benefited by the Railway; but the owners of the properties in such localities, relying with confidence, as a matter of course, upon the good faith of the Government and the Parliament in carrying out the contract made by them with the landholders of the district that they should only be liable to a rate "with reference to Railway accommodation," or "the benefit their several properties might receive or might be reasonably expected to receive from the proposed Railway," made no objection to their properties being included in the Railway District so defined for such purpose; but so far from having any Railway accommodation, or being benefited or likely to be benefited by the Railway, the properties in such localities have been actually and in many instances materially injured by the deprivation of previously existing modes of traffic, which were done away with after the opening of the Railway, and have in many other respects been diminished in value, as stated in the report of the Commissioners, who in their re-valuation roll returned upwards of 270 properties in such localities as having no Railway accommodation, and as not receiving nor likely to receive any benefit whatever from the Railway, and returned several hundreds of other properties as deriving a very inconsiderable benefit therefrom.

42. That the Government having so declined to rate the Railway District in the manner so distinctly agreed upon by the Government, the Parliament, and the landholders, and so clearly defined in the Railway Acts, the purposes for which the said district was so defined were no longer in existence, and therefore, according to the spirit and clear intention of the said Railway Act, the area of country so defined ceased to be the Railway District as contemplated by such Act, and was therefore no more liable, either legally or equitably, to be rated for any uniform rate than any other tract of country a portion of which might be benefited by the Railway.

43. That if it was intended to impose an uniform rate to cover any deficiency of interest for 1873, 1874, and 1875, a new Railway District with a largely extended area should upon every consideration of justice and good faith have been defined as liable to such uniform rate, such area to embrace the large extent of country now receiving a considerable amount of Railway accommodation and not included in the Railway District as formerly defined, a comparatively small rate upon which extended area would have yielded £15,000 per annum.

44. That a large area of country, extending from Cressy by the Lake and Macquarie Rivers to Ross, and by the Main Road to Campbell Town and Ross, and also to Avoca, Fingal, &c., has derived and now derives, as the residents in such area of country readily admit, a considerable amount of Railway accommodation, more particularly for the carriage of its produce from the Railway Stations at Longford, Perth, and Evandale to Launceston, and has, therefore, benefited to some considerable extent by the Railway; but such area of country is liable to no Railway rate whatever, whilst, as before shown, a large extent of country included in the formerly defined Railway District which has not received nor can receive any Railway accommodation whatever, and the properties in which area, so far from having benefited by the Railway, are in many instances seriously diminished in value, has been rendered liable to a rate of 2s. in the £ for the current year, and for the sum of £10,000 for the years 1874 and 1875 respectively.

45. That all household properties in and near Carrick, Hadspen, Breadalbane, Franklin Village, and all along the main roads from all those places to Launceston, and more particularly the roadside inns, have been depreciated in value from 20 to 50 per cent. We would cite as an instance the hotel and adjoining land at Prospect Village on the road from Launceston to Carrick, now occupied by the widow of the late Mr. Pitcher, to whom, as mentioned by the Commissioners in their report, the assurance made to the landholders in the *Railway Banner*, that they would not be liable to any rate if their respective properties were not benefited by the Railway, was more

particularly addressed. Such hotel and land, valued in the Assessment Roll for Selby at £150 per annum up to the opening of the Railway, is now by its operation reduced in such Roll to £80, and upon that ruinously reduced valuation the widow of Mr. Pitcher is liable to a rate of £8 for the current year. A second illustration is furnished in the case of the substantial two-storey hotel near Hadspen, known as the "Traveller's Rest," which, with ten acres of land adjoining, previous to the opening of the Railway was valued at from five to six hundred pounds, and was let at from £50 to £60 per annum, but which hotel and land at a recent sale by auction realised £150, which at £8 per cent. would represent an annual rateable value of £12; but, in the Valuation Roll just published, this property is returned at an annual value of £43, the Railway rate on which amounts to £4 6s., or more than one-third of the actual value. In fact the Legislature, in direct violation of the contracts so made with the landholders, and of the true intent and meaning of the Railway Acts, have imposed the same very large uniform rate upon those properties which may be said to have been ruined by the Railway as upon those which have been most benefited by it, while they have altogether exempted the large area of country to which we have referred as benefited by the Railway from any rate whatever. We would mention as two other instances of the results of the violation of the engagements and contracts so made by the Government and the Legislature with the owners of such properties, and of the provisions of the Railway Acts having reference thereto, that the Entally Estate, extending from Hadspen to Carrick, the property of the Rev. Thos. Reibey, and the property of Kerry Lodge, extending from the vicinity of Franklin Village to Norfolk Plains East, the property of Mr. Theodore Bartley—both of which were included in the 270 properties returned by the Commissioners as not benefited by the Railway, and which neither have received nor can be reasonably expected to receive any benefit whatever from it; but, on the contrary, by its operation have been deprived of previously existing means of travelling by coaches and carriage by wagons—were, under "The Railway Act, 1872," made liable to a rate of 2s. in the £ for 1873, and 1s. 4d. in the £ for 1874 and 1875,—the rate for the Entally Estate for the current year amounting to about £50, and for the Kerry Lodge Estate to about £30; whilst adjoining the Railway District as now constituted, and merely divided by an imaginary line from it, are estates of very much greater extent, very much better land, and consequently of very much greater annual value, which have been for a period of more than two years known to have been deriving benefit from the Railway, both in the way of travelling and carriage, and yet are exempted from any Railway rate whatever, simply because they were not included in the Railway District originally constituted for the purposes agreed upon by the Government and the Legislature with the landholders, and set forth in the provisions of the Railway Acts, which purposes have had no existence since the Government repudiated such provisions.

46. That, as before stated, the landholders are firmly persuaded that the Government and Legislature in so ignoring and directly violating the distinct engagements and contracts so made by them with the landholders, and which the sections of the Railway Acts which we have quoted distinctly enacted should be carried out, have also ignored and violated the constitutional rights of the landholders, who, whilst they feel that it is now out of their power to obtain any redress, are also as firmly persuaded that if a case fully embracing all the questions at issue between them and the Government and the Legislature could be submitted to our Supreme Court in Equity, or to any other high and impartial tribunal which might have the power to afford them redress, that such redress would be afforded them.

47. That the landholders in the Railway District, which comprises nearly one-third of the population of the Colony, have been denounced both in and out of Parliament by the Ministry and their supporters in the most unmeasured and contemptuous terms, as dishonorable and dishonest repudiators of their engagements and contracts with the Government and the Legislature in respect to the payment of the interest upon the Railway, and as such held up to public odium and contempt, not only in Tasmania but the other Australian Colonies, in Great Britain, and we may say the world at large; but the landholders, of whom, as we have informed Your Excellency, we form a portion, indignantly repel and deny any such utterly unfounded charges, and contend that whilst they are altogether absolved from them, the Government and the Legislature have altogether ignored and violated the engagements and contracts they on their part had made with the landholders, and repudiated the statements so made in the speeches of the Queen's representative, upon which such engagements and contracts were based.

48. That such very grave accusations so made by the Ministers and their supporters, more especially in Parliament, must, if unrefuted, necessarily tend to injure and degrade that very large number of Her Majesty's loyal subjects who are landholders in the Railway District in the estimation of Your Excellency, as the representative of the Queen, and must tend generally to injure the reputation of the whole community, among whom so large a band of repudiators can be found. We therefore as some of those landholders who have been so denounced have, on behalf of ourselves and our fellow-landholders, been induced to submit for the information and consideration of Your Excellency, as such representative, this necessarily lengthened narrative of facts in connection with the Launceston and Western Railway and the questions at issue between the Government and the Legislature with the landholders, among whom, as we believe Your Excellency will readily

admit, are a large number of Colonists who can confidently claim to be at all events fully equal to the Ministers or any of their supporters, morally, intellectually, and socially, if a long-sustained reputation for integrity, general intelligence, respectability, and independence in every sense of the word, can justify such an assumption, and who have never evaded, endeavoured to evade, or desired to evade any public or private responsibility.

49. As Magistrates resident in the Railway District, we deem it our duty to state for the information and serious consideration of Your Excellency, that we have good reason to believe that a strong sense of the arbitrary, unjust, oppressive, and unconstitutional conduct of the Government in recommending, and of that majority which they command in the Legislature in imposing, such special rate upon the Launceston and Western Railway District, and violating thereby their constitutional rights as British subjects, will induce an extensive *passive* resistance to the levying such rate on the part of the landholders, which must inevitably lead to those serious complications between them and the Government which are upon every consideration to be deprecated.

50. That one very serious and important complication arising out of the intention to levy a special railway rate upon *the landowners and occupiers* throughout the Railway District, which we have not hitherto brought under the consideration of Your Excellency, is, that the term "landholder," of which, being desirous of following the wording of "The Railway Act," we have availed ourselves throughout this communication, is, wherever used in such Act (including, of course, the 107th Section, to which we have so often referred), defined by the Interpretation Clause to mean "proprietors," and *proprietors only*. The provisions of the Act, therefore, referred only to "proprietors," or *landowners*. In fact it was only with "proprietors" the Government and the Legislature had made those engagements to which we have referred, and more especially that contract which was subsequently embodied in the said 107th Section. It was to *proprietors only* the rate defined by the 70th Section was submitted at the poll, and *proprietors only*, by the required majority of votes, "expressed their willingness to be chargeable with such rate." The *occupiers* of the district were not consulted, nor in anyway whatever referred to, with respect to such rate, either by the Government or the Legislature. To levy the intended railway rate upon such occupiers, therefore, clearly ignores and violates the express provisions and the true intent and meaning of "The Railway Act," and is, we consider, rightly regarded by them as unjust, oppressive, and unconstitutional.

51. That we are not aware that it would come within the scope of those powers entrusted to Your Excellency by Her Majesty the Queen, to adopt any measures for affording redress to the landholders otherwise than by delaying the levy of the moiety of the rate made by Your Excellency in Council under "The Railway Act, 1872," for the current year, and also the making and levying any rate for 1874 and 1875, until *the whole* of the very important questions at issue between the landholders and the Government and the Legislature, which we have now detailed for Your Excellency's information and consideration, and the serious complications which are likely to arise should any attempt be made to enforce the levy of any further special rate upon the district, are brought under the consideration of the Parliament, which has not hitherto been done. Such a course, it would appear, Your Excellency can legitimately adopt, should you deem it desirable to do so, inasmuch as those sections of "The Railway Act, 1873," authorising the levying of the second moiety of the rate for the current year, and the making and levying a rate for 1874 and 1875, do not appear to be mandatory, but merely declaratory or permissive, and do not fix any specific time for levying such moiety or for making and levying such rates. The 39th Section of "The Railway Act, 1873," merely declares that "so much of the railway rate made by the Governor in Council in the year 1873 as shall be unpaid upon the first day of January, 1874, may be recovered and enforced;" and the 32nd Section merely declares that "it shall be lawful for the Governor in Council, in the years 1874 and 1875, to make and levy a rate."

52. In our capacity as Magistrates, and as landholders of the Launceston and Western Railway District, we would respectfully express our hope that upon a view of the very important questions and the serious complications likely to arise out of them, which we have deemed it our duty to bring under the consideration of Your Excellency, as the Representative of the Queen, that Your Excellency will feel fully justified in adopting the course we have ventured to indicate, which we are of opinion is upon every consideration desirable.

53. We would desire to bring under Your Excellency's notice that the course we have thus ventured to indicate to Your Excellency is not without a precedent in this Colony. In 1863 the House of Assembly passed a resolution authorising the Government to erect six additional toll-bars upon the Main Road, that the respective districts through which the road passed might contribute towards its maintenance, and the Governor by "proclamation" to direct a toll-rate to be levied at such respective toll-bars. The Government, therefore, proceeded to erect a toll-bar on the Main Road at Breadalbane, and another at Brighton; but upon a representation being made by a letter from a magistrate residing in the neighbourhood of Breadalbane to the then Attorney-General, that the erection of an additional toll-bar in such locality would be attended by manifest injustice and great hardship to the inhabitants of the district of Morven, who used but a small extent of the Main Road, on which there was already one toll-bar, and that to levy a second toll-rate at such

second toll-bar would be contrary to the spirit and meaning of the Main Road Act, and that it could not be expected that it would be quietly submitted to,—the Attorney-General replied that upon the receipt of such letter “the Government had withheld the proclamation for levying a rate at such second toll-bar until the question had been again considered by the Cabinet,” and subsequently that upon such reconsideration by the Governor in Council, with the assistance of the information furnished by such Magistrate, it had been determined to defer the intended proclamation and the levy of a rate at such toll-bar at Breadalbane at all events until after the meeting of Parliament; and added, “You have pointed out the injustice, so far as the Evandale people are concerned, of the Breadalbane gate, and the reasoning in your letter would equally apply to the proposed Brighton toll-bar,—we must, therefore, remit the question to Parliament.” During the interval which elapsed previous to the next meeting of Parliament toll-houses at Breadalbane and Brighton were completed at a considerable cost, but the Parliament abandoned the intention of levying toll rates at either place, and the buildings have, therefore, never been used as toll-bars.

We have the honor to remain,  
With every sentiment of respect,  
Your Excellency's faithful Servants,

Wm. Archer.  
Alexander Clerke.  
Theodore Bartley.  
William Gibson.  
John Murphy.  
Alfred Harrap.  
R. M. Ayre.  
Wm. Birch.  
Thomas Corbett.  
John Drysdale.  
E. A. Wigan, M.D.  
Jas. Jno. Hudson.  
Roddam Hulke Douglas.  
John Atkinson.  
Robt. DeLittle.  
Alex. Webster.  
William Hart.  
John Griffin.  
R. J. Archer.  
C. Buesnel.

A. M'Kinnon.  
John Ralston.  
John Gibson.  
John L. Smith.  
C. J. Weedon.  
David Ritchie.  
T. T. Parker.  
A. M. Milligan.  
John Fawns.  
Henry Bennett.  
William Beveridge.  
T. H. Flexman.  
E. Martin.  
W. Tyson.  
Thos. Wm. Field.  
James Robertson.  
John Sale.  
George Ritchie.  
W. S. Button.  
Thos. C. Archer.

Joseph Archer.  
Charles Arthur.  
W. H. D. Archer.  
Edward Dumaresq.  
Henry Laird.  
Samuel Shorey.  
John Field.  
James Ritchie.  
Daniel Burke.  
H. R. Dumaresq, *per pro.*  
Theodore Bartley.  
R. C. D. Home.  
Henry Douglas.  
John Hart.  
R. H. Munce.  
A. F. Rooke.  
C. H. Wright.  
W. Bonnily, jun., *per pro.*  
John Murphy.

P.S.—Since the foregoing letter was written it has been represented that *The Railway Banner* was not edited by the gentleman referred to in paragraph 22. It was, however, published under the authority of “The Railway League,” of which that gentleman was the Secretary, and Mr. Adye Douglas the Vice-President.

WITHOUT committing ourselves to the whole of the foregoing letter, we would unite with our fellow Magistrates who have signed it in respectfully recommending to Your Excellency the adoption of the course suggested in paragraph 52, which we are of opinion is highly desirable.

W. Archer, (late of Ches-  
hunt.)  
Jas. D. Toosey, junr.

J. Appleyard.  
H. Dowling.  
H. B. Nickolls.

W. R. Stewart.  
David Collins.  
W. Turnbull.

Launceston, 29th December, 1873.

## A P P E N D I X.

### COMMISSIONERS' REPORT.

(Copy.)

Launceston, 29th February, 1872.

SIR,

WE have the honor to forward for the information of the Government the following report:—

1. That immediately upon our appointment as “Commissioners under the 70th Section of the Launceston and Western Railway Act, for the purpose of re-valuing the several properties within the Railway District,” we proceeded to do so, as we submit, in strict compliance with the intents and meaning of the said Act.

2. We re-valued every property in the said District solely with reference to the Railway accommodation afforded to each such property respectively, as directed by the said 70th Section of the said Act; such Railway accommodation being clearly defined by the Launceston and Western Railway Act, No. 6, "as the benefit each such property has received or which it may be reasonably expected to receive from the construction of the said Railway."

3. In making such re-valuation we were governed by the following general principles, as agreed upon by all the Commissioners, after much careful deliberation:—

1st. We adopted as the basis of such re-valuation the Assessment Rolls for the several Municipalities and that for the Police District of Selby comprised in the Railway District, the said Assessment Rolls having been made in such Municipalities by representatives elected by the ratepayers, and in the Police District of Selby by the constituted authorities, with reference to police and road rates and for all general purposes, the advantages and disadvantages attaching to each property assessed as to soil, locality, distance from the various townships, roads, &c. having formed the elements of the annual or rateable values set forth in such Assessment Rolls.

2ndly. That as it had been invariably alleged by a large majority of the inhabitants of Launceston and Deloraine, and was also generally conceded that they would derive the largest share of any benefit which might be reasonably expected to arise from the Railway, the Commissioners unanimously entertaining the same opinion, and guided by the principles referred to as determining the annual or rateable values upon the said Assessment Rolls, adopted, with a few exceptions as to some properties situate in the more remote portions of Launceston, the valuations in such Assessment Rolls as the maximum values upon which any Railway rate would be payable.

4. That having so determined upon such "maximum values" at Launceston and Deloraine, we proceeded to "shade off," or reduce by tenths, the rateable value of every property in the other parts of the Railway District, as in our judgment, founded upon local and general knowledge, every such property might be comparatively benefited, or might be reasonably expected to be benefited by the Railway; and all such properties as in our judgment could in no way be benefited by the Railway, including many which have been actually reduced in value by it, we re-valued and set forth in the Valuation Roll at "nil."

5. That in so returning the rateable value of all such properties at "nil" we were influenced by the clear conviction that we could not conscientiously affix any rateable value to any property which in our judgment had not received, and could not be reasonably expected to receive, any benefit from the construction of the said Railway.

6. That in so valuing every property in the Railway District upon the principles we have indicated, and more especially in re-valuing and in returning in our Valuation Roll certain properties at "nil," we unconsciously adopted the precise course which the promoters of the Railway by whose legal adviser the said Railway Act was drawn distinctly assured the ratepayers of the Railway District, immediately after the passing of the said Act, and previously to such ratepayers voting upon the Railway guarantee, would be pursued in the re-valuation of all properties in the Railway District. Such distinct assurance is contained in a publication entitled the *Railway Banner*, of date 27th October, 1865, published and circulated in the Railway District under the authority of the promoters of the Railway and "The Railway League," and which assurance, we have good reason to believe, influenced many property holders when the poll was taken upon the Railway guarantee.

Such assurance is contained in the following article which we have extracted from such publication, and here furnish a printed copy of such extract, and also annex a copy of the *Railway Banner* of the 27th October, 1865, containing such article, and also a notice that "The *Railway Banner* is forwarded to every landholder in the Railway District."

"*Re-valuation of Railway District.*—Our old and respected fellow colonist, Mr. Pitcher, as well we believe as some others, have been led into antagonism with the Railway promoters, principally on the ground that the operations of the Railway will not only not directly benefit their properties, but rather tend to their injury. Mr. Pitcher admits that individuals must yield to the progressive necessities of the majority of their fellow-citizens; but objects that wherever, as in his case, the accommodation the Railway affords cannot be made available, the property should be exempted from the possibility of a rate. The 70th clause of the Railway Bill fully provides for the relief of all such cases. It enacts—'Before any such rate shall be made or levied, the Governor shall appoint a Commissioner or Commissioners, who shall, for the purposes of this Act, re-value, by a fair valuation, with reference to the Railway accommodation, the several properties within the said district then described in the Valuation Roll for the time being.' The following sections provide for appeals against the re-valuation; so that most ample protection will be afforded under the Railway Bill to all proprietors of land whose properties may be too remote, or otherwise situated, as to prevent the occupier enjoying the full advantages the Railway is intended to give. This provision is founded on the principle of the Irish Act referred to in our last number, and in practice will be found effectually to relieve properties situated as Mr. Pitcher's, and at Carrick, Hagley, (Hadsen?), and other places remote from the Railway, but within the district. The operation of this section of the Act, it appears to us, will be most simple. The Commissioner has only to take the Valuation Roll in his hand, and examine into the merits of such a case as that of Mr. Pitcher's and reduce the assessed value to the smallest possible amount, and, if necessary, *nil*, instead of the ordinary value

placed on the same property for general purposes; of course increasing the value of properties having the Railway accommodation, so as to make up the total amount of the district assessment. By this attention to the provisions of the Railway Bill, the burden, should it ever arise, (which the reader must ever remember we deny), will fall equitably upon those persons to whom the Railway is accessible, and relieve remote proprietors.

"NOTICE.—The *Railway Banner* is posted in Launceston on the Friday evening in each week to every freeholder in the district. Any person not having received the paper, will please apply to the Post Office, or copies may be had from the Agents."

7. Having completed such re-valuation, and complied with the requirements of the Railway Acts as to the publication of the Valuation Roll, the notice for appeals, and the disposal of the complaints made to the Commissioners, we, as directed by the 11th Section of the Railway Act No. 6, attended as "The Commissioners" the Court of Appeals held pursuant to due notice, as required by the said Act, on the 16th instant, when the following resolution was carried by a majority of the Magistrates composing such Court of Appeals, in direct opposition to the "ruling" of the Chairman:—

"That the Roll before this Court and termed 'The Valuation Roll of the Railway District' is not a Valuation Roll within the intent and meaning of the Acts of Parliament regulating the same, and therefore this Court cannot entertain the same."

A motion to adjourn the Court to some future day was negatived.

We have the honor to be,

Sir,

Your obedient Servants,

FRED<sup>K</sup>. M. INNES,  
THEODORE BARTLEY,  
R. M. AYRE,  
GEORGE GIBSON,  
RONALD C. GUNN.

*The Hon. the Colonial Secretary.*

*Colonial Secretary's Office, 6th January, 1874.*

GENTLEMEN,

I HAVE the honor, by the direction of His Excellency the Governor, to acknowledge the receipt of a letter addressed by you, as Magistrates and Landholders of the Launceston and Western Railway District, to His Excellency, requesting that the levy of the moiety of the Launceston and Western Railway Rate proclaimed for the year 1873, which is now unpaid, may be delayed until the whole of the matters referred to in your letter, and connected with the question of the liability of the District, can be brought under the consideration of Parliament.

I cannot advise His Excellency to assent to the course which you propose, nor can I conceive that any beneficial consequences could arise from my so doing. The whole of the matters contained in your letter have been repeatedly considered by the Legislature, and many of the assertions which it contains have been as often discussed and refuted. I am not prepared to advise His Excellency to recommend to the consideration of Parliament any further additions to the ample and generous concessions which have been made by the Legislature to the Landholders of the District, at the cost of the remaining taxpayers of the Colony.

It appears a matter for regret that in your position as Magistrates you should seem by your action in sending this letter, as well as from the intemperate and inaccurate language which it contains, to countenance even for one moment the resistance to the Law which is threatened by some of the Ratepayers of the District.

The Executive Government have their duty to discharge, and that duty is one closely analogous to that which you also by your oaths of office have undertaken to carry out,—viz., to see that the Laws of the Land are respected and obeyed. That duty the Executive on their part intend to fulfil; and I am convinced that upon reconsideration you will feel that the Government have a right to seek at your hands, as Administrators of the Law, active co-operation in such a course,—a course upon which the well-being of the entire community must depend.

I have the honor to be,

Gentlemen,

Your very obedient Servant,

THOS. D. CHAPMAN.

THEODORE BARTLEY, *Esq.*, and the other  
*Gentlemen signing the Letter to His Excellency.*

*Launceston, 7th January, 1874.*

SIR,

I YESTERDAY received a letter from the Private Secretary, of which the following is a copy :—

*“ Government House, 5th January, 1874.*

SIR,

I AM requested by His Excellency the Governor to acknowledge the receipt of your letter to me of 31st ultimo, giving explanation for the Governor's information as to the number of Magistrates resident in the Launceston and Western Railway District.

I am further requested by His Excellency to inform you with respect to the letter forwarded by you for presentation to him from sixty-five Magistrates of the above District, that he has laid the same before his Responsible Advisers with a view to the subject matter and recommendations therein contained being taken into consideration and decided upon by the Governor in Council.

I have the honor to be,

Sir,

Your most obedient Servant,

C. M. S. CHICHESTER.

THEODORE BARTLEY, *Esq.*”

I have this day received your letter of the 6th instant with three printed copies of same enclosed, and addressed to myself “and the other gentlemen signing the letter to His Excellency,” recommending him to defer the levy of the Railway Rate, &c. You state that “by the direction of the Governor you acknowledge the receipt of such letter,” and say, “I cannot advise His Excellency to assent to the course you propose.”

On behalf of myself and the other Magistrates who signed such letter, I now have the honor to request that you will inform me whether the course which the Private Secretary, by the direction of His Excellency in the foregoing letter of the 5th instant, informed me would be adopted in respect to such letter has been carried out.

Whether it has been taken into consideration by His Excellency's Responsible Advisers; and whether the subject matter and recommendations therein contained have been taken into consideration and decided upon by the Governor in Council, of which your letter of the 6th instant contains no indication whatever, but leaves the Magistrates in perfect ignorance as to whether their letter has been so dealt with or otherwise disposed of.

Having, in my capacity as Honorary Secretary to the Magistrates signing such letter, requested that you will answer the above enquiries for their information, I deem it due to you and myself, as one of the Magistrates signing such letter, to remind you that the course which they ventured to suggest for the adoption of His Excellency was that the whole of the very important questions, and the serious complications likely to arise out of them, which they detailed in such letter for the information and consideration of His Excellency, should be submitted for the consideration of the Parliament, which they asserted, and correctly asserted, “has not hitherto been done,” and upon this one fact their recommendation was solely based.

In your letter of the 6th instant you meet such distinct and unqualified assertion by as distinct and unqualified a denial. You venture to tell the 57 Magistrates making and signing such assertion that “the whole of the matters contained in their letter have repeatedly been considered by the Legislature.” I cannot close this letter without stating that I consider such denial on your part of the truth of such distinct assertion made by the 57 Magistrates as directly insulting to the whole of them; and, further, that the style and whole tenor of your letter is most dogmatic and presumptuous.

I have the honor to be,

Sir,

Your obedient Servant,

THEODORE BARTLEY.

*The Hon. the Colonial Secretary, Hobart Town.*

---

*Colonial Secretary's Office, 10th January, 1874.*

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 7th instant, requesting to be informed whether the letter from yourself and other Magistrates in the Launceston and Western Railway District, addressed to His Excellency the Governor, has been taken into consideration by His Excellency's Responsible Advisers, and whether the subject matter and recommendations therein contained have been taken into consideration and decided upon by the Governor in Council.

In reply, I have the honor of informing you that the letter you refer to was fully considered by His Excellency's Responsible Advisers, and that the subject matter and recommendations contained in that letter were also fully considered by the Governor in Council; and I have also the honor of informing you that my letter of the 6th instant, addressed to you and the other Magistrates signing the letter to His Excellency, was approved by the Governor in Council before transmission to you.

I have &c.,

(Signed) THOS. D. CHAPMAN, *Colonial Secretary.*

THEODORE BARTLEY, *Esquire,*  
*Kerry Lodge, Launceston.*

*Launceston, 12th January, 1874.*

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 10th instant, informing me that the letter from the Magistrates of the Railway District to His Excellency the Governor "was fully considered by His Excellency's Responsible Advisers, and that the subject matter and recommendations in that letter were also fully considered by the Governor in Council," and also "that your letter of the 6th instant, addressed to me and the other Magistrates signing the letter to His Excellency, was approved by the Governor in Council before transmission to me."

The Private Secretary in his letter of the 5th instant, apprising me of the presentation to His Excellency the Governor of the letter of the Magistrates referred to, informed me, by direction of His Excellency, "that he had laid the same before his Responsible Advisers, with a view to the subject matter and recommendations being taken into consideration and decided upon by the Governor in Council."

In my letter of the 7th instant, I requested, on behalf of the Magistrates signing such letter, that you would inform me "whether the subject matter and recommendations contained therein had been taken into consideration and decided upon by the Governor in Council."

In your letter of the 10th instant, you only answer a portion of such query. You inform me that such "subject matter and recommendations were fully considered by the Governor in Council," but you have not, either in your letter of the 5th instant, or that of the 10th instant, informed me whether such "subject matter and recommendations" have been, as His Excellency intimated they would be, "decided upon by the Governor in Council," and the Magistrates signing such letter are still, to quote my words of the 7th instant, "left in perfect ignorance whether they have been so decided upon."

I have now the honor again to request that you will inform me, on behalf of the Magistrates signing such letter to His Excellency, whether "the subject matter and recommendations therein contained" have been decided upon by the Governor in Council, and if so, what that decision is.

I have the honor to be,

Sir,

Your obedient Servant,

THEODORE BARTLEY, *Hon. Secretary*  
*to the Magistrates signing such Letter.*

*The Hon. T. D. CHAPMAN, Esquire,*  
*Colonial Secretary.*

*Colonial Secretary's Office, 14th January, 1874.*

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 12th instant, in which you request that I will inform you on behalf of the Magistrates signing the letter to His Excellency, whether the subject matter and recommendations therein contained have been decided on by the Governor in Council, and if so, what that decision is.



In reply, I have the honor of informing you, that I feel very much surprised that there should be any doubt on the mind of yourself, or any of the other gentlemen signing the letter to His Excellency, as to the decision of the Governor in Council; my letter of the 6th instant especially indicated that the Executive Government were not prepared to adopt the course recommended by the gentlemen signing the letter to His Excellency, and further, that it was the intention of the Executive Government to collect the Railway Rates in the Launceston and Western Railway District in accordance with the law; and in my letter of the 10th instant I informed you that my letter of the 6th instant, which contained the decision of the Executive Government, had been approved by the Governor in Council before transmission to you.

I have, &c.,

(Signed) THOS. D. CHAPMAN, *Colonial Secretary.*

THEODORE BARTLEY, *Esq., Kerry Lodge,*  
*near Launceston.*