

(No. 76.)



1878.

T A S M A N I A.

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

MAIN LINE RAILWAY DEPUTATION:

PAPERS AND CORRESPONDENCE.

Laid upon the Table by the Colonial Treasurer, and ordered by the House to be printed, September 4, 1878.



MAIN LINE RAILWAY.

34 VICT. No. 13.

AN ACT to amend "The Main Line of Railway Act."

[18 October, 1870.]

WHEREAS it is expedient to amend "The Main Line of Railway Act:" Be it therefore enacted by His Excellency the Governor of *Tasmania*, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:—

PREAMBLE.
33 Vict. No. 1.

1 It shall be lawful for the Governor in Council to cause a Contract on behalf of this Colony to be entered into with any person or Company for the construction, maintenance, and working of a Main Line of Railway between *Hobart Town* and *Launceston*, or between *Hobart Town* and any point on the *Launceston* and *Western* Railway, in consideration of the Governor of this Colony guaranteeing to such person or Company interest at the rate of Five Pounds per centum per annum upon any sum of money, not exceeding in the whole the sum of Six hundred and fifty thousand Pounds, which the said person or Company may actually expend in the construction of the said Main Line of Railway; such guarantee to be payable in such manner as to secure to the said person or Company interest at the rate aforesaid upon the actual expenditure within such limit as is hereinbefore expressed.

Power to contract.

2 Such guarantee shall continue for Thirty years from the date at which the said Line shall be opened for traffic, provided that such person or Company shall continue to work and maintain the said Line in an efficient manner during the said period; and in such Contract it shall be lawful for the Governor to guarantee interest at the rate aforesaid upon the amount expended for the purposes of such construction during a period not exceeding Four years from the date of the Contract, and before the said Line is open for traffic.

Duration of guarantee.

3 In such Contract provision shall be made, amongst other things:—

Matters to be contained in Contract.

1. For compelling the construction of the said Railway by a route which shall keep as near as may be practicable to existing centres of population:
2. That the said Railway, together with all Stations, Rolling Stock, and all other works connected with such Railway, shall be constructed of the best materials and in a thoroughly substantial manner; and all Bridges on the Line shall be constructed according to the regulations as to strength of the *English* Board of Trade:
3. That should the profits of the Railway arising from the traffic thereon amount in any year to less than Five Pounds per cent., the Government guarantee shall be payable for such year only to the extent of the difference between such profit and Five Pounds per centum on the cost of construction as before limited:

4. That when in any year the profits of the said Railway arising from the traffic thereon amount to Six pounds per centum or under, the entire amount of profits for such year shall be retained by the Company :
5. That when in any year the profits of the said Railway arising from the traffic thereon shall exceed Six Pounds per centum, the Government shall be entitled to receive and shall receive from the person or Company One-half of all such profits over Six Pounds per centum, and so in any succeeding year until all moneys which have been paid by the Governor in Council under the guarantee hereinbefore contained shall have been paid ; after that time all profits shall belong to the Company :
6. That the gauge of the said Railway shall be not less than Three feet six inches :
7. That the weight of rails to be used in constructing and working the same shall be not less than Forty pounds to the yard :
8. That whenever such Railway is completed and opened for traffic, at least Four trains daily shall run upon the said Line throughout its entire length ; namely,—Two daily Trains from *Hobart Town* to the opposite Terminus, and Two daily Trains from the opposite Terminus to *Hobart Town* ; and such Trains shall be of such capacity and shall start at such hours as the Governor in Council may from time to time determine :
9. That the minimum average speed at which such trains shall travel shall be, for one daily train each way Twenty-three miles an hour, and for the other daily train each way Ten miles an hour, including all stoppages and detentions :
10. That the maximum fare for passengers travelling on the said Railway shall not exceed Three Pence per mile for First Class passengers, and Two Pence per mile for Second Class passengers ; and the rate for Goods shall not exceed that charged from time to time upon the Government Railways in *Victoria* : Provided that when in any year the profits of the said Railway arising from the traffic thereon shall exceed Ten Pounds per cent. upon the actual outlay, the Governor in Council shall have power to reduce the fares for passengers, so as such reduction shall not diminish the profits of the Railway below Ten Pounds per cent.
11. That the said person or Company shall carry all Mails to and from all places along the Line upon such terms as may be from time to time agreed upon :
12. That the said Line may with the sanction of Parliament be purchased by the Governor in Council at any time after the Line shall have been opened for traffic, upon giving Twelve months notice to the person or Company ; the price to be fixed by a majority of Five Valuers, Two to be named by the Governor in Council, Two by the person or Company, and One to be chosen by the Four Valuers first appointed.

Contract to contain other provisions.

4 The said Contract shall contain all such other stipulations and provisions as the Governor in Council may think necessary to secure the efficient construction, working, and maintenance of the said Railway.

Company to be bound to keep Railway in repair.

5 The said person or Company shall be bound at all times to keep the said Railway and whole undertaking in good and efficient repair and working condition ; and in case it shall appear to the Governor in Council, upon the report of any officer appointed for the purpose, that the works in any part are not in good and efficient repair and working condition, it shall be lawful for the Governor in Council, after such notice as to him shall seem fit and proper, and on default by the said person or Company, to direct the necessary repairs and works to be performed at the cost of the said person or Company by persons to be appointed by the Governor in Council in that behalf ; and the cost of executing such repairs and works, and all charges connected therewith, shall and may be recovered from the said person or Company at the suit of the Minister of Lands and Works before any Court of competent jurisdiction.

If Company guilty of breaches of Contract or of Act, the Attorney-General

6 If the said person or Company shall be guilty of any breach of any of the conditions, provisions, or stipulations of the said Contract, or of the Main Line of Railway Act, or of this Act, the Attorney-General may, when and so often as any

such breaches may happen, apply to the Supreme Court for a Rule calling upon the said person or the Manager of the said Company to show cause, on a day to be mentioned in such Rule, why the said Contract should not be rescinded, and why any lease or leases which may have been granted in pursuance thereof should not be declared forfeited upon such grounds as may be set forth in such Rule; and such Rule may be served upon such person or the said Manager or other person having the management of the affairs of the said Company in *Tasmania*, either personally or by leaving the same at the last known place of business of the said Company in *Tasmania*, and being so served or left as aforesaid, such Rule shall be deemed for all purposes to have been duly served on such person or Company as the case may be.

may move Supreme Court to rescind Contract or declare leases forfeited.

7 If on the hearing of such Rule the Court shall be satisfied, either by affidavit or otherwise, that the said person or Company has been guilty of any of the breaches of the conditions, provisions, or stipulations in the said contract or of the Acts set forth in the said Rule, the said Court may, and is hereby authorised and empowered to order and declare such contract to be rescinded and such lease or leases to be forfeited, and thereupon (except as hereinafter mentioned) such contract and lease or leases shall become absolutely null and void: Provided that, the Court upon the hearing of any such Rule may, if it shall consider that the justice of the case would be met by so doing, instead of ordering the rescission of the said contract and the forfeiture of the said lease or leases as aforesaid, order the said person or Company to pay to the Colonial Treasurer such a sum of money as the said Court may consider reasonable by way of penalty for the breach of any of the conditions, provisions, or stipulations of the said contract or of the said Acts. And the said Court may also make such order as to the costs of the proceedings as it may think fit; and any order so to be made for the payment of any sum of money or costs as aforesaid may be enforced in the same manner as may for the time being be provided for the enforcement of decrees and orders of the said Court in its Equitable Jurisdiction.

Supreme Court may declare Contract rescinded or leases forfeited, or may order Company to pay a sum of money to Colonial Treasurer.

8 The said Court may from time to time adjourn the hearing of any such rule to show cause as aforesaid, and may give to such person or Company such time as to the Court may seem reasonable for the purpose of enabling such person or Company to file such affidavits as may be considered necessary in opposition to the ground set forth in the said rule, and any affidavits that may have been filed in support thereof, and may also allow further time to the Attorney-General to file any affidavits in reply as to the Court may seem expedient; and the said Court may also, if it shall see fit, direct the truth of the grounds set forth in the said rule to be decided otherwise than by affidavit, and for that purpose may direct one or more issue or issues to be tried by a jury in the like manner as issues directed by the Court in its Equitable Jurisdiction are tried.

Court may adjourn the hearing, and may grant time to file affidavits;

and may order issues to be tried by a Jury

9 If the said Court shall order the said Contract to be rescinded, and the said lease or leases to be forfeited as hereinbefore mentioned, it shall nevertheless be lawful for the Governor, with the advice of the Executive Council, on the address of both Houses of Parliament, to waive such rescission and forfeiture upon the payment of such sum or sums of money, and upon such other terms and conditions as by such address may be suggested; and upon payment of such sum or sums of money, and compliance by such person or Company with such other terms and conditions as aforesaid, the said Contract and lease or leases shall be of the like force and effect as if such order of the Court had not been made.

If Court order Contract to be rescinded, &c., Governor in Council may waive same upon address of Parliament.

10 Sections One and Two of "The Main Line of Railway Act" are hereby repealed.

Repeal.

11 This Act and "The Main Line of Railway Act" shall, save as altered or amended by this Act, be read and construed together as one Act.

Acts to be read together.

12 This Act may be cited as "The Main Line of Railway Amendment Act."

Short title.



C O N T R A C T .

This Contract made the 15th day of August, A.D. 1871, between His Excellency CHARLES DU CANE, Esq., Governor of Tasmania, by and with the advice and consent of his Executive Council, for and on behalf of the Government of Tasmania, and in respect of the acts and observances herein expressed to be obligatory upon the Governor and Council or the Government, and hereinafter called "The Governor," of the one part, and the Tasmanian Main Line Railway Company, Limited, for and in respect of the acts and observances herein expressed to be obligatory upon the Company, and hereinafter called "The Company," of the other part, ~~Witnesseth~~ that in pursuance and exercise of the powers given by the Acts of the Parliament of Tasmania, 33 Vict. No. 1, passed the 22nd October, 1869, the short title whereof is "The Main Line of Railway Act," and 34 Vict. No. 13, passed the 18th October, 1870, the short title whereof is "The Main Line of Railway Amendment Act," and which two Acts are hereinafter referred to as the Main Line Railway Acts, and in pursuance and exercise of all other powers given or reserved to or possessed by the Governor of Tasmania in that behalf and for accomplishing and carrying into effect the objects and purposes authorised or contemplated by the said Acts, it is agreed as follows :—

1. The Company shall construct, maintain, and work a Main Line of Railway between Hobart Town and Launceston, or between Hobart Town and any point on the Launceston and Western Railway, with running powers over that Railway to Launceston, subject to and in accordance with the conditions set forth in the Schedule at the foot hereof, which construction, maintenance, and working are included in the expression "the said undertaking" herein used.

2. The Governor may add to, alter, and vary the said conditions mentioned in the said Schedule, but so that the conditions as so added to, altered, or varied shall not be more onerous upon or less advantageous to the Company than the conditions as set forth in the said Schedule.

3. The conditions as so set forth, or as so added to, altered, or varied, shall be treated and considered as part of the Contract, and fulfilled by the Governor and Company accordingly.

4. The Governor hereby confers upon the Company all rights, powers, privileges, and immunities, and guarantees to the Company all benefits which, by the said Main Line Railway Acts or any Acts incorporated therewith, or by the Act 33 Victoria, No. 21, passed 22nd October, 1869, or otherwise howsoever the Governor is authorised to confer, create, use, exercise, delegate, or guarantee for the purposes or in reference to the said undertaking and the connection thereof with the Launceston and Western Railway, with running powers over the said last-mentioned Railway, and also power to lay down an additional rail or rails, and to execute and do all such works as may be necessary to connect such Main Line of Railway with the said Launceston and Western Railway, and including especially the leases of Crown Lands which the Company may require for the purposes of the said undertaking.

5. The Governor hereby especially guarantees to the Company Interest at the rate of £5 per cent. per annum upon the money actually expended in and for the purposes of the construction of the said Main Line of Railway up to and not exceeding the sum of £650,000 during Four years of the period of construction, commencing from the date of this Contract, and for a period of Thirty years from the opening of the entire Line for traffic; and such Interest will be payable as follows :—

The Company shall pay into the Bank of New South Wales in London, or some other Bank approved of by the Governor, to the credit of the Company, the money raised by them for the construction of the said Railway as the progress of the works may require; and such sums, of not less than £25,000 in amount, shall bear Interest at the specified rate from the date at which they are paid in.

Not more than £250,000 shall be paid into the said Bank in any one year, and no greater sum than £100,000 shall be kept idle at the Bank for a period exceeding Three months.

The Company shall with each payment forward to the Colonial Secretary, to his office in Hobart Town, a receipt from the Manager of the said Bank showing that the money has been duly paid to the credit of the Company; and before the Interest is actually paid by the Governor, shall produce to him or whom he may appoint vouchers or documents showing that the money (within the limitation named) has been actually expended for the purposes of the construction of the said Railway. The Interest will be paid in cash quarterly to the Company's Bankers in Hobart Town.

6. No sum shall be payable for guaranteed interest for any period during which the Company do not continue to maintain and work the said Line of Railway in an efficient manner so as to afford all sufficient station accommodation and due facilities for the passenger and goods traffic of every portion of the Line.

7. The main object for which the Company has been formed having been the construction, maintenance, and working of the said Railway, there shall be allowed as forming the first instalment of the cost of construction a sum of £25,000, but no more, which sum it is agreed shall be deemed to cover all preliminary expenses, including the expenses of the formation of the said Company, the negotiation with the Governor, and all engineering and other expenses, prior to the 1st day of January, 1871.

8. After the entire Line is opened for traffic, the Company shall furnish to the Governor at the close of each quarter (viz. on the 31st day of March, the 30th day of June, the 30th day of September, and the 31st day of December in each year) an Abstract of their receipts and expenditure for the preceding quarter so far as the same can be made up in the Colony; and the Governor shall be bound to pay to the Company in Hobart Town quarterly, within Fourteen days next after the delivery of each of such Abstracts, such amount of money as will with the profit (if any) of the preceding quarter make up interest at the rate of £5 per cent. per annum on £650,000 (or such less sum as the said Railway and works may cost), and so on from quarter to quarter.

9. Any accounts not adjusted by the Company in any one quarter shall be brought into account in the succeeding quarter, or as soon as the same can be adjusted in the Colony.

10. The Company shall provide satisfactory vouchers or other evidence of all payments made by them when required so to do by the Governor or whom he may appoint.

11. So long as the Governor shall be liable to pay and shall be called on to pay interest as hereinbefore agreed, the Governor may appoint some person or persons with full power to enter upon the Offices and Stations of the Company, and to examine and audit all Books and Accounts of the Company, so as to check any such Abstract as hereinbefore mentioned; and the Company shall furnish every facility for the purpose of verifying any such Abstract.

12. If the profits of the undertaking for any quarter reach an amount equivalent to interest at the rate of £5 per cent. per annum on the outlay (limited as aforesaid), the Governor shall not be bound to make any contribution in the nature of guaranteed interest for that quarter, unless in respect of some account which has not been adjusted in a previous quarter, and in respect of which the Governor is liable to pay interest.

13. If in any quarter the profits of the undertaking reach but do not exceed a sum equivalent to Six Pounds per cent. per annum on such outlay, the Company is to retain all such profits. If the profits exceed £6 per cent., the Company shall pay to the Governor one-half of all profits over £6 per cent., and so in every quarter until the Company shall have repaid to the Governor, without interest, all moneys which the Company may have at any time previously received from the Governor on account of the Guarantee hereinbefore contained: when and so soon as all moneys which have been advanced or paid by the Governor for interest have been repaid to the Governor, the profits of the said undertaking shall not be divisible, but shall belong exclusively to the Company; but this clause shall not prejudice the authority of the Governor to reduce the fares, which is hereinafter contained.

14. If in any quarter during the said period of 30 years the profits of the said undertaking shall not reach an amount equivalent to £5 per cent. per annum on such limited outlay as aforesaid, then (notwithstanding the Governor may not have been liable to pay, and may not have paid any contribution on account of the previous quarter,) the liability of the Governor to pay or make up the rate of interest to £5 per cent. shall again arise or revive, and so on from time to time during the whole of the said stipulated period of 30 years; the true meaning and intention of this Agreement and of the contracting parties being that the Company may at all times during the said period receive interest, at the rate of at least £5 per cent. per annum upon the money expended by them (limited as aforesaid to the said sum of £650,000), either from the profits of the undertaking or from the Governor.

15. All profits arising during the period of construction from the working of sections or portions of the Line which may be opened for traffic shall (until the whole line shall be opened for traffic) belong exclusively to the Company.

16. The Company shall be bound at all times from and after the completion and opening of the said Railway to keep and maintain the same and the Rolling-stock, and generally the whole undertaking, in good and efficient repair and working condition.

17. The undertaking, with all its incidents, benefits, and privileges, both existing and prospective, may be purchased by the Governor at any time after the Line shall have been opened for traffic, upon giving Twelve Months notice in writing to the Company both in London and in Tasmania, at a price to be fixed, failing agreement, by a majority of Five valuers, Two to be named by the Governor, Two by the Company, and One to be chosen by the Four valuers first appointed.

18. The obligations of the Governor and Company under this Contract are to be correlative and dependent; the fulfilment of the obligations of the Governor being dependent upon the fulfilment of the obligations of the Company, and *vice versa*.

19. This Contract is made subject to the provisions of "The Main Line Railway Acts" of the Parliament of Tasmania hereinbefore recited; and each of the contracting parties agrees to abide by such provisions, save so far as they may be herein expressly modified, or they may hereafter be altered, added to, or varied by mutual consent.

20. Nothing in this Contract contained shall be deemed or construed to impose a personal obligation upon the Governor, who contracts for and on behalf of the Colony of Tasmania and under the authorities aforesaid.

21. Both parties hereto will from time to time do all such acts, matters, and things, and execute all such grants, demises, deeds or instruments, as may be necessary or desirable for giving full and complete effect to this Agreement and every part thereof.

22. This Contract will be executed by the Governor as aforesaid in Tasmania, and a counterpart thereof will be executed by the Company in London; but the date of this Contract shall for the purposes of this Agreement be deemed and taken to be the day on which the said counterpart shall be executed by the Company in London.

23. All Notices required or which may be necessary by this Contract to be given by the Governor to the Company, or by the Company to the Governor, may be served on the Governor by leaving the same with the Colonial Secretary for the time being of Tasmania at his Office in Hobart Town aforesaid; and may be served upon the Company by leaving the same at their Office in Hobart Town aforesaid, or at their Office in London, or by serving the same on one of the Directors of the Company for the time being resident in London.

24. All powers herein or in any Act referring to this Railway contained, given, or reserved to the Governor or the Governor in Council shall and may be exercised by the Governor for the time being or the Officer administering the Government of Tasmania from time to time by and with the advice of his Executive Council as the case may require.

25. The Company shall, before receiving any Interest under this Agreement, be incorporated in Tasmania, or otherwise made capable of suing and being sued in Tasmania.

Signed, sealed, and delivered, by the above-named CHARLES DU CANE, Esquire, Governor of Tasmania, at a meeting of the Executive Council held at Hobart Town this day, the same being signed in the presence of and by and with the advice of us the Members of the said Council.

CHARLES DU CANE. (L.S.)

J. M. WILSON, *Colonial Secretary.*

THOS. D. CHAPMAN, *Colonial Treasurer.*

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

HENRY BUTLER, *Minister of Lands and Works.*

J. A. DUNN, *M.E.C.*

J. B. DAVISON, *Secretary.* (L.S.)

The Seal of the said Company was affixed hereto in the presence of the undersigned, in pursuance of an order of the Board, the fifteenth day of March, 1872.

G. W. BROWN, 12, *Spring Gardens.*

THE SCHEDULE REFERRED TO IN THE FOREGOING CONTRACT.

The route of the said Railway shall keep as near as may be practicable to existing centres of population; but the Company shall have full power to alter or vary the route as their Engineer may advise to be necessary or advantageous, having reference to the exigencies of construction, or difficulties of route, or prospects of traffic.

The exact points of the Termini of the said Railway shall be fixed by the Company.

The Company shall also have the right to run into the Launceston and Western Railway at any point they may consider most advantageous, and to lay down a rail or rails upon that Line from the point of junction to the Terminal Station at Launceston, so as to allow the Company's Rolling Stock to run over that portion of the Launceston and Western Railway.

The Works shall be commenced within Six calendar months after the date of this Contract, and after commencement shall be diligently prosecuted until completion.

The whole of the said Works shall be completed and the said Railway opened for traffic throughout within the period of Four years from the date of the Contract, under a penalty of £20 for every day's delay beyond that period, unless it can be shown that the delay has arisen from strikes or other circumstances beyond the reasonable control of the Company.

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 gauge of the Railway shall be 3 feet 6 inches.

The Bridges shall be constructed of brick, stone, iron, or timber, as the Company's Engineer may determine; but in any construction the Bridge to be so designed and built as to have a strength sufficient

to bear a strain without breaking four times greater than can be put upon it with the heaviest Rolling Stock on the Line, or otherwise so as to comply with the regulations as to strength of the English Board of Trade.

The weight of the Rails shall average forty pounds to the yard.

The Sleepers shall not be less than 6 feet 6 inches in length by $8 \times 4\frac{1}{2}$ inches in breadth and depth, and to be half round or squared timber, and fastened with dog spikes or other equally efficient fastening.

The Ballast of the Line shall not be of less width than 8 feet 6 inches, nor of less depth than 18 inches from top of rail.

No curve on the said Railway shall have a less radius than four chains, and no gradient shall be steeper than 1 in 40.

The Station Buildings shall be built of brick, stone, iron, or wood, and with such offices and accommodations as the Company's Engineer may consider necessary.

When the said Railway is completed and open for traffic, at least four Trains shall run daily upon the said Line throughout its entire length; namely,—Two Trains daily from Hobart Town to the opposite Terminus, and two Trains daily from the opposite Terminus to Hobart Town; and such Trains shall be of such capacity and shall start at such hours as the Governor may from time to time determine, having reference to the exigencies of a single Line of Railway, and the general convenience in the working of the Railway as well as regards the Company as the Public.

The minimum average speed at which such trains shall travel shall be for one daily train each way 23 miles an hour, and for the other daily train each way 10 miles an hour, including all stoppages and detentions.

The maximum fare for passengers travelling on the said Railway shall not exceed Three-pence per mile for First Class Passengers, and Two-pence per mile for Second Class Passengers, and the rate for goods shall not exceed that charged from time to time upon the Government Railways in Victoria: Provided that, when in any year the profits of the said Railway arising from the traffic thereon shall exceed £10 per cent. upon the actual outlay, the Governor shall have power to require the Company to reduce the fares for passengers so as such reduction shall not diminish the profits of the Railway below £10 per cent.

All first and second class passenger carriages are to be covered, and to contain seats for all passengers.

All tolls for passengers or goods to be charged equally to all persons, and at the same rates, without preference, favour, or otherwise.

Children under 3 years of age accompanying passengers by such train to be taken free of charge, and children of 3 years and upwards, but under 12 years of age, at half the charge for an adult passenger.

Each First Class Passenger to be allowed 75lbs., and each Second Class Passenger 56lbs. of luggage free, not being merchandise or goods carried for profit or hire; any excess of luggage to be charged by weight, at a rate not exceeding the lowest rate of charges for passengers' luggage by other trains on Victorian Lines of Railway.

The Company shall carry all mails to and from all Townships, Stations, and places along the Line upon such terms as may from time to time be agreed upon between the Governor and the said Company, and until otherwise agreed it is stipulated as follows:—

Every train to carry mails if required to do so by the Postmaster-General.

The mails to be accompanied by a Guard, or to be without a Guard, at the option of the Postmaster-General.

The Postmaster-General may require the whole inside of a carriage to be exclusively appropriated for the purpose of carrying mails.

The Postmaster-General may require separate carriages for the purpose of sorting letters during transit.

Mail-guards are to be deemed Second Class Passengers.

The Company to receive such remuneration for the mail service as may be agreed on, and in case of difference to be settled by arbitration.

The mail service not to be suspended or postponed by reason of the amount of remuneration not having been fixed upon, or of the award not having been made.

The amount of remuneration for mail service may again be considered when it has been in force for three years.

The Postmaster-General may put an end to mail services on giving three months' notice.

The Company may establish, work, and use for their own profit a line of Electric Telegraph upon the Railway.

Government Messages shall have priority, if required; and subject to the use of the Company, and to the priority (if any) claimed by the Governor, the Telegraph to be open for receiving and sending Messages by all persons alike, without favour or preference.

The Governor may erect a Telegraph along line of Railway for Government use only, on reasonable compensation to Company.

The amount in case of difference to be settled by Arbitration; and, subject to a prior use for Government purposes, the Railway may use the Telegraph on terms to be agreed upon with the Governor, or in case of difference to be arbitrated.

Any reference to Arbitration of any dispute between the Governor and the Company shall, where not otherwise provided, be carried out in the manner provided by *The Lands Clauses Act* (21 Vict. No. 11, Secs. 14 to 26 inclusive), so far as the said provisions can be applied.

Witnesses—

J. M. WILSON.
THOS. D. CHAPMAN.
W. R. GIBLIN.
HENRY BUTLER.
J. A. DUNN.

CHARLES DU CANE.

GEORGE SHEWARD.

Colonial Treasury, Hobart Town, 17th August, 1878.

DEAR SIR,

In accordance with our arrangement I now enclose you Case and Opinion as to the Main Line Railway, it being understood that the documents do not pass beyond Mr. Davison, Mr. Grant, and your Solicitor, as Ministers having declined to produce them in Parliament, reserving them for production at this negotiation, desire that the first publication of them should be by themselves, when they are in a position to report to Parliament the result of their negotiations with you.

I further submit, as agreed, without prejudice to the position of either party, should we fail to concur in arrangements for an amicable settlement, alternative proposals for the friendly adjustment of all matters in difference, of which that marked No. 1 is that which I would commend to your earnest attention. These proposals I would stipulate shall not be made public until Ministers can make them known to Parliament; and the knowledge of them should be confined to yourself, your colleague, engineer, and legal adviser.

I have fully explained to you verbally, in our several lengthy interviews, the reasons which may be urged in favour of the several proposals now submitted for your consideration; and I rely upon your bringing to bear upon the subject that fair and candid judgment, and that proper desire to terminate an unpleasant controversy, which I trust we may claim to have manifested when engaged in verbally discussing the points at issue.

I am, dear Sir,
Yours, &c.

W. R. GIBLIN.

Colonel GREY, Webb's Hotel, Murray-street.

Ex parte THE GOVERNMENT OF TASMANIA *Re* THE TASMANIAN
MAIN LINE RAILWAY COMPANY, LIMITED.

CASE

For the opinion of Counsel upon the construction of a Contract entered into between the Governor of Tasmania and the Tasmanian Main Line Railway Company, Limited, and as to certain matters in dispute between the Government and the said Company.

COUNSEL will receive herewith copies of the following documents:—

1. The Act of Parliament of Tasmania, 33 Victoria, Number 1, called "The Main Line of Railway Act."
2. The Act of Parliament of Tasmania, 34 Victoria, Number 13, called "The Main Line of Railway Amendment Act."
3. The Contract dated the Fifteenth day of August, 1871, made between the Governor of Tasmania of the one part, and the said Company of the other part. (This Contract, by Section 22, is deemed to be dated upon the Fifteenth day of March, 1872, the day upon which it was executed in London.)
4. Report upon the Construction of the Railway by Mr. W. H. Greene, C.E., dated Ninth of April, 1874, and reply of Mr. Grant, C.E., the Chief Engineer of the Company, thereto.
5. Further Report by Mr. Greene, dated Twelfth of August, 1875, and reply of Mr. Grant thereto.

6. Report upon the Construction of the Railway by Messieurs W. Mason, C.E., H. C. Mais, C.E., and H. C. Stanley, C.E., dated Fourteenth of June, 1876.
7. Reply of Mr. Grant to the Report of Messieurs Mason, Mais, and Stanley, dated Fifth of July, 1876.
8. Correspondence containing Contract as to the conveyance of Mails for the Government by the Company.
9. Extracts from opinion and supplement a opinion of Mr. W. Cracroft Fooks, Q.C., given by him to the Railway Company, dated Twelfth of February, 1877.
10. Case submitted by the Railway Company to Messieurs E. D. Holroyd, R. B. Miller, and A. Dobson, Barristers-at-law, and their opinions thereon.
11. Case submitted by the late Attorney-General on behalf of the Crown to Mr. Cyril Dodd, Barrister-at-Law, and Mr. Dodc's opinion thereon.

By the Contract dated the Fifteenth day of August, 1871, (document Number 3), made (in pursuance of certain powers given by the Acts of Parliament of Tasmania, intituled "The Main Line of Railway Act," (document Number 1), and "The Main Line of Railway Amendment Act," (document Number 2), respectively), between the Governor of Tasmania on behalf of the Government of Tasmania of the one part, and the Tasmanian Main Line Railway Company, Limited, of the other part, it was agreed, *inter alia*, that the Company should construct, maintain, and work a Main Line of Railway between Hobart Town, (the capital city of Tasmania, situated at the South of the Island,) and Launceston, (situated at the North of the Island), or between Hobart Town and any point on the Launceston and Western Railway, with running powers (conferred by Act of Parliament, 33 Victoria, Number 21,) over that Railway to Launceston, subject to the conditions in the Schedule to the Contract.

The Launceston and Western Railway belongs to the Government, and from the Township of Evandale this Railway runs for some miles along one of the routes which would be suitable for a railway constructed from Hobart Town to Launceston.

Section 5 of the Contract provides that the Governor shall guarantee to the Company interest at the rate of Five Pounds per centum per annum upon the money actually expended for the purposes of construction of the Railway, up to and not exceeding the sum of £650,000, during Four years of the period of construction, and for a period of Thirty years from the opening of the entire Line for traffic in manner therein mentioned; and by Section 6 it is provided that no sum shall be payable for guaranteed interest for any period during which the Company do not continue to maintain and work the said Railway in an efficient manner.

It is provided by Section 3, sub-section 3, of the Act of Parliament, 34 Victoria, Number 13, that the said Railway, together with all stations, rolling stock, and all other works connected with such Railway, shall be constructed of the best materials and in a thoroughly substantial manner; and that all bridges on the Line shall be constructed according to the Regulations as to strength of the English Board of Trade. This proviso is embodied in the Schedule to the Contract.

It is expressly provided by Section 18 of the Contract, that the obligations of the Governor and Company are to be correlative and dependent,—the fulfilment of the obligations of the Governor being dependent upon the fulfilment of the obligations of the Company, and *vice versa*.

The Schedule to the Contract contains the conditions and specifications under which the Railway is to be constructed.

While the Railway was in process of construction the Government applied to the Colony of Victoria for the services of a skilled Engineer, in order that a thorough inspection should be made of the works so far as they had been carried out; and Mr. W. H. Greene, who was accordingly sent over to Tasmania, furnished two Reports. Upon reference to these Reports, (Documents Numbers 4 and 5,) which were made during the actual process of construction, Counsel will see that the Company failed to fulfil the conditions of the Contract in many respects.

The Government paid to the Company interest at the rate of Five Pounds per cent. upon various sums, amounting to £650,000, which the Company alleged to have been expended by them during the period of Four years of construction as required by Section 5 of the Contract. This interest, which was paid only for the period of construction, amounted in the whole to the sum of £87,576 15s. 4d., but the payments were made under a special form of receipt, and without prejudice to any question at issue between the Government and the Company.

The Company having constructed a Railway from Hobart Town to Evandale (a point on the Launceston and Western Railway Line), opened it for traffic on the Thirteenth of March, 1876, alleging that it was constructed according to the conditions of the Contract, and at a cost of £650,000. The Government contend that the opening was premature, and that the Line then was and still is in an unfinished state. The Company further alleged that they were not bound to avail themselves of running powers over the Launceston and Western Railway, so as to run their trains into Launceston; and that they were not bound to run to Launceston at all.

From the Thirteenth of March to the First of November, 1876, they merely ran the train from Hobart Town to Evandale, being a distance eleven miles short of Launceston.

On the First of November, 1876, the Company ran their Railway through to Launceston; and by Agreement of that date, the Company were empowered to use running powers over the Launceston and Western Railway for the period of Twelve months from the Thirtieth day of October, 1876; and this Agreement provided for the mode in which the compensation payable by the Company to the Government for the exercise of such running powers should be assessed. It was further provided that the Agreement was made upon the express condition that it should not operate as an admission by either party that the conditions of the Contract had or had not been fulfilled, or as a waiver of any right then possessed by either party thereto or to the said Contract.

In June, 1876, the Government desired, with the permission of the Company, to appoint a Board composed of Civil Engineers, who were conversant both with broad and narrow gauges, to inspect the whole of the works and rolling stock of the Main Line Railway Company from Hobart Town to Launceston. The Government applied to the neighbouring Colonial Governments in order to obtain the services of their most competent Engineers; and eventually a Board was formed composed of the Chief Engineers of Government Railways of the Colonies of South Australia and Queensland respectively (Messieurs H. C. Mais and H. C. Stanley), and of the Chief Assistant Engineer of New South Wales (Mr. William Mason). By reference to the Report of the Board of Inspection thus formed, dated Fourteenth of June, 1876, (Document Number 6), it will be seen that the Engineers were unanimously of opinion that "*the general conditions of the Contract, as far as the Construction and Maintenance of the Line is concerned, have not been complied with; and that the speed at which the express trains are run*" (namely Twenty-three miles per hour, as required by the Contract,) "*is very excessive, and, in the present condition of the permanent way, dangerous.*"

The Company have continued to run trains daily (Sundays excepted) from the First of November, 1876, along the whole Line from Hobart Town to Launceston up to the present time. It is assumed, for the purposes of this Case, that two trains have run daily from Hobart Town to Launceston and from Launceston to Hobart Town at the speed required by the Contract; namely, Twenty-three miles and Ten miles respectively.

On the Thirty-first of May, 1876, the General Manager of the Company (Mr. C. H. Grant) wrote to the Colonial Treasurer, representing that the Line must be closed unless pecuniary assistance was immediately given to him; and on the Fifth of June, 1876, the sum of £3000 was advanced by the Government to the Company upon loan. By the Agreement under which this loan was made, it was expressly provided that the loan should not operate as an admission by the Government or the Company that the conditions of the Contract had or had not been fulfilled, but the respective rights and liabilities of the Government and the Company were to remain as if such Agreement had never been executed. The Government subsequently advanced further sums by way of loan to the Company upon precisely the same conditions as above stated for the purpose of keeping the Railway running, and the loans amount in the whole to the sum of £24,200 up to the present date. Parliament has further authorised a sum of £4500 to be advanced upon the same conditions.

In the month of April, 1877, the Government entered into an arrangement with the Company for the conveyance of Mails between Hobart Town and Launceston and all post stations along the line, for the sum of £2000 per annum. No formal contract was entered into, but Counsel will see the nature of the Agreement from a perusal of the letters contained in document Number 8. The mails have since been carried under this Agreement by the Company. It is submitted that the Agreement cannot be construed in any way as an admission by the Government that the Company have fulfilled their Contract.

The Railway has been productive of benefit to the Colony, inasmuch as it has been used by the public for passenger traffic and for the conveyance of large quantities of goods and produce. During the time the Railway has been running no accident has occurred attended with actual loss of life, although the trains have frequently run off the rails, and passengers have been seriously injured. In consequence of the faulty construction of the Line very many persons are deterred from travelling upon it. If the public had complete confidence in the safety of the Railway the benefit conferred upon the Colony by it would be considerably greater than at present, and the traffic receipts would be thereby largely increased. It will be seen that by the terms of the Contract the amount of profit realized by the Railway goes in reduction or the interest payable by the Colony.

The Company have sent in quarterly, up to the present time, a claim for interest on £650,000, alleging that this sum has been *bonâ fide* spent upon the Railway, and that they have completed their Contract. The Company obtained the opinion of Mr. W. Craycroft Fooks, Q.C., (Document Number 9), upon certain points connected with the matters in dispute; but the case submitted to Mr. Fooks has never been published, and only a portion of his opinion has been furnished to the Government. The Company also prepared a case upon which they obtained the opinions of Messieurs E. D. Holroyd, R. B. Miller, and Alfred Dobson. Copies of the case and opinions (Document Number 10) are forwarded to Counsel so that he may see clearly what the contention of the Company is in point of law, but of course Counsel will be guided as to facts only by the Case which is now submitted to him. Mr. Cyril Dodd, of Number 2, Harcourt Buildings, Temple, has given an opinion on behalf of the Government (upon a Case submitted to him by the late Attorney-General) at variance with the above-mentioned opinions, and this opinion is also placed before Counsel (Document Number 11).

The Government have always refused to pay the interest on £650,000, because they do not believe that any such sum has been spent upon the construction of the Railway, and they have always refused to pay any interest whatever, because they contend that the Company instead of constructing the Railway

bargained for seek to impose upon the Government a very inferior article of a Railway which in many important particulars has not been constructed according to the Contract, and which would require a considerable outlay in order to put it into the condition required by the Schedule to the Contract. As regards the curves upon the Railway, the Schedule provides that no curve shall have a less radius than four chains; and it appears from the Report of the Board of Inspection under the heading of General Remarks (Document Number 6) that the curves vary from five to eighty chains. The Government, however, contend that although it is provided that no curve shall have a less radius than four chains, it is the duty of the Company to construct the curves with such a radius as is consistent with a safe and efficient Railway service at the Contract speed, namely, twenty-three miles an hour.

On several occasions His Excellency the Governor and suite have, by the express wish of the Company, travelled upon the Railway free of charge, and free passes have been issued by the Company to Members of Parliament. Some Members have used their passes, and others have refused to do so preferring to pay their ordinary fare. It would, of course, be supposed that no further reference would have been made by the Company to that which was a very natural and ordinary courtesy shown to the Representative of Her Majesty and to the Members of the Legislature, and Counsel would not be troubled with any allusion to this trifling matter were it not for the fact that the Company have actually sought to make some capital out of it; and have paraded the "free passes" before that portion of the English public which is connected with the Railway. Neither the Government nor the public have, except as above mentioned, used the Railway gratuitously, the Company having received full remuneration for all services rendered by them. The Government therefore contend that although the Railway has been of benefit to the Colony, it has never been accepted or acknowledged in any way as having been constructed according to the Contract.

On the Twenty-ninth of July, 1876, the Company commenced an action against the Government under the Crown Redress Act of this Colony, by a Supplication setting forth the conditions of the Contract, alleging that the Company had fulfilled all such conditions, and claiming interest on the sum of £650,000. The Crown pleaded a general plea that the averments and statements contained in the Supplication were not true. Notice of trial was given by the Company for the Twenty-second of August; but, as this only gave the Crown two weeks after issue joined to enable them to obtain the evidence of skilled witnesses (namely, Messrs. Greene, Mais, Stanley, and Mason,) from the neighbouring Colonies, an application to postpone the trial to the October Sitzings of the Court was made, and an order to postpone was accordingly granted. In September, 1876, however, the Company abandoned all proceedings and obtained a rule to discontinue the action upon payment by them of all costs.

Counsel will observe that various authorities are quoted in the Opinions laid before him; and he will advise as to what bearing, if any, such cases have upon the questions at issue between the Government and the Company.

Counsel's attention is now called to a question affecting the route chosen by the Company for the construction of their Railway. This matter (in which the people living in the Districts of Green Ponds, Bothwell, and Oatlands are more especially interested than the general public) will be briefly noticed, so that Counsel may not be embarrassed with the consideration of too many questions. It is provided by Section 3, subsection 1, of 34 Victoria, Number 13, that in the Contract provision shall be made for compelling the construction of the Railway by a route which shall keep as near as may be practicable to the existing centres of population. The Contract (which can only be made in pursuance of the above-mentioned Act) provides, in the first section of the Schedule, "that the route of the said Railway shall keep as near as may be practicable to existing centres of population, but the Company shall have full power to alter or vary the route as their Engineers may advise to be necessary or advantageous, having reference to the exigencies of construction, or difficulties of route, or prospects of traffic." The towns of Oatlands and Green Ponds (situated on the Main Road from Hobart Town to Launceston) form two important centres of population, and Oatlands is one of the largest inland towns. The Company constructed their Railway far away from Green Ponds, and the Line runs four or five miles distant from Oatlands. The Company allege that the route chosen by them is the only practicable one within the meaning of the Contract, and that the Railway could not have been taken through Green Ponds and Oatlands except at an enormous outlay. On the other hand it is urged, in the interest of the inhabitants of the above-mentioned towns, that the Contract was *ultra vires* of the Act of Parliament, in that it gave too great a power to the Company to vary the route; and that, even taking the Contract as it is, the Oatlands route is reasonably practicable. Mr. Greene, in his Report, (Document Number 4), says that no Line which would fulfil the Contract obligations as to speed could be constructed *via* Upper Bagdad, Constitution Hill, &c. (meaning the above-mentioned route past Green Ponds and Oatlands) for One million pounds sterling—and, therefore, that this route cannot be considered as reasonably practicable within the meaning of the Contract. Counsel is not in a position to advise as to disputed questions of fact, and is only asked to advise as to the construction to be put upon the words used in the Schedule of the Contract as to route. Since the date of Mr. Greene's Report (including the period while the Railway was in process of construction) up to the present time, the Government have not formally complained of the alleged diversion of route; Counsel's attention is called to the subject in questions 9, 10, and 11, *infra*.

Counsel is requested to advise—

1. Assuming that the Report of the Board of Engineers (Document Number 6) correctly represents the present condition of the Railway and works, are the Government bound to pay to the Company the guaranteed interest or any portion thereof in accordance with the Eighth Section of the Contract?
2. Are the Government entitled to have the Railway constructed in *strict* accordance with the

Contract and Schedule before they can be compelled to pay the guaranteed interest or any part thereof, or would the Company be entitled to such interest notwithstanding that they have failed to perform the Contract in *some* respects? What amount of latitude (if any) would be allowed to the Company as regards the breach of the Contract conditions?

3. Considering the facts detailed in this Case, have the Government received a substantial part of the consideration for which they bargained under circumstances sufficient to raise an implied promise to pay the interest or any part thereof, or have they done anything which could be construed as an admission that the Company have fulfilled their Contract, or are entitled to the interest or any part thereof?
4. Assuming the train service to be carried on with punctuality, but that the use of the railway is fraught with danger to the public in consequence of its imperfect construction, can the Company, having regard to Clause 6 of the Contract, recover the interest or any part thereof?
5. Was the running of the Railway from Hobart Town to Evandale a compliance with the conditions of the Contract entitling the Company to interest; or should the Company have run trains through to Launceston?
6. Assuming that the Company have been guilty of breaches of the Contract within the Sixth and subsequent Sections of the 34 Victoria, Number 13, could the Government *now* obtain the rescission of the Contract under those sections?
7. Assuming that the Government are liable to pay the interest notwithstanding that there have been breaches of the Contract, what remedies have they for such breaches, and what would be the measure of damages? Would the fact that the maintenance of the railway would be rendered more costly by reason of the imperfect condition of the line be an element in considering the damages?
8. If the Government give notice to the Company, under Clause 17 of the Contract, to purchase the undertaking, &c., will the position of the Government be thereby prejudiced; or on the other hand will such a notice be legally binding upon the Company, and at the same time leave the Government free to contend that the Contract has not been fulfilled?

As to the Route question.

9. Is the provision in the Schedule to the Contract as to route *ultra vires* of the Act of Parliament, 34 Victoria, No. 13?
10. Assuming that the provision is not *ultra vires*, what kind of construction does Counsel put upon the words "having reference to the exigencies of construction, or difficulties of route?"
11. Assuming that the Company have committed a breach of contract by having constructed the Railway along the present route, have the Government condoned such breach? If not, what remedy has the Government for the breach, and what defence would such breach afford to an action for the interest?

Re TASMANIAN MAIN LINE RAILWAY.

Ex parte THE GOVERNMENT OF TASMANIA.

COUNSELS' OPINION ON CASE.

(1.) WE are of opinion that the Government is bound to pay the guaranteed interest from the date at which the Line was opened for traffic from Hobart Town through to Launceston. This appears to be the 1st of November, 1876.

The facts as stated to us show that the reception of traffic upon the Line was assented to by the Government and the Colony, and that the Railway Company were permitted and encouraged to work and continue working the Line for the benefit of the Colony, and assisted by loans of money and by the subsidy afforded them for carrying the Mails,—so that in our judgment the Line was recognised as the Line bargained for, though no doubt all rights to complain of its defects were reserved. This being so, we are clearly of opinion that the Government cannot, after thus availing itself of the service as actually rendered, insist upon the defective state of the road as a ground for refusing payment of the interest or of any part of it.

The general conduct of the Government, and of the Colony, must be considered in weighing the importance to be attached to the formal protests. (*Davenport v. The Queen*, L. R. 3, App. Cas. 115. 131. 132.)

A sufficient remedy, it may be observed, is provided by "The Main Line Amendment Act," 34 Vict. No. 13, Sec. 5, 6, 7, *et seq.*

(2.) This is answered above. Clause 6 of the Contract provides for a cesser of interest in certain events, and upon such events happening the Government would be justified in preventing the working of the Line, and in suspending payment of interest.

(3.) We think that such consideration has been received, and that the facts constitute a sufficient admission that the agreed Line has been made, but made in a defective manner.

(4.) We think that the Government could in such case prevent the Line being used, and that they would then be justified in refusing payment of the interest. We do not, however, think that the Government can continue to make use of, and permit the Colony to make use of, the Line, and at the same time refuse to pay the interest.

(5.) We are of opinion that the Company were bound to run through to Launceston.

(6.) We think the Court has power now to rescind the Contract; but we should not expect that the Court would, having regard to the fact that benefit has been derived from the Line, and to the lapse of time, and the other circumstances of the case, exercise such power. Indeed we may say that, in our judgment, such power ought not, upon the facts before us, to be exercised.

(7.) Sect. 5 of the Amendment Act, 34 Vict. No. 13, affords a complete remedy.

Other remedies are given by the subsequent sections of the same statute.

Under Section 9 of the above statute the Court is not to give damages, properly so called, but is to inflict a penalty the amount of which is to be that which may appear to the Court reasonable.

In considering what would be reasonable we think regard should be had to the fact that the maintenance has been rendered more costly, owing to the imperfect condition of the Line, and the amount of the guarantee by the Government thus improperly augmented. Further non-repair being a continuing breach, we are of opinion that a succession of penalties could be inflicted, so as practically to compel the Company to put the Line into a proper state of repair.

If, however, instead of taking the steps pointed out by the statute an action were brought upon the Contract, there is more difficulty as to the proper measure of damages.

In assessing damages in such action regard should be had to the fact of the maintenance of the Line being more costly owing to its imperfect condition, and to the further fact that a succession of actions could be brought.

No doubt the Sections of the statute 34 Vict. No. 13, were drawn to obviate the difficulties which would arise if the only remedy had been by action independent of the statute.

(8.) We are of opinion that it will not.

It is impossible we think now to contend that the Line has not been opened.

In giving such a notice there should be an express reservation of all rights for past breaches, so as to avoid misconstruction.

(9.) We are of opinion that it is not.

(10.) These words allow the expense, the facility of obtaining material and labour, the engineering difficulties, and indeed all the elements proper to be considered to be taken into consideration in the choice of the route between the appointed termini.

They have special reference to the evident contemplation of the Legislature that the cost would not exceed £650,000.

(11.) The assumption here suggested cannot be entertained. Even if we are wrong in the 9th answer still there has been no *breach of Contract*. The Governor and Council may have acted in excess of their powers in making the Contract, but it can be no breach of Contract to make the road in accordance with the Contract. If there has been no breach there cannot have been condonation. This question seems based on a misapprehension of the legal effect which would follow if it were determined that the public authorities had acted *ultra vires*.

(Signed) JOHN HOLKER.
J. P. BENJAMIN.
CYRIL DODD.

DRAFT Proposals for the Settlement of the Questions in dispute as to the Main Line Railway.

PROPOSAL No. 1.*As to the Past.*

The Colony to pay interest from the 1st of November, 1876, less £23,900 already advanced to the Company.

The Company to relinquish claims from the 17th March to 31st October, 1876, the period during which the trains only ran to Evandale.

The Colony to relinquish its claim for damages (recoverable by cross actions) for loss incurred by either increased working expenses or diminished traffic receipts arising out of the defective construction of the Line.

The Colony to relinquish its claim for interest overpaid during construction, and for all penalties incurred by the Company for non-completion of the Line within Contract time.

The Company to relinquish its claim to damages alleged to have been sustained by reason of nonpayment of interest. Interest upon interest, or interest upon loans, to be waived on both sides.

As to the Present.

Both parties to concur in the appointment of an Arbitrator, Thomas Higinbotham, Esquire, C.E., late Engineer-in-Chief of the Colony of Victoria, who shall have full power to thoroughly inspect and report upon the Line, Rolling Stock, &c., and to direct what shall be done to the undertaking to place it in a thoroughly satisfactory condition according to Contract; the Company undertaking immediately to execute all works directed by the Arbitrator.

The Arbitrator to be empowered to assess the present value of the whole undertaking; but his valuation not to bind the Government to purchase or the Company to sell at the figure named, but to form a basis for further negotiations if desired.

PROPOSAL No. 2.

A general reference to a Board of Arbitrators of all questions in dispute between the Colony and the Company, with full power to the Arbitrators to decide what shall be done and paid by each party.

The Arbitrators to consist of a Board of Five Engineers. Two to be named by the Colony, two by the Company, and the fifth to be chosen by the four first named.

Arbitrators to have power to assess the value of the Line, as in the last clause of Proposal No. 1.

PROPOSAL No. 3.

That the Company shall make an offer to the Government of the whole undertaking in a lump sum, to include all arrears of interest, &c., claimed. The Government to obtain at their own cost a complete inspection of the Line, and report upon it from Mr. Higinbotham or other agreed Engineer before deciding as to the acceptance or otherwise of the offer.

Hobart Town, 19th August, 1878.

DEAR SIR,

I BEG to acknowledge the receipt of your letter of the 17th instant, transmitting the case submitted by the Government to, and the opinion thereon of, Sir J. Holker (Attorney-General of England), Mr. J. P. Benjamin, Q.C., and Mr. C. Dodd; and further conveying three proposals for a settlement of the differences between the Government and the Company, which up to this time have arisen to the great detriment of both.

I say "up to this time" because the opinion of the eminent barristers above named—which opinion, I may observe in passing, was *ex parte* and not on a joint case as proposed by the Company—renders contention on the question of the Government's liability, which stood in the way of an immediate settlement of all the minor differences, no longer possible. Nay, further, this opinion points out the legal and sufficient remedy the Government possess now and at all times against the Company for any breaches of the Contract.

Taking this view, the proposals of the Government, however fair and reasonable they might have been at a time when the Government was differently advised—especially having regard to proposal No. 2—are altogether out of date. Indeed, with this opinion before them, I am at a loss to understand the action of the Government in allowing the Company to incur the expense of sending out a deputation to the Colony.

Nevertheless since it is desirable to formulate a Deed of Agreement, both for the purpose of laying it before Parliament for approval and also with the view to guard against a repetition of similar disputes in future, I am willing to take No. 1 proposal of the Government as a framework upon which to build such an agreement. The proposal referred to, and my notes thereon *seriatim*, placed in juxtaposition for facility of reference, are attached hereto.

I sincerely hope that the Government will accept the revisions suggested by these notes, which are made in good faith and with an honest desire to arrive at a just settlement. I have only to repeat here what I have more than once stated to you verbally, viz. that the Company desire to obtain no advantage whatever. The interests of the Government and the Company are so inseparably united that injury to either must be injury to both. The converse is, of course, also true, and this should lead both to act for the future in a true spirit of partnership.

I may add that, if you think the publication of this letter calculated in any way to endanger this amicable spirit, I am quite willing that the correspondence between us shall, in the event of a Deed of Agreement being settled, be treated as confidential—the deed only when concluded being made public.

I am, dear Sir,
Yours faithfully,

The Hon. W. R. GIBLIN, Colonial Treasury.

FRANCIS D. GREY.

PROPOSALS for the Settlement of the Questions in dispute as to the Main Line Railway.

GOVERNMENT PROPOSALS. No. 1.

As to the Past.

1. The Colony to pay interest from the 1st Nov. 1876, to the 30th June, 1878, less £23,900 already advanced to the Company.

2. The Company to relinquish claim from the 17th March, 1876, to the 31st Oct. 1876; the period during which trains only ran to Evandale.

NOTES THEREON.

1. The Company to receive the guaranteed interest from the 1st Nov. 1876, and arrears during construction, less the amount of loans advanced by the Government to the Company and interest thereon. Interest, however, paid by the Company on all sums borrowed by them within the limit of the arrears of the guarantee to be repaid to the Company.

2. The opinion of the English Counsel, given on a very insufficiently stated Case, says that the Company were bound to run through to Launceston, but it does not even suggest that the Company are bound to relinquish their entire claim for interest, because, although having rendered an efficient train service for 11-12ths of the distance, they failed, from circumstances not under their own control, to perform the service for the other 1-12th of the distance. The Opinion suggests by inference quite the contrary, viz.—that the Colony having accepted and received the benefit of the train service for 11-12ths of the distance, should pay for such benefit accordingly, which, to make a simple calculation, would be 11-12ths of the guaranteed interest. It is believed that the Colony would not desire that the Government should insist (even had they the legal right to do so) that the Company should receive nothing for their train service between Evandale Junction and Hobart Town, from the 15th March to the 31st October, 1876. Such a contention would not be equitable or just. Moreover, the evidence is overwhelming, that the Government delayed the Company running into Launceston by assenting to the use of the Launceston and Western Station by the Main Line Company, and by laying down a third rail throughout such Station, and then in August, 1875, or only 7 months before the contract time for completion, requiring the Main Line Company to acquire a new station of their own, the permission to construct which was only finally given on the 29th November, 1875, or only 3½ months before the time for opening the Line, after which the land had to be arranged for, the plans for the station got out, and the work executed, which was done with all possible expedition, only 12 months having been taken in making the heavy embankment over the swamp, the erection of the numerous buildings, and the laying in of all the sidings and junctions of an important terminal station.

On this point, then, the Company contend that they are at the very least entitled to and should be paid 11-12ths of the guaranteed interest: they are willing to refer to a single arbitrator, whether—under the circumstances—they are not entitled to the remaining 1-12th.

3. The Colony to relinquish its claims for damages recoverable by cross action for loss incurred either by increased working expenses or diminished traffic receipts arising out of the defective construction of the line. The Colony to relinquish its claim for interest overpaid during construction, and for all penalties incurred by the Company for non-completion of the Line within contract time. The Company to relinquish its claim to damages alleged to have been sustained by reason of nonpayment of interest.

3. The Company accept these proposals (conditionally on the acceptance of those made by the Company), but would point out that the counter claim of the Company is many times greater than any claim which the Government could possibly make against the Company. The "diminished traffic receipts" were a far greater injury to the Company than to the Government, because the Government could derive no benefit, and therefore could suffer no loss until the receipts sufficed to pay the working expenses, which was not the case till quite lately, while the Company had to bear the entire loss. Moreover, experience has shown that it was not "the defective construction of the Line"—the train service having been punctually and safely performed from the commencement—which prevented an increased traffic, but the action of the Government in needlessly and gratuitously alarming the public by statements of the dangerous speed at which the trains were ran, a speed which is one condition of the Contract, and which the Government alone has the power to reduce.

The Company point out that their claim for damages, which they now propose to relinquish, is as follows:—

(1.) Costs of the Supreme Court action, which was not discontinued, as the case submitted to the English Counsel suggests, by the will or act of the Company, but by command of Parliament, who said, "if you don't withdraw that action altogether we will advance no funds to keep open the Railway." As it now turns out that the action of the Company was well founded, and that the defence of the Colony (according to the highest legal opinions obtainable) was illegal, the Government and not the Company should in fairness have paid the costs of both sides.

(2.) Legal and incidental expenses, both in the Colony and in London, incurred solely by the Government having refused to pay the guaranteed interest; a refusal which, as before stated, is now shown to have been a breach of the Colony's contract obligations.

(3.) The expenses of the Deputation's visit to Tasmania,—whose presence here is unnecessary, and was known to be so to the Government the moment they received the opinion of the English Counsel advising that the Colony were bound to pay the interest. This opinion was received before the Deputation started, but a copy of it was refused by the Crown Agents on the Company's application, and also by Mr. Fysh when applied to by Colonel Grey in London; and as the Hon. P. O. Fysh, in his official capacity as Premier of the Government, assured both the Company's Engineer and Solicitor in Tasmania that the Government would, if the opinion of the English counsel was against them, immediately give the Company a cheque for their interest,—it is contended that the Company should not have been allowed to incur the expense of sending out the deputation, but that the Government should have at once given effect to the opinion of the Attorney-General of England and the other English barristers, by paying the interest in arrear under the Contract.

(4.) The serious loss by diminution of receipts consequent on the action of the Government, as before narrated, which the Government were well aware would fall wholly on the Company.

The damage thus sustained by the Company, consisting of many thousands of pounds, is here dwelt upon at length to show the Colony that the Company's claims are just and equitable; but the Company waive all such claims for the purpose of meeting the Government in a spirit of compromise, and in the hope of bringing about an amicable settlement of all points in dispute.

4. Interest upon interest, or interest upon Loans to be waived on both sides.

4. Inadmissible. *Vide* Note 1.

As to the Present.

5. Both parties to concur in the appointment of an Arbitrator, Thos. Higinbotham, Esq., C.E., late Engineer-in-Chief of the Colony of Victoria, who shall have full power to thoroughly inspect and report upon the Line, Rolling Stock, &c., and to direct what shall be done to the Railway to place it in a thoroughly satisfactory con-

5. The Company will raise no objection to any independent Engineer being mutually appointed as Arbitrator under a special deed of reference; but inasmuch as the legal opinion obtained both by the Government and the Company unanimously advise that the Government should proceed under the 5th Clause of "The Main Line Rail-

dition according to Contract; the Company undertaking to immediately execute all works directed by the Arbitrator.

way Amendment Act," it would appear highly desirable to adopt this course. The Company are willing to accept any appointment the Government may make under this Clause, and undertake loyally to carry out all reasonable requirements. It should be remembered that, since first opening the Line, the Company have made a very large outlay on Capital Account for its improvement, and have provided extra Rolling Stock for the increasing traffic. This expenditure still continues, and the Company will be happy at all times to meet every reasonable public demand. The Government proposed last year an inspection of the Line by Mr. Wm. Clark, C.E. The Company could not accede to this partial reference whilst the Government refused to refer the infinitely more important claim of the Company for arrears of interest. The Company, however, took advantage of that gentleman's presence in the Colony to obtain on their own account the fullest report that his limited visit would allow. Copy of the Report accompanies.

6. The Arbitrator to be empowered to assess the present value of the whole undertaking, but his valuation not to bind the Government to purchase or the Company to sell at the figure named, but to fix a basis for further negotiations if desired.

6. The Government are at full liberty, on, or at any time after, the completion of this agreement, to send Mr. Higinbotham, or other person, on to the line for the purpose of estimating the value of the property for their own information, and the Company will afford them every reasonable facility.

F. D. G.
19th August, 1878.

TASMANIAN MAIN LINE RAILWAY.

MEMORANDUM.

THE opportunity I had of forming an opinion of the line is from having travelled over it as a first-class passenger from Launceston to Hobart Town in February last; and I returned to Launceston in the Guard's van at the rear of the train, standing for the greater part of the distance on the platform, the better to enable me to observe the line. I did that at the request of the Agent to the Company, C. H. Grant, Esq., C.E.

Mr. Grant has also placed in my hands for perusal the Contract between the Government and the Company, and between the Company and the Contractors, together with some voluminous correspondence on the subject of the dispute between the parties. I was asked by him to give my opinion, after the opportunity I had of observing the line, as to its construction and condition; and I may here remark that I am very unwilling to assume what may be considered a partizan view of the subject, for I have no personal interest whatever therein. I do give my opinion, however, with a hope that what strikes an impartial observer may assist in leading to a compromise by all the parties interested.

The Schedule annexed to the Contract between the Governor of Tasmania and the Company, dated the 15th August, 1871, provides that the line "shall be constructed of the best materials and in a thoroughly substantial manner."

Standing alone, and supported by an equivalent price to be paid for it, this might be taken to cover all the conditions which would enable the line when constructed to compare with such a line as the Launceston and Western Railway; but some of the other conditions must be taken to modify this view very considerably, so far as the "thoroughly substantial manner" is concerned, seeing that the rails are 40 lbs. per yard, and the estimated cost of 133 miles, and its equipment, was but little over £4700 per mile.

With regard to the "best materials," the principal item of which is the rail—could this be taken to include *steel* rails? Under the circumstances existing at the time the Contract was made, so very different to the past two years during which it has been opened for traffic, I do not think steel rails could have been required, unless specially mentioned in the Contract.

The ballast, sleepers, &c. may reasonably be considered the best procurable.

The Schedule provides that the route of the line, keeping as near as possible to the existing centres of population, shall be subject to the judgment of the Company's Engineer.

The gauge shall be 3 feet 6 inches; the weight of rails shall average 40 lbs. per yard; the

sleepers shall not be less than 6 feet 6 inches long by 8 inches \times 4½ inches in breadth and depth, to be half round or square timber.

The bridges shall be constructed of timber or other material as the Engineer to the Company may direct, subject to a condition as to strength.

The ballast to be not less in width than 8 feet 6 inches, and not less than 18 inches in depth from top of rail. Curves not to be less than 4 chains radius; no gradient to be less than 1 in 40.

Station buildings may be of timber or other material, as the Company's Engineer may consider necessary.

The minimum average speed for one train each way daily shall be 23 miles per hour.

Taking into consideration the cost of labour in Tasmania, the high price of rails and rolling stock at the time the Contract was made, and the amount of capital on which interest was guaranteed by the Government, all the conditions, with the exception of the last, would indicate that the line should be economically constructed, suited for light traffic, and also for speed not exceeding an average of 15 to 16 miles per hour.

The very difficult nature of the country through which the line is carried for a considerable portion of its length would involve an unusual amount of study and surveying, and the Contractors had a right to avail themselves—within reasonable limit—of those conditions of the Contract with reference to curves and gradients permitted by the Contract in order to lighten the work as far as practicable; in such a country it would have been easy by small improvements in direction, &c., to have exceeded the contract amount, which could not reasonably be required.

I noticed one or two places where, to a casual observer, some improvement *might* be made in easing the curves; but I would not be positive of this without a better opportunity of judging.

The curves, I believe, are but in few cases less than 5 chains radius; and, so far as I could judge, the limits of the Contract in this respect, and also in the steepness of gradients, do not appear to have been exceeded.

The rails, I am informed, are all 40lbs. to the yard, and therefore fulfil the Contract requirements.

I noticed that several sidings had been put in, which I do not find are required in the Contract.

The rails appeared generally to be in good order, with a few trifling exceptions; laminated or imperfect rails I did not see; and I am informed by the Agent that the hard Belgian rails, which were objected to at the time the line was completed, are now standing better than the more approved English rails: this is not incompatible, the imperfect rails would, in the early days of the traffic, speedily become apparent, and would be removed,—the harder character of the iron in these Belgian rails would resist crushing better than the softer material; however that may be, I saw very little in the condition of the rails to indicate any more wear than may be expected under the heavy engines which they are required to pass over them.

The sleepers appeared to be sound and good, and, where I had the opportunity of inspecting them closely, I saw none of the half-round description which are admissible under the Contract.

The ballast appeared to be of good quality throughout the line; for short distances the sleepers were not covered and they could be seen; but, generally, the line appeared to be in good running condition.

The bridges, I observed, are some of them constructed with masonry piers and timber superstructure, some are entirely of timber; in all cases the timber work appeared to be somewhat unusually heavy, due probably to the use of colonial timber; I saw no indication of insufficiency of strength.

The culverts I observed were some of them of masonry, others of timber; so far as the masonry in these and the Bridges is concerned it is in excess of the Contract requirements, and I should think more costly, as they certainly are of more permanent character.

As to the sufficiency or otherwise of the waterways under the line I am, of course, quite unable to give any opinion.

In this matter I should think that the experience of some 5 or 6 years now obtained is better than any opinion; and if—as I am informed—they have been fairly tested by storms and floods

during their existence, without failure, I should be disposed to accept this as a proof of their sufficiency.

The Stations (with the exception of that at Hobart Town, which with the shops are of ashlar masonry, and very substantial structures) are of timber; they appeared to be fully sufficient to the first requirements of a line of that character.

Speaking generally it appeared to me, under the circumstances of the case, that the Engineer has completed such a line as I should expect to find under the conditions regulating its construction, and quite suitable to carrying all the traffic, provided only that the one which requires a speed of 23 miles be relaxed; I am of opinion that this speed, which in the practical working of the line means a much higher rate, is quite incompatible with the construction of any line of the light character indicated by the conditions, and traversing the country between Launceston and Hobart Town.

With regard to the Rolling Stock, I cannot speak quite as favourably; some of the engines, I am informed, have a weight of 9 tons on each axle, 4 wheels coupled with bogie in front; these are far too heavy for the 40lbs. rails on which they run, but experience has proved that engines of this weight or near it are necessary to move the trains at the required speed; it involves, however, not only considerable expense in maintenance, but the early destruction of the line.

The trucks appear to be suitable to the line, and run easily on their 7ft. wheel base; the passenger carriages, which have a wheel base of 10 feet, are certainly unsuited to the line and quick curves: their very light construction, the frequent recurrence of reverse curves, and the rapidity with which first one side and then the other of the carriage mounts the 4 or 5 inches of elevation given to the outer rail, render travelling in them very rough, and, I have no doubt, unpopular with passengers.

I should advise that the passenger carriages be as early as possible replaced by others of the American type, having bogies at each end, and generally of a more substantial character.

The Company, I am informed, have sent out from England 700 tons of 40lb. steel rails for renewals, and 600 tons of deep heavy rails to match those of the Launceston and Western Railway for the 3rd rail to Junction at Evandale; and, moreover, they purpose sending out 1000 tons of 55lb. steel rails for renewing the curves and heavy portions of the line, should the Government make friendly approaches.

Several new locomotive engines, I am informed, are also ordered, and from what I hear they are of a different and more suitable type to the necessities of the line. All this is entirely in the right direction, and I should hope that all these concessions, which are not strictly required by the Contract conditions, will induce the Government to relax their position; and the first result of this in the interest of the public and all concerned should be to reduce the speed to 15 miles per hour as an average.

The fact of the train service having for two years complied with the Contract, and happily without fatal or serious accident, should, I consider, fully satisfy the contract condition; and great responsibility attaches to those through whose instrumentality the speed, and consequent danger, is maintained to comply with a mistake in the original agreement. To travel such speed, and carry such weight, the rails, &c. should be of a much heavier character, such as are not contemplated in the existing Contract.

I think that the Government and the Company should make mutual concessions, and terminate as speedily as possible the present dispute, which is not only injurious to the Company but to the Government also, should they contemplate further railway extension with British capital.

W. CLARK, *Mem. Institute C.E.*

Wellington, N.Z., April 10th, 1878.

Colonial Treasury, Hobart Town, 21st August, 1878.

DEAR SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 19th instant, covering a copy of a Memorandum by Mr. William Clark, M.I.C.E., as to the condition of the Main Line Railway, for which I have to thank you.

Your letter further conveyed to me some "notes" on the proposal marked No. 1, made by the Government to you with a view of bringing about an amicable and equitable adjustment of all matters in difference between the Government of Tasmania and the Company which you represent.

I note that you regard the very equitable proposal (No. 2) made by the Government for a general arbitration to a thoroughly impartial and competent tribunal of all matters in difference as being "out of date," because you read the opinion of Sir John Holker and Messrs. Benjamin and Dodd as being an unreserved decision in favour of your Company. A more careful perusal of that opinion will, I think, satisfy you that it contains no decision upon the all-important question of whether the Company have or have not fulfilled their contract with the Colony,—as indeed from the nature of things it could not do,—but simply affirms that the forbearance of the Government in not stopping the Line, and its well-intentioned efforts to assist the Company in its time of difficulty by loans of money (and, further, the permitting the Company to carry the mails between Hobart Town and Launceston), have had the unanticipated effect of technically and legally recognising the Line as being the agreed Line, and as opened for traffic within the meaning of the contract, and in the opinion of the writers conferring upon the Company a technical and legal right to demand payment of interest, even though the conditions of their contract may not have been fulfilled.

The opinion further states that this technical and legal liability only accrues from the 1st of November, 1876; and that though technically the Government cannot set off their counter claim for breaches of the contract against the Company's claim for interest, yet they may recover such counter claims by cross actions, or may pursue the statutory remedies given to them by "The Main Line Railway Amendment Act," 34 Victoria, No. 13.

It was with this opinion before them, and fully recognising all the weight which you would naturally attach to such of its expressions as were favourable to your views, that the Government forwarded to you Proposal No. 2 for a general arbitration; and so far from its being "out of date," the Government are at a loss to conceive how, if as you state "the Company wish to take no advantage whatever of the Colony," they shrink from submitting the claims and counter claims of both parties to an independent and competent tribunal. I feel confident that the writers of the opinion would strongly commend the wisdom of such a course to both the parties to the controversy.

With regard to Proposal No. 3, that the Company should offer the Line for sale to the Colony you say nothing. I therefore infer that you do not contemplate giving to it any serious consideration.

As to Proposal No. 1 you have, however, been good enough to furnish me with your objections to it fully stated, and in so doing have dissected it, so as to make the various parts independent of each other. It is not so that the proposal should be entertained—its fairness and its feasibility alike depend upon its being taken as a whole: and as a whole the Government must adhere to it, and are compelled to treat your proposed modifications of it as a virtual rejection of their efforts to bring about a settlement of the disputes, inasmuch as your counter proposal asks the Colony to concede everything in difference except one-twelfth of £20,392 (*i.e.* £1690), as to which sum alone you are prepared to arbitrate.

Taken as a whole the practical effect of Proposal No. 1. may be stated thus,—For a Train Service—unsafe, defective and imperfect throughout, extending over twenty-seven and a half months, the Company would receive a subsidy of £54,166 13s. 4d., and all other claims on each side would be mutually put an end to.

The present condition of the Line would be ascertained by an agreed arbitrator, who would have power to direct the remedying of all defects should any such be found to exist; and the line once put in order, the interest in future could be regularly paid, so long as the Railway was efficiently maintained. The proposal seems to the Government equitable, and as mutually satisfactory as a compromise can be expected to be.

There is nothing in Proposal No. 1 inconsistent with the opinion of the Counsel to which I have referred; on the contrary, it is precisely in accordance with it. Legally and technically they say you are entitled to the guaranteed interest from the 1st of November, 1876, subject to a cross demand of the Colony's to be enforced by actions and penalties. Legally and technically they say the Company is not entitled to any interest from 17th March to 31st October. Our proposal then, with singular fairness, offers to pay you in full the interest (never morally or equitably earned) from 1 November, 1876; and as to the period from March to October, as to which you are not entitled to interest either technically or equitably, we propose to set off against your loss of that sum our abandonment of our counter claims against you.

What on pages 5 and 6 of your "Notes" you gravely set forth as the counter claims of the Company, I am sure you cannot on reflection adhere to.

As to (1) cost of the Company's abortive action against the Colony, I have proved to you by contemporaneous documentary evidence that the basis of the claim is unfounded. (2) "Legal and incidental expenses" is quite inadmissible. It would be as fair to claim against the Company the heavy costs incurred by the Government in professional and other charges for inspections rendered necessary by the Company's continued disregard of the essential conditions of their contract. (3) "The

expense of the Deputation" cannot be seriously contended to be a legal or equitable claim against the Colony. The cost of sending out the Deputation may, indeed, unfortunately turn out to have been needlessly incurred; but if so it will not be the fault of the Colony, but the blame must rest upon those who profess an earnest desire for a friendly adjustment of differences, yet assume an attitude which renders that adjustment impracticable. (4) "Diminished traffic receipts" will prove, when the time comes to go into details, the very sound basis of a claim against the Company, but can hardly form an item in their claim against the Government.

I must, therefore, earnestly request your reconsideration of the proposals of the Government. They are in themselves modifications of the first views of the Government, the result of prolonged interviews with you on my part, followed up by earnest deliberation on the part of the Cabinet with a view to concessions and a pacific settlement; they are based on justice and equity, and are as liberal as the Government feel they can honorably recommend to Parliament for adoption; and they should deeply regret if further consideration led you to adhere to your determination, as after repeated and anxious consultation upon their proposals, and your comments on them, they are quite unable to accede to your modifications, which, in fact, amount to an abandonment of every feature of the Government proposition which originally commended it to them for adoption.

I have, &c.

W. R. GIBLIN.

Colonel GREY, *Webb's Hotel, Murray-street.*

[Received 22nd August, at 3.30 P.M.]

*Tasmanian Main Line Railway Company, Limited,
Hobart Town, 21st August, 1878.*

DEAR SIR,

I AM obliged to you for pointing out to me that the record of the Company's claim for the "Costs of the Supreme Court Action"—*vide* my Notes of the 19th instant, No. 4, par. 1—is liable to misconstruction, for I am most desirous to avoid even the semblance of exaggeration of the Company's case.

You say that Parliament could have made no such "command" because Mr. Grant had withdrawn the Action against the Government previous to the discussion of the measure during which the Company alleges that the command was given; and you point to Mr. Grant's letter, 122, 6th September, 1876, in proof of your contention.

On closer reference to this letter you will observe that Mr. Grant instructed the Company's Solicitors to withdraw the Action for the purpose of referring to arbitration the case the trial of which at law the Government had been successful in postponing.

The further correspondence shows that the principle of Arbitration was, after all, not assented to by Government. The suit therefore remained on the record.

On the 22nd Sept. you are reported to have insisted, from your place in Parliament, as the recognised leader of the opposition, on the absolute withdrawal of the Company's legal action before considering the question before the House, which was—"That a joint Committee of both branches of the Legislature be appointed for the purpose of taking into consideration the present position of the Main Line Railway Company in its relations to the Colony," consequent upon a petition from the Company praying for financial aid. In this the House supported you, and my note therefore appears sufficiently accurate. At any rate with the explanation now supplied it can no longer admit, I trust, of misinterpretation.

I am, dear Sir,

Yours faithfully,

FRANCIS D. GREY.

The Honorable W. R. GIBLIN.

[Received 22nd August, at 3.30 P.M.]

*Tasmanian Main Line Railway Company, Limited,
Hobart Town, 22nd August, 1878.*

SIR,

IT is with the greatest regret that I learn from your letter of yesterday, just received, the determination of the Government to revert—after the intimate approach we had made towards a settlement—to the arbitrary position occupied by the Government previous to their invitation to the Company to send a “deputation with full powers to amicably adjust all differences.”

Your letter requires correction on almost every material point, and I will answer it fully so soon as possible.

Meanwhile I must not delay to demand fulfilment of the undertaking of the Government made officially by the Hon. P. O. Fysh, then Premier, instantly to pay the arrears of guaranteed interest in the event of the legal opinions sought from Sir J. Holker, Attorney-General of England, and Messrs. Benjamin, Q.C., and Dodd, being adverse to the Government.

This opinion is distinctly adverse, and therefore I have to request that you will be good enough to give the necessary authority for a cheque for the amount being paid over at once to the Company's representative here.

I have the honor to be,

Sir,

Your obedient Servant,

FRANCIS D. GREY.

*The Hon. W. R. GIBLIN,
Colonial Treasury.*

Colonial Treasury, Hobart Town, 22nd August, 1878.

SIR,

I HASTEN to acknowledge the receipt of your letter of this day's date, just to hand; and in reply to inform you that I have consulted all my colleagues in Tasmania, and can find no record of any such undertaking of the Government as that which you allege to have been made “officially by the Hon. P. O. Fysh, instantly to pay the arrears of guaranteed interest in the event of the opinion of English Counsel being adverse to the Government.”

No member of the present Ministry in Tasmania ever heard of such an “undertaking” having been given, and, as Mr. Fysh had no authority to give it, I must believe that you have been entirely misled on the matter, and must therefore decline to comply with your request.

I have, &c.

W. R. GIBLIN.

Colonel GREY, Webb's Hotel.

Colonial Treasury, Hobart Town, 27th August, 1878.

SIR,

WITH reference to our interviews, having for their object the amicable settlement of all disputes between the Government and the Tasmanian Main Line Railway Company, I have now the honor to inform you that the Government are prepared to recommend Parliament to adopt the following proposals for the purpose of adjusting all matters in difference:—

1. That the Government should pay interest at the rate of £32,500 per annum from 1st November, 1876, and any balance claimed as due for the period of construction (not exceeding £1003 12s 10d.), less the amount of Loans advanced by the Government to the Company, and interest thereon. Interest, however, paid by the Company on all sums borrowed by them during the period from 1st November, 1876, within the limits of the interest now to be paid, to be repaid to the Company.

2. The Company to relinquish all claim for interest alleged to be due from 15th March, 1876, to 31st October, 1876, (the period during which trains ran only to Evandale).

In consideration of such relinquishment the Government propose to advise Parliament,—

3. To relinquish all claim on the part of the Government for damages recoverable by cross action for loss incurred either by increased working expenses or diminished traffic receipts arising

out of the defective construction of the Line. The Colony to relinquish its claim for interest alleged to have been overpaid during construction, and for all penalties incurred by the Company for non-completion of the Line within Contract time.

4. That the Company should relinquish its claim for damages alleged to have been sustained by reason of non-payment of interest by the Government.

And finally, with a view to terminate the relations between the Colony and the Company, and to enable the Government to effect such alterations as would render the Line what the Colony require, the Government propose to recommend to Parliament to give notice to the Company, under the 17th section of the Contract, for the purchase of the undertaking, provided that you are prepared to carry out the suggestion verbally made by you, and will undertake on the part of the Company to waive the notice required by that section, so as to facilitate the transaction of business.

I should be glad to be at once favoured with an expression of your views as to the above proposals.

I have the honor to be,

Sir,

Your obedient Servant,

W. R. GIBLIN.

Colonel GREY.

[Received 3 P.M., 27. 8. 78.]

Hobart Town, 27th August, 1878.

SIR,

I HASTEN to answer yours of this day, detailing the mode of settlement the Government propose to recommend to Parliament.

I am glad to find that you have at length decided to approach a settlement by separating the points in dispute.

I have always advocated this plan, and have stated my willingness to refer to arbitration any and every point we may fail to settle by discussion.

It would, therefore, have been more satisfactory to me had you proposed to refer separately the questions respecting (1) the opening to Launceston, (2) the Government's claim for consequential damage, and (3) the Company's counter claims.

You propose, however, to set the claim of the Company for seven and a half months Contract train service against the claim of the Government to damage for hypothetical injuries, while you ask the Company to cede, without equivalent, their substantial claims against the Government for actual damages sustained.

It would have been fairer to propose to set the claims of the same class, *i.e.*, the claims of both sides on account of unascertained damage against each other, and cancel them—though here again the balance of advantage would be in favour of the Government—and have left the Evandale question to be arbitrated upon.

However, now that the all-important interest question is removed from discussion, there can be no doubt that, when the Government is in a position to make the proposals contained in your letter definite, this minor point will be readily adjusted.

In conclusion, I am not prepared to carry out the suggestion, made under very different circumstances, to waive the notice to purchase. It was doubtless in the contemplation of those who drew the Contract that 12 months was the shortest notice that could be accepted without injury to the Company; and I may add, that the peculiar relations of the Company to the Government up to this time have not tended to place the Company in a better position with respect to a compulsory sale.

I have the honor to be,

Sir,

Your obedient Servant,

FRANCIS D. GREY.

The Hon. W. R. GIBLIN, Colonial Treasury.

Colonial Treasury, Hobart Town, 28th August, 1878.

SIR,

I RECEIVED your letter of the 27th instant yesterday afternoon, and observe with great disappointment that you appear to desire to re-open questions which our previous discussions had, I hoped, practically settled.

I have never wished to sever the items which form the whole proposal of compromise, and cannot do so now.

The one point left in difference between us when we separated on Monday night was the question whether you ought not to adhere to a proposal you had made that you would waive the twelve months' notice required by the Contract if the Government gave you notice to purchase the Line. On further consideration the Government decided, as per my letter of yesterday, to ask you to consent to what they deemed the mutual understanding that you would waive such notice: every other part of the proposal having been mutually acceded to.

In your letter now under reply you desire to waive the condition referred to (alleging a change of circumstances, of which the Government are entirely unaware), and you give no definite answer to the proposals made by me.

In my interview with you this morning I, with the approval of my colleagues and solely to facilitate a settlement, offered to waive the one point left in difference on Monday evening, namely, the demand that you should, as originally proposed by you, accept immediate notice to purchase, and waive the twelve months' notice required by the Contract to be given in London and Tasmania; but you then refused to agree to the proposals of the Government unless modified by an agreement to refer the Evandale question to arbitration, or to save further contention you were willing to split the difference as to that question only. As this was virtually removing a leading feature of our proposal, I told you I could not accept such modification; and I must treat your reply as a rejection of proposals made in exact accordance with an arrangement you had previously approved.

I further told you that the Government were prepared to recommend to Parliament a general reference of all matters in difference to a tribunal to be agreed on, as in our previous proposal No. 2, but could not agree to arbitrate the Evandale question alone, as from the first I had always declined to do. The claims and counter claims of the Colony, and the Company, both as to interest and damages I have ever maintained should in fairness be investigated, if possible, at the same time and by the same tribunal.

You declined this course, but made a suggestion that the opinion of Sir John Holker and Messrs. Benjamin and Dodd, together with an opinion given some time since by Mr. J. H. Lloyd to the Company, and the cases and documents upon which such opinions were based, should be submitted to Sir George Jessel, the present English Master of the Rolls, for his decision. I told you then, and now repeat, that I know of no form of proceeding by which such matter could be brought judicially under Sir George Jessel's notice; and I desire to add, that as the questions in dispute are mixed questions of law and fact, no tribunal could satisfactorily dispose of them that had not the power of inspecting the Railway and hearing evidence as to the disputed facts. Your suggestion, therefore, could not be acceded to.

I am reluctantly driven to suspend any further proposals to settle this much vexed question; for as you have lately so strongly expressed your unwillingness to bind your Company while the Government must seek ratification from Parliament for their proposals before they can legally bind the Colony, it seems highly improbable that any settlement can be arrived at until the proposals to be made to you have received the approval of Parliament.

I have the honor to be,

Sir,

Your obedient Servant,

W. R. GIBLIN.

Colonel GREY, Webb's Hotel, Murray-street.

[Received 10:30 P.M., 28th August, 1878.]

W. R. GIBLIN.]

*Tasmanian Main Line Railway Company, Limited,
Hobart Town, 23rd August, 1878.*

SIR,

I HAVE the honor to acknowledge the receipt of your letter of yesterday, in which I understand you to decline to comply with my demand for the arrears of guaranteed interest, on the grounds (1) that you believe I "have been entirely misled in the matter"—and (2) that if Mr. Fysh did give such an undertaking, the Cabinet was not bound to fulfil it.

I cannot believe that you are serious in contending that the country is not bound by the solemn obligations of its Prime Minister, and I shall therefore confine myself solely to the consideration of the other portions of your letter.

I will at once remove the impression you have erroneously formed that I "have been entirely misled"—or misled at all—respecting the undertaking of the Government through Mr. Fysh, by repeating that which I have several times mentioned during the progress of these negotiations, viz., that Mr. Fysh gave the undertaking to Mr. Grant, the Company's representative here, in the presence of the Company's Solicitor, on the occasion of those gentlemen seeing him officially respecting the reception by the Government of a deputation from the Company. Further, when Mr. Fysh called at the Company's office in London, to deprecate any opposition on the part of the Board to a quotation of the new Government Loan, I said, and used words to this effect—"Mr. Fysh, you have the matter in your own hands. Show us the opinion of the Attorney-General and Mr. Benjamin. If adverse to you, you have promised to pay: if adverse to us, we should not be so foolish as to oppose." Mr. Fysh, while declining to disclose the opinion, on the ground that he was not authorised to do so, took no exception to the allusion to his contingent promise to pay.

I may further mention, though it is a little outside the point, that Mr. Fysh again refused to produce this legal opinion when challenged to do so, on the occasion of the consideration of the application for a quotation of the loan before the Committee of the Stock Exchange.

I must further point out that, holding the conviction you do, it was, in my opinion, incumbent upon you to have obtained from Mr. Fysh, when first the subject was brought to your notice, a denial or confirmation of my statement. As it is, I think it essential, if you purpose contesting the point further, that you should obtain this information from Mr. Fysh before Parliament meets.

Although I have thought it advisable to say this much, your refusal to meet my demand involves a far greater and graver question than the fact or fiction of an undertaking between the Premier and the Company; for assuming that no such undertaking was ever given—am I to understand that the Government refuse to be bound by the legal opinions they have taken, in conformity with their announcement to the House of Assembly on the 23rd November, 1877—that, in other words, these opinions were sought, not with a view that they should guide the Government, but simply for the purpose of justifying in a measure their arbitrary conduct, if haply they should prove favourable to their contention?

This is the real question, and I must respectfully, but firmly, solicit a decided answer to it.

I have the honor to be,

Sir,

Your obedient Servant,

The Hon. W. R. GIBLIN, Colonial Treasury.

[Received 10.30 P.M. 28th August, 1878.]

W. R. GIBLIN.]

Hobart Town, 28th August, 1878.

SIR,

In my letter to you of the 22nd inst. I said that I would fully answer yours of the previous day "so soon as possible." Negotiations having been resumed on the 23rd, with every prospect of their terminating in an arrangement, an answer appeared no longer to be necessary or desirable. Now, however, that the Cabinet has returned yet again to its original position, I make no further delay in forwarding my reply.

You say that the Government have made the Company three proposals, "based on justice and equity," and "with a view to concessions and a pacific settlement." It follows, therefore, that if these proposals are not based on justice and equity, the view of the Government is to make neither concession nor a pacific settlement. Let us then examine into the justice and equity of these proposals, that so we may arrive at the views of the Government—views which I note are modifications of those the Government held at the time they received the deputation with the avowed intention "to amicably adjust all differences."

Proposal No. 2, to which you give the greater prominence, and describe particularly as "very equitable," is (1) to submit the claim of the Company for arrears of guaranteed interest—a purely legal claim, and one which the high legal authorities consulted by the Government, on a case of their own framing, are unanimously of opinion "the Government is bound to pay"—to the arbitration of a body of men, from which lawyers are to be excluded; and (2) to go outside the Contract to see if this same body will not give the Government that which they declare to be due under the Contract.

Take the first point :—the idea of five Engineers sitting in review on the legal opinions of the Attorney-General of England, Mr. J. Horatio Lloyd, and Mr. Benjamin, Q.C.—the idea that Sir J. Holker and his colleagues would “strongly commend the wisdom of such a course”—the idea indeed of the Government contesting the point further with no single legal opinion, outside their own body, in their favour !

Take the second point :—the idea of gravely proposing to alter a Contract upon which the Government have all along based their claim to an indefinite amount of damage, and their justification for withholding the interest earned ! The cry of the Government to the Company hitherto has been “fulfill your contract,” but now that the Company demand equal rights, the Government desire to go outside it.

And these form the very equitable Proposal No. 2, “based on justice and equity,” which I am taunted with shrinking to comply with. You object, too, to my rejection of this proposal on the ground that it is “out of date.” Whilst the legal opinions which the Government refused to take on a joint case (in the interests, of course, of justice and equity) were pending, the Company would, to avoid litigation and delay, have consented to refer the two questions involved ; but I repeat the proposal to do so now, *i.e.*, to refer to an incompetent tribunal a legal question which the Government’s own legal advisers have given decisively against them, and to go outside the Contract to do that which these same legal advisers tell them they have power to do within it—is clearly out of date. Indeed, it appears to me that I should have been fully justified in saying that the Government Proposal No. 2 is not merely out of date, but absolutely devoid of all reason and common sense.

Proposal No. 3 did not, as you assume, deserve “serious consideration,” since the Government have at all times the option to purchase. Moreover, it could not have been entertained, with the prospect of serving any reasonable purpose, whilst the Government hold the erroneous opinion they profess respecting the condition of the property—an opinion the Company court them to test by an inspection of the Line by their own or any Engineer.

Proposal No. 1 looked like business, because, by detailing at my suggestion the items of difference from a Government point of view, I was enabled to place the Company’s view of the same in juxtaposition ; it remained then only to assimilate them, by temperate discussion and mutual forbearance, when the differences would have been found—were found indeed—to be so infinitesimal, that if absolute agreement on any one or two points could not have been effected, a very simple form of reference might have settled the whole matter.

This course was followed with the result that, on the 20th instant, you agreed with me, subject to the approval of your colleagues, as follows :—The whole of the Evandale question to be referred to arbitration—the other points to be settled in direct accordance with the views of the Company as detailed in my notes Nos. 1, 3, 4, 5, and 6.

This having been so, it is, to say the least of it, disingenuous of you to treat my notes as an ultimatum : still more so to assert, with an air of authority, that the “train service” is “unsafe, defective, and imperfect throughout.”

What are the facts ?

No life has been lost from any accident on the Line since it was opened for traffic in October 1875 ; while the only grave mishaps incurred have been such as would happen upon any line, and were quite independent of its construction and management. Can this service, therefore, be pronounced “unsafe ?”

Notwithstanding that the Contract service was commenced under circumstances of extreme difficulty owing to the occurrence of unprecedentedly severe floods in the Midland District immediately previous thereto, the trains have run as regularly and punctually as those of other railways, including even lines with double track, and of the most costly character. Although the Contract does not require that the Express trains should make frequent stoppages at intermediate stations, these trains have called at each station on the line whenever there were passengers offering. The freight trains under the Contract should run at an average speed of ten miles per hour ; but the Company run this train at an average speed of upwards of thirteen miles per hour, and run an additional night train at a high rate of speed. In what respect, therefore, can this service be pronounced “defective and imperfect throughout ?”

Again, you tax me with assuming “an attitude which renders adjustment impracticable.” I need only draw attention to the fact recorded by yourself, that I am desirous to simplify an arrangement by separating the points at issue, while you insist on their “being taken as a whole,” to show that the charge you make would more fittingly have come from me. As long as you adopt this course, just so long will an arrangement be impossible. As well might you hope to obtain the chemical value of a compound mixture while prohibiting an analysis.

And now having shown the "justice and equity" of your proposals, and the "singular fairness" which would lead the public to suppose that I have rejected, without reason, your "honorable" advances, I would ask you how am I to interpret the views of the Government? Is it possible for me to regard them as tending towards "concession and a pacific settlement?" Is it not indeed clear, on your own showing, that they have precisely the opposite tendency?

I will not further notice the many loose assertions and incorrect statements you have been led into making. It would serve no good purpose, as, taking your letter as genuine, it is evident that the Government do not propose to pay the guaranteed interest from 1st November, 1876, for which a cheque should have been sent so soon as the opinions taken by the Government were known to be adverse upon this point, unless the Company will give them some equivalent. This I shall never consent to, regarding the interest question as definitively settled.

Lest there should be any misapprehension of the position taken by the Company, I hereby repeat that they are agreeable to arrange on the arrears of the guaranteed Interest from 1st November, 1876, being paid as detailed in my notes No. 1, as follows:—

To arbitrate the Evandale question (the case submitted by the Government to Sir J. Holker and his associates having been not merely *ex parte*, but having altogether omitted the contention of the Company that they were debarred from running earlier to Launceston by the action of the Government).

To efface or arbitrate all claims on both sides for consequential damages.

To give the Government every facility for inspection of the Line under the Contract, and an assurance that all the suggestions of the Inspector, legally binding upon the Company, shall forthwith be carried out at their expense.

In short, the Company are now, as ever, willing and desirous to submit any and every point in difference between them and the Government to arbitration, save that of the payment of guaranteed interest from 1st November, 1876, in which there can be no longer any honest difference of opinion. The Company ask for no concessions from the Government, and consequently can see no equity or justice in the proposals of the Government asking concessions from the Company. Mutual concessions might be made with advantage, but only by mutual consent—failing which on any point arbitration ought to be resorted to.

I have the honor to be,
Sir,

Your obedient Servant,
FRANCIS D. GREY.

The Honorable W. R. GIBLIN, Colonial Treasury.

[Received 11 A.M. 29. 8. '78.
W. R. GIBLIN.]

Hobart Town, 29th August, 1878.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of yesterday, in which you say that you must treat my reply to yours of the 27th instant as a rejection, not of the proposals conveyed in such letter, but of proposals made at some previous time.

This is so novel a course of procedure that I am forced to regard it as a method of obscuring the issue, and of raising the inference that I had rejected the only proposals before me, viz., those contained in your letter of the 27th.

My reply to that letter admits of no such construction. It accepts readily the principle, which I regret to find by your letter now under acknowledgment you have again forsaken, of dealing separately with the items of dispute, and it agrees to everything save the proposal for the Company to relinquish their claim for interest from the 15th March to 1st November, 1876,—upon which, however, I remarked that it is "so small a question I feel no doubt we shall readily come to an agreement" about it,—and the question of waiving the notice to purchase, which would have taken us outside the Contract, and which you knew when you inserted it I was not likely to entertain.

It is true that on your first introducing the question of purchase, as a means, to use your own expression, of "cutting the Gordian knot," I said that, with a view to aid the Government, I would, in the event of seeing no other way to an amicable settlement of our disputes, consent to waive the twelve months' notice. This occurred at our second interview, when as yet I had not been permitted to see the opinion of Sir J. Holker and his associates. Now that I remind you of this you will admit, I am sure, that the "circumstances" under which I made the proposal were "very different" to those now ruling.

Your letter of the 27th made the condition of my waiving the notice a *sine quâ non* as I read it, for you used the words "*provided* you are prepared." In your letter of yesterday you treat it as a simple request ("the Government decided to *ask*."). Our differences are, therefore, narrowed to the one simple question of the Company's claim for interest between the 15th March and 1st November, 1876. This was recognised by you at our interview yesterday morning, to which you allude; and on my stating the grounds which seemed to point to an arbitration of the question as the better mode of settlement, you assented, on condition of the Company agreeing to refer the whole of the interest question. I asked if you were serious in proposing to contest the opinion of your own legal advisers on this point, to which you replied that there were more ways of reading it than one. On this I consented to submit the point to Sir George Jessel, whose name I mentioned because of your having yourself suggested it on a previous occasion, and so you returned to your Colleagues, leaving me under the impression that you were satisfied I had, so far from having rejected your proposals, agreed to them all.

My surprise on receiving your letter would therefore have been great, had I not previously heard of your statement in the House of Assembly, and of your Notice of Motion to obtain parliamentary sanction to offer proposals to me which you know I neither will nor can accept.

I am reluctantly compelled, therefore, to treat your letter (taken in conjunction with your motion in the House) as an intentional impediment on your part to further negotiations between us; and, in consequence, I forwarded to you yesterday evening the letter I had withheld at your request in answer to yours of the 22nd, and also my reply to yours of the 21st instant.

I have the honor to be,

Sir,

Your obedient Servant,

FRANCIS D. GREY.

The Honorable W. R. GIBLIN, Colonial Treasury.

Colonial Treasury, Hobart Town, 31st August, 1878.

SIR,

I HAVE the honor to acknowledge the receipt of three letters from you, which reached me in the following order:—

1. A letter, unsigned, bearing date the 23rd day of August, which was delivered at my private residence at half-past ten P.M. on Wednesday, the 28th instant.
2. A letter signed by you, dated the 28th instant, and delivered at the same time and place as the letter I have indicated as No. 1.
3. A letter also signed by you, dated the 29th instant, received by me on its date.

I regret that our failure hitherto to arrive at a satisfactory basis of settlement should impose on us the necessity of replying to these communications; but I will do so as briefly as the various matters put forward by you will admit of.

Letter No. 1 is entirely taken up with the subject of the alleged official undertaking of the Honorable Mr. Fysh to pay the guaranteed interest "*instantly*" if the opinion of English counsel proved adverse.

It would be idle to discuss the constitutional effect of such an "*undertaking*" if one had actually been given in the absence of any admission from Mr. Fysh that he ever entered into such an arrangement, especially under the circumstances that no official record of such an "*undertaking*" exists in any Government Department so far as I can ascertain; nor was it ever heard of by any of my colleagues until mentioned by you. Moreover, the tenor of my letters from Mr. Fysh, since he became aware of the opinion given by the English counsel, is such as to entirely negative the statement that he ever considered either himself or his colleagues bound to adopt any such course as the "*undertaking*" you speak of would necessarily imply.

It would appear, however, unnecessary to dwell upon the question, inasmuch as in our previous proposals to you the Government have recognised and acted upon the opinion given; and had you been equally content to abide by it, the whole matter would have been settled at least a fortnight since.

Letter No. 2, 28th August, is an elaborate vindication of the course you have adopted in the presumed interests of your Company, and, I regret to say, evidences a greater desire for verbal triumphs than for the amicable adjustment of all matters in difference.

I refrain from following your example in this respect, and would simply remind you, in reply to the points raised by you,—

First. As to your objection that “lawyers are to be excluded” from the Board of Arbitrators to be appointed under Proposal No. 2—that the Government would have no objection to two fifths of such tribunal being composed of lawyers if so desired. I refrained from proposing it, because you had so frequently expressed a dread of the “legal element,” that I should have expected it to be extremely distasteful to your views to have stipulated for its introduction into a Board to decide mainly engineering questions.

Second. I must with much deference still adhere to the belief that any sound lawyer, who was advising parties to a controversy who had cross claims which could not be satisfactorily disposed of by any ordinary Court in any single jurisdiction or single action, would commend to such proposed litigants the wisdom of submitting all their disputes to a Board of Arbitrators mutually chosen, and in whose capacity and integrity both parties would repose confidence, who would do substantial justice to each disputant on broad grounds of justice and equity, without regard to those subtle distinctions which sometimes make law and common sense anything but convertible terms.

Third. Notwithstanding your sarcastic comment, reflection will, I think, convince you that whenever two parties to a contract differ on the question whether that contract has been fulfilled, they must “go outside the contract” to obtain a tribunal to settle the question for them, whether that tribunal be the Supreme Court or a Board of Arbitrators.

Fourth. I must put on record, as I have already informed you verbally, that you are in error in supposing that I “on the 20th instant,” or at any other time, “agreed with you” that the Evandale question should be referred to arbitration. I must, indeed, have expressed myself with singular infelicity to have conveyed to your mind an impression so opposed to my own views. It has been the invincible repugnance of the Government to arbitrate the Evandale question separately from the other questions in difference, that has stood in the way of settlement all along, inasmuch as you have positively refused to arbitrate all matters in dispute between the Colony and the Company.

Fifth. As to the “unsafe, defective, and imperfect” condition of the Line, that perhaps is a matter properly for engineering opinion. I have been led to the opinion that it is “unsafe” by the evidence of Messrs. Green, Mais, Mason, and Stanley, nor have I ever heard any engineer, except the gentleman professionally acting for the Company, give the opinion that the Line is safe. You will bear in mind that Mr. W. Clark, C.E., even on the *ex parte* and superficial examination of the Line he made for your Company, reports in the memorandum, a copy of which you sent to the Government, that the Train Service has been performed for two years “happily without fatal or serious accident;” and that “great responsibility attaches to those” who maintain the high rate of speed and “consequent danger.” Holding the opinion that had the line been more substantially constructed, the “consequent danger” might have been averted, how can I be charged “at the least with being disingenuous” in saying it was “unsafe,” and therefore, from the Government point of view, “defective and imperfect?”

The latter part of your letter No. 2 may well be taken in conjunction with your entire letter No. 3, 29th August. You will pardon me for saying, that these letters exhibit an apparent inability to understand the position of the Government; and they exhibit further a fatal facility for misapprehending the statements made from time to time during numerous protracted interviews. To speak of withholding letters at my request is to convey an utterly erroneous impression. It was indifferent to me whether you forwarded or retained letters, except so far as they might assist or impede the settlement of differences, and any conversation that has taken place as to letters has been, on both sides, with the recognition of the fact that a controversy carried on in writing is apt to become embittered; and while friendly negotiations were proceeding I, at least, did not desire to be compelled to carry on a correspondence less friendly in its tone than your verbal communications. You have fully set forth the attitude of the Company, which you conceive to be one of fairness and conciliation. It is to be regretted that in all our negotiations your idea seems to have been concessions on one side only. “Compromise,” from your point of view, has meant the yielding up by the Government of position after position; and, in so far as the Government were enabled to concede, it was only to find, when they thought they had removed points in difference, that the Representative of the Company was receding further from them, so that what on one day is pronounced the basis of a satisfactory settlement, is stated, thirty-six hours afterwards, to be impracticable.

Permit me finally and distinctly to set forth the views of the Government, presuming that you have no further proposals to submit, and still persist in rejecting those made by the Government, as in your letter No. 2 you say you must continue to do.

1. The Government will pay interest from the 1st November, 1876, to 30th June, 1878, at £32,500 per annum	£	s.	d.
And interest at 6 per cent. each quarter from its due date	54,166	13	4
	2315	12	6
	<hr/>		
Less Loan to the Company	23,900	0	0
And interest as agreed.....	1625	12	8
	<hr/>		
	25,525	12	8
	<hr/>		
	£30,956	13	2
	<hr/>		

The sum of £30,956 13s. 2d. forms the entire amount legally due by the Government to the 30th June, 1878, according to the opinion of the English Counsel.

2. The Government absolutely reject the entire claim of the Company for interest from the 15th March to the 31st October, 1876, both because it is proved by the opinion not to be due, and because they have satisfied themselves that the failure to run into Launceston on the 15th March entirely arose from the neglect of the Company to fulfil their contract obligations.

3. The Government reserve their right to take any steps against the Company for the rescission of the Contract under the 6th, 7th, 8th, and 9th Sections of "The Main Line Railway Amendment Act," 34 Victoria, No. 13, or by an action or otherwise to recover their claims, and the penalties incurred under the Schedule of the Contract.

4. The Government will at once proceed to appoint an officer under the 5th Section of the Act, 34 Victoria, No. 13, and to act upon his reports. This course, although not so satisfactory as an amicable settlement of all matters in difference would have been, possesses at least the merit of adhering to the opinion of the English Counsel, upon which you lay such stress.

I have the honor to be,
Sir,

Your obedient Servant,
W. R. GIBLIN.

Colonel GREY, *Webb's Hotel, Murray-street.*

Colonial Treasury, Hobart Town, 2nd September, 1878.

SIR,

I HAVE now the honor to inform you, confirming my statement to you this morning, that the Government have determined, as they have been unable to arrange all disputed questions with you in any mutually satisfactory manner, to propose to Parliament the payment of interest from 1st November, 1876, to 30th June, 1878, with interest added at the rate of six per cent. per annum from the time each quarterly payment became legally payable, but deducting of course from the gross amount the sums advanced by the Colony to the Company, and interest as agreed. The Government, in taking this step, are guided by the opinion of English Counsel that this amount is legally payable to the Company. They are compelled, further, both by the tenor of the opinion and their investigation of the facts, to disallow altogether the claim of the Company for interest from 15th March to 31st October, 1876; and the Government reserve all their rights under the Railway Acts and Contract to proceed against the Company for breaches of contract, damages, and penalties.

I have the honor to be,
Sir,

Your obedient Servant,
W. R. GIBLIN.

Colonel GREY, *Webb's Hotel.*

[Recd. 3. 9. '78.]

Hobart Town, 3rd September, 1878.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of yesterday; and, while regretting that it contains no proposal for bridging over the very small obstacle that separated us on the 28th ultimo, or even for a further discussion of the point, which your statement in Parliament on that day, and my communication to you of the 30th ultimo, had led me to hope for, I must at the same time express my gratification that the Government at length acknowledge thereby their debt to the Company for the guaranteed interest in full since the 1st November, 1876.

Your letter of the 31st ultimo I received by the same messenger. I will not run the risk you point out of impeding a settlement by commenting on any portion of the first ten pages of it, though my silence in this respect must not be construed into an acknowledgment of the accuracy of your treatment of the different subjects. I will confine myself to a *seriatim* consideration of "the views of the Government" as set forth in the two last pages under four heads, numbered respectively 1, 2, 3, and 5 (there is no No. 4).

No. 1. I submit that, instead of proposing to pay an arbitrary rate of interest upon the debt, it would have been fairer to have adopted my suggestion, which found favour with the entire Cabinet at the time it was made, of paying interest at the same rate as that the Company paid for monies they had to borrow—and did borrow—in substitution of those illegally withheld from them by the Government. The difference is not very great, but I think it only reasonable that the Company should not be out of pocket on this account.

I note that you have calculated the interest only up to the end of last quarter; but the debt is still running. I doubt not, however, that it is your intention to have this adjusted to date of payment.

No. 2. I must take exception to the dictum that the opinion of Counsel on any case, still less on a very insufficiently stated one, amounts to proof. To show how very imperfectly the case was submitted, I may point out that the correspondence between the contracting parties, prior to the preparation and execution of the Contract, which alone explains the meaning of the "opposite Terminus" to Hobart Town, was not furnished; neither was the later correspondence between the Government and the Company, which the latter rely upon as evidence that the former were entirely responsible for the delay in the Main Line trains running into Launceston.

Your remark, that "the failure to run into Launceston on the 15th March entirely arose from the neglect of the Company to fulfil their contract obligations," would seem to imply that the Company had failed in some obligation other than that you allege they were under of running into Launceston. If so, this is the first I have heard of it, and I shall therefore be glad of particulars, that I may consider what bearing they have on the general question.

No. 3. The right of the Government to take steps for the rescission of the Contract under given circumstances needed no reservation. I therefore deprecate the mention of it as conveying a threat inconsistent with the professions of the Government that they desire "to amicably adjust all differences."

As to the recovery of "claims" which have not yet been defined, I can only repeat that I am ready to discuss them in detail with you with a view to their adjustment, or to submit them to the judgment of a third party.

"The penalties" I take to mean £20 per diem whilst the Company's trains only run to Evan-dale. These would stand or fall with the judgment on the major question of the Company's claim for guaranteed interest during that time.

No. 5. This course is one the Company entirely approve,—and permit me to point out that it possesses yet another merit than that you award to it, viz. the merit of coming within the provisions of the Contract.

Before closing my remarks on these "views of the Government," I must draw your attention to the circumstance that the Company's very serious claims for consequential damage do not appear to have come within their range.

In conclusion, let me repeat the Company's proposition, which, now that the main question is out of the way, by the acknowledgment of the liability of the Government to pay the guaranteed interest for services rendered in conformity with Clause 6 of the Contract, will, I hope, on reconsideration, be entertained, viz. to refer all points still in dispute, and which we may fail to adjust on discussion, to arbitration. Such is my notion of an amicable and just arrangement.

I have the honor to be,

Sir,

Your obedient Servant,

FRANCIS D. GREY.

The Hon. W. R. GIBLIN, Colonial Treasury.

[Recd. 3. 9. '78.]

*Tasmanian Main Line Railway Company, Limited, General Manager's Office,
Hobart Town, 3rd September, 1878.*

Sir,

At the desire of Colonel Grey I have used my best efforts to ascertain how it happened that a Circular sent to the *Tribune* Office for printing, as a confidential document, became known through the escape of one or more copies, and find that this could only have occurred through the very culpable carelessness of the printers.

The only copy I can positively trace passed through the hands of Mr. J. Blundstone, who, on being requested to state from whom he derived it, wrote me the enclosed letter, and declined to state whether he had it direct from the printing office.

Colonel Grey is naturally much annoyed that his confidence should not be respected; and therefore I would request, as a great favour, that you would kindly absolve the Railway Department from the charge that has been made of the private circulation of a document which up to this time has been treated as being strictly confidential.

I have the honor to be,

Sir,

Your obedient Servant,

C. H. GRANT.

The Hon. W. R. GIBLIN, M.H.A., Premier and Colonial Treasurer.

(Copy.)

Hobart Town, September 3rd, 1878.

DEAR SIR,

IN reference to the printed Circular, signed Col. Grey, about which you spoke to me yesterday, I find on making enquiries of my friend who handed me the said Circular, that it *did not* come from anyone connected with the Railway in any capacity whatsoever.

Hoping this explanation will be deemed satisfactory,

I am,

Yours faithfully,

JOHN BLUNDSTONE.

C. H. GRANT, Esq., G.M., T.M.L. Railway.

Stamp.
15 August
1878.
Five
Shillings.
Tasmania.

Stamp.
Ten
Shillings.
20. 5. 78.

Stamp.
Tasmania.
Sixpence.
19 Aug. 1878.

THIS is the Deed of Revocation of
Power of Attorney marked with
the Letter "A" referred to in the
Declaration of James Borwick
DAVISON made this 29th day of May
1878 Before me

THOS S. OWDEN
Lord Mayor
London

Mayoral
Stamp.
One
Shilling.

Stamp.
Two
Shillings and
Sixpence.
21. 5. 78.

Mayoral
Stamp.
One
Shilling and
Sixpence.

"A."

ARRIVED in Tasmania within Sixty days and stamped in my presence this Fifteenth day of August, 1878.

GEO. PATTEN ADAMS,
Collector of Stamp Duties.

To ALL TO WHOM these Presents shall come unto or concern The Tasmanian Main Line Railway Company Limited sometimes hereinafter referred to as "the Company" Send Greeting.

WHEREAS by a certain Letter or Power of Attorney under the Seal of the Company bearing date the twelfth day of November one thousand eight hundred and seventy-four the Company after revoking a Power of Attorney given by them to one AUDLEY COOTE Esqre. dated the nineteenth day of April one thousand eight hundred and seventy-two did nominate constitute and appoint CHARLES HENRY GRANT Esquire therein described to be their Attorney for the purposes and with the powers in such instrument expressed AND WHEREAS by another Letter or Power of Attorney under the Seal of the said Company bearing date the ninth day of July one thousand eight hundred and seventy-five the Company by way of confirmation and extension of the powers already given to and exercisable by the said CHARLES HENRY GRANT nominated constituted and appointed him to be their Attorney for the additional purposes and with the further powers in such instrument expressed AND WHEREAS by another Letter or Power of Attorney under the Seal of the Company bearing date the seventeenth day of February one thousand eight hundred and seventy-six the Company did in addition to the powers already conferred on the said CHARLES HENRY GRANT by the above-mentioned Letter or Power of Attorney confer upon him the further and additional powers in such instrument expressed AND WHEREAS FRANCIS DOUGLAS GREY a Lieutenant-Colonel of Her Majesty's Army has at the request of and upon Resolutions passed by the Board of Directors of the Company agreed to proceed accompanied by the Secretary of the Company to Tasmania as a Deputation on behalf of the said Board and certain powers have been conferred on him by a Letter or Power of Attorney this day given to him under the Seal of the Company and it has been determined that all the above-mentioned Powers of Attorney and all others if any at any time heretofore given or made in favor of the said CHARLES HENRY GRANT shall be revoked and withdrawn NOW THEREFORE THESE PRESENTS WITNESS that we the Tasmanian Main Line Railway Company Limited do hereby revoke annul and make void the powers granted to the said CHARLES HENRY GRANT in and by the several above-mentioned Letters or Powers of Attorney and also all or any powers which the Company may heretofore have given or granted or agreed to give or grant to the said CHARLES HENRY GRANT such revocation to take effect immediately upon the arrival in Tasmania of the above-named FRANCIS DOUGLAS GREY IN WITNESS whereof the said Tasmanian Main Line Railway Company Limited has hereunto affixed its Common Seal the twenty-eighth day of May one thousand eight hundred and seventy eight Seal of the Company the Common Seal of the said Company was hereunto affixed in the presence of GEORGE SHEWARD Chairman J. B. DAVISON Secretary.

I JAMES BORWICK DAVISON of No. 113 Cannon-street in the City of London Secretary to the Tasmanian Main Line Railway Company Limited do solemnly and sincerely declare that on Tuesday the twenty-eighth day of May one thousand eight hundred and seventy-eight I was present together with GEORGE SHEWARD Chairman of the above-named Company and did then see the Seal of the Tasmanian Main Line Railway Company Limited the Constituents named in the Deed of Revocation of Powers of Attorney hereunto annexed and marked with the letter "A" duly affixed to the said Deed of Revocation in the presence of the said GEORGE SHEWARD and of me the Declarant and that the said Seal purports to be and is the Common Seal of the said Tasmanian Main Line Railway Company Limited and the names "GEORGE SHEWARD" and "J. B. DAVISON" subscribed thereto as the names of the Witnesses attesting the execution thereof are of the respective handwritings of the said GEORGE SHEWARD and of me the said Declarant AND I make this solemn Declaration conscientiously believing the same to be true and by virtue of the provisions of an Act made and passed in the sixth year of the reign of His late Majesty King William the Fourth intituled An Act to repeal an Act of the present Session of Parliament intituled An Act for the more effectual abolition of Oaths and Affirmations taken and made in various departments of the State and to substitute Declarations in lieu thereof and for the more entire suppression of voluntary and extra-judicial oaths and affidavits and to make other provisions for the abolition of unnecessary oaths J. B. DAVISON Declared at the Mansion House in the City of London this 29th day of May 1878 Before me THOS. S. OWDEN Lord Mayor London.

To ALL TO WHOM these presents shall come I THOMAS SCAMBLER OWDEN Lord Mayor of the City of London Do hereby certify that on the day of the date hereof personally came and appeared before me JAMES BORWICK DAVISON the Declarant named in the Declaration hereunto annexed and by solemn Declaration which the said Declarant then made before me in due form of Law did solemnly and sincerely declare to be true the several matters and things mentioned and contained in the said annexed Declaration In faith and testimony whereof I the said Lord Mayor have hereunto signed my name and caused the Seal of the Office of Mayoralty of the said City of London to be hereunto put and affixed and the Deed of Revo-

cation of Powers of Attorney marked "A" mentioned and referred to in and by the said Declaration to be hereunto also annexed Dated in London the twenty-ninth day of May in the year of Our Lord one thousand eight hundred and seventy-eight THOS. S. OWDEN Mayor Mayoral Seal FRED. C. SYDNEY Deputy-Registrar.

We hereby certify that the before written is a true copy of the original Revocation and the Declaration and Mayoral Certificate thereto annexed of which the same purports to be a true copy the same having been examined and compared and examined therewith by us this nineteenth day of August one thousand eight hundred and seventy-eight.

WILLIAM A. FINLAY, } Clerks to Dobson & Mitchell, Solicitors,
VAL. FINLAY, } Hobart Town.

Dated 28th May, 1878.

THE TASMANIAN MAIN LINE RAILWAY
COMPANY LIMITED

TO
CHARLES H. GRANT ESQRE.

Attested Copy.
REVOCATION
OF
POWERS OF ATTORNEY.

Original filed and registered this twentieth day of August one thousand eight hundred and seventy-eight at a quarter to four p.m.
GEO. PATTEN ADAMS,
Regr. of Deeds
No. 1701
Wilson & Co.
1 Copthall Buildings.

A

ARRIVED in Tasmania within Sixty days and stamped in my presence this fifteenth day of August 1878.
GEO. PATTEN ADAMS,
Collector of Stamp Duties.

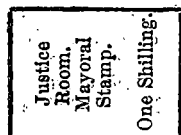
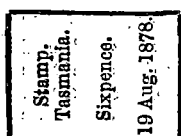
TO ALL TO WHOM these Presents shall come unto or concern The Tasmanian Main Line Railway Company Limited Send Greeting.

WHEREAS questions and differences have arisen and exist between the Tasmanian Government and the Company which the Company desire to be adjusted and settled AND WHEREAS Powers of Attorney have been heretofore granted which are now in force authorising CHARLES HENRY GRANT to act as Attorney for the Company within the Colony of Tasmania AND WHEREAS FRANCIS DOUGLAS GREY a Lieutenant-Colonel of Her Majesty's Army has at the request and upon resolutions passed by the Board of Directors of the Company agreed to proceed accompanied by the Secretary of the Company as a Deputation and on behalf of the said Board for the special purpose of settling and adjusting all such questions and differences and for the purpose of undertaking generally the doing executing ordering and managing all acts deeds matters and things which are requisite or proper to be done executed ordered or managed within the Colony of Tasmania by or on behalf of the Company in relation to its undertaking and affairs AND WHEREAS the Company has by an instrument under its seal and so sealed (pursuant to a Resolution paid by the Board of Directors of the Company) on the twenty-eighth day of May one thousand eight hundred and seventy-eight revoked and annulled the powers and authorities of the said CHARLES HENRY GRANT upon and from the arrival at Hobart Town in Tasmania of the said FRANCIS DOUGLAS GREY and in order to enable the said FRANCIS DOUGLAS GREY to act with effect on behalf of the Company for the purpose aforesaid the Board of Directors have determined to confer upon him the powers and authorities hereinafter expressed and have passed a Resolution approving of these Presents and authorising the seal of the Company to be affixed hereto NOW THEREFORE these Presents witness that the said Tasmanian Main

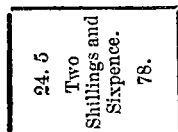
This is the Power of Attorney marked with the letter A referred to in the Declaration of James Borwick Dayson made this 20th day of May 1878 Before me
THOS. S. OWDEN
Lord Mayor
London.

Tasmania,
15 August,
1878.
Five
Shillings.

29. 5
Ten
Shillings.
78.



Line Railway Company Limited do hereby with the consent and authority of the Directors thereof nominate constitute and appoint the said FRANCIS DOUGLAS GREY to be the true and lawful Attorney of the Company for the special purpose of settling and adjusting all questions and differences which have arisen or exist or shall hereafter arise or exist or be depending between the Tasmanian Government and the Company on any subject whatsoever and generally also for the doing executing ordering and managing all acts deeds matters and things which are requisite or proper according to the discretion and opinion of the said Attorney to be done executed managed or ordered for and on account and in the interest and on behalf of the Company within the Colony of Tasmania in relation to its undertaking or affairs And for the purposes aforesaid the Company with the consent and authority of the Directors thereof do hereby give grant and delegate to the said Attorney all powers and authorities which are or for the time being shall be exercisable by Directors or a duly constituted Board of Directors of the Company acting on its behalf under or in virtue of the present or future regulations of the Company and as if the said Attorney constituted such Board acting and competent to act as such on behalf of the Company in accordance with such regulations with full powers for the said Attorney to appoint any one or more person or persons to act under or in lieu or substitution for him for all or any of the purposes aforesaid and with all or any of the powers and authorities hereby given to the said Attorney including this power of substitution and either revocably or irrevocably or absolutely under such conditions or limitations as the said Attorney may think fit AND FURTHER and without controlling or limiting the generality of the powers and authorities conferred upon the said Attorney or the Company with the consent and authority of the Directors thereof do hereby give and grant to the said Attorney the special powers and authorities hereinafter expressed that is to say—Powers to appear before any Judges Magistrates or other Officers in any Court or Courts of Tasmania and then and there or otherwise to commence sue continue and prosecute to judgment and execution all petitions supplications actions suits and proceedings whether legal or equitable or otherwise as the Attorney shall think it right or proper from time to time to commence sue or prosecute in Tasmania on behalf of the Company and also to appear plead to and answer or otherwise defend on behalf of the Company all and every action suit or other proceeding of any and every description which has been or may be commenced or prosecuted against the Company in Tasmania either by the Tasmanian Government or by any body or bodies politic or corporate or any person or persons whomsoever and to refer and submit to arbitration as the Attorney shall think fit all questions differences or disputes whatsoever whether now existing or depending or which shall or may hereafter exist arise or be depending between the Company and the said Government or any such body or bodies politic or corporate or other person or persons whomsoever—Also in the discretion of the said Attorney to discontinue compound settle or compromise all and every or any action suit proceeding difference or dispute upon such terms and conditions as to them or the survivor of them shall seem reasonable or expedient—Also to do all acts deeds matters and things which in the discretion of the said Attorney shall be necessary or proper to be done and be necessary in order to entitle and enable the Company to recover and receive from the Tasmanian Government the interest in arrear and hereafter to accrue due and payable from the said Government of the Colony of Tasmania which was guaranteed to the Company by the Contract made between the Company and CHARLES DU CANE Esquire the Governor of the said Colony on its behalf which came into force on the fifteenth day of March one thousand eight hundred and seventy-two and all compensation or damages or otherwise which the Company are or shall be entitled to or recover or receive from the Government or any past or continuing or future breach or breaches of such Contract—Also to take settle and adjust all accounts and reckonings between the Tasmanian Government and the Company in respect of such interest or otherwise in respect of the matters of the said Contract as well as all accounts and reckonings between the Tasmanian Government or any such body or bodies politic or corporate or other person or persons in respect of any acts dealings and transactions matters or things whatsoever—Also to negotiate and contract for and effect and complete the sale surrender or transfer of the whole or any portion of the undertaking property rights powers and privileges of the Company for such considerations and upon such terms and conditions as the Attorney shall consider fit—Also to sign and give complete and effectual receipts and discharges for moneys or securities which shall from time to time come into his hands by virtue of the powers herein contained which receipts whether given in the name of the Company or in the name of the said Attorney shall exonerate the person or persons to whom the same shall be given from being bound to see to the application of the moneys thereby expressed to be received—To appoint and employ in and for the service and for the purposes of the Company all such solicitors accountants auditors officers servants agents and workmen upon such terms as to remuneration length of service or otherwise as the Attorney shall think fit and to discharge and if he so think fit to re-employ all or any persons or person who are or is now or hereafter shall be employed by or on behalf of the Company in any of the aforesaid capacities or otherwise howsoever—To do all such further acts matters and things if any as shall be requisite or necessary to complete or give effect to and make fully effective the revocation of the powers and authorities of the said CHARLES HENRY GRANT—Generally to act in respect of all the matters and things within the scope of the powers and authorities aforesaid in such manner as the said Attorney in his uncontrolled discretion may think fit—And lastly we the said Tasmanian Main Line Railway Company Limited hereby covenant agree and declare that we and our successors will ratify and confirm all and whatsoever the said FRANCIS DOUGLAS GREY or his substitute or substitutes shall do or cause to be done or purport to do or cause to be done in or about the premises in virtue of these presents—IN WITNESS whereof the said Tasmanian Main Line Railway Company Limited have hereunto caused their Common Seal to be affixed this twenty-eighth day of May One thousand eight hundred and seventy-eight—Seal of the Company—The Common Seal of the Tasmanian Main Line Railway Company Limited was hereunto affixed in the presence of GEORGE SHEWARD Chairman. J. B. DAVISON Secretary.



I JAMES BORWICK DAVISON of No. 113 Cannon-street in the City of London Secretary to the Tasmanian Main Line Railway Company Limited do solemnly and sincerely declare that on Tuesday the twenty-eighth day of May one thousand eight hundred and seventy-eight I was present together with GEORGE SHEWARD the Chairman of the said Company and did then see the seal of the said Tasmanian Main Line Railway Company Limited the Constituents named in the Power of Attorney hereunto annexed and marked with the letter "A" duly affixed to the said Power of Attorney in the presence of the said GEORGE SHEWARD and

of me the Declarant and that the said Seal purports to be and is the Common Seal of the said Tasmanian Main Line Railway Company Limited and the names "GEORGE SHEWARD" and "J. B. DAVISON" subscribed thereto as the names of the witnesses attesting the execution thereof are of the respective handwritings of the said GEORGE SHEWARD and of me the said Declarant--And I make this solemn Declaration conscientiously believing the same to be true and by virtue of the provisions of an Act made and passed in the Session held in the fifth and sixth years of the reign of His late Majesty intituled an Act to repeal an Act of the present Session of Parliament intituled an Act for the more effectual abolition of oaths and affirmations taken and made in various departments of the State and to substitute Declarations in lieu thereof and for the more entire suppression of voluntary and extra-judicial oaths and affidavits and to make other provisions for the abolition of unnecessary oaths--J. B. DAVISON. Declared at the Mansion House in the City of London this 29th day of May 1878. Before me--THOS. S. OWDEN Lord Mayor London.

Justice Room.
Mayoral
Stamp.
One Shilling
and Sixpence.

To ALL TO WHOM these presents shall come--I THOMAS SCAMBLER OWDEN Lord Mayor of the City of London do hereby certify that on the day of the date hereof personally came and appeared before me JAMES BORWICK DAVISON the Declarant named in the Declaration hereunto annexed and by solemn Declaration which the said Declarant then made before me in due form of law did solemnly and sincerely declare to be true the several matters and things mentioned and contained in the said annexed Declaration. In faith and testimony whereof I the said Lord Mayor have hereunto signed my name and caused the seal of the Office of Mayoralty of the said City of London to be hereunto put and affixed and the Power of Attorney marked "A" mentioned and referred to in and by the said Declaration to be hereunto also annexed. Dated in London the twenty-ninth day of May in the year of Our Lord One thousand eight hundred and seventy-eight.--THOS. S. OWDEN Mayor--Mayoral Seal.--FRED. C. SYDNEY Deputy-Registrar.

Mayoral Seal.

We hereby certify that the before written is a true Copy of the original Power of Attorney and the Declaration and Mayoral Certificate thereto annexed of which the same purports to be a true Copy--the same having been examined and compared by us this Nineteenth day of August One thousand eight hundred and seventy-eight.

WILLIAM A. FINLAY, *Solicitor, Hobart Town,* } *Clerks to Messrs. Dobson & Mitchell,*
ARTHUR M. ECKFORD. } *Solicitors, Hobart Town.*

Dated 28th May, 1878.

THE TASMANIAN MAIN LINE RAILWAY

COMPANY LIMITED

to

LIEUT.-COL. FRANCIS DOUGLAS GREY.

Attested Copy.

POWER OF ATTORNEY.

Original filed and registered this twentieth day of August one thousand eight hundred and seventy-eight at a quarter to four P.M.

GEO. PATTEN ADAMS,
Regr. of Deeds
No. 1702

Wilson & Co.
1 Cophall Buildings.

MAIN LINE RAILWAY DEPUTATION.

Correspondence in continuation of H. A. Paper No. 76 of the present Session.

[Laid upon the Table by the Colonial Treasurer, and ordered by the House to be printed, September 11, 1878.]

Hobart Town, 5th September, 1878.

SIR,

THE effect of the acceptance by the House of Assembly of the motion respecting the Main Line Railway Company, which stands in your name on the Notice Paper, would be, of course, to compel the Company to seek, through the Supreme Court, the recovery of the guaranteed interest they claim to be due to them between the 15th March and 1st November, 1876.

Although I do not for a moment doubt that such course would result in the Company obtaining the whole amount claimed, yet, desiring above everything to establish, once and for all, those friendly relations with the Government which are essential to the well-being of both, but which would be impossible during litigation that might be indefinitely prolonged, I am willing to make a sacrifice—a considerable sacrifice—in short, to relinquish the Company's claim to interest from the 15th March to 30th June, 1876, both days inclusive. In other words, on the Government agreeing to recognise the Company's claim to interest from the 1st July, 1876, and, in conjunction with me, to cancel all other claims and differences between the Government and the Company, I will, on behalf of the Company, cheerfully ratify such arrangement.

I desire to point out that a partial, or, for that matter, the entire recognition by the Government of the Company's claim in this respect, is not inconsistent with the determination of the Government to act upon the opinion of the eminent English Counsel they have consulted.

In your letter to me of the 21st ult., you say that this opinion "affirms that the forbearance of the Government in not stopping the line, and its well-intentioned efforts to assist the Company . . . by loans of money . . . have had the unanticipated effect of technically and legally recognising the line as being the agreed line, and as open for traffic within the meaning of the contract; and . . . conferring upon the Company a technical and legal right to demand payment of the interest." If then the act of lending money is a proof of the acceptance of the line as the agreed line, the line between Hobart Town and Evandale must be taken as the agreed line, since the Company were only carrying traffic between these points when the first loan was made.

Be this as it may, I sincerely hope that this, and all, argument between us may cease by the Government accepting my present offer of compromise.

Such acceptance could not fail to be regarded, both in England and Tasmania, as a proof of the sincere desire on both sides amicably to adjust all present differences, and to act together in harmony for the future.

Trusting the Cabinet will give this proposal their most earnest consideration,

I have the honor to be,

Sir,

Your obedient Servant,

FRANCIS D. GREY.

The Hon. W. R. GIBLIN, Colonial Treasury.

Colonial Treasury, Hobart Town, 9th September, 1878.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 5th instant, and in reply to state that the Government must adhere to the decision at which they had previously arrived; viz., to pay Interest from the 1st November, 1876.

This course has received the unanimous assent of one branch of the Legislature; and I trust in the course of this week to be able to inform you that it has also received the sanction of the Legislative Council.

I have, &c.

W. R. GIBLIN.

Colonel GREY, Webb's Hotel, Murray-street.

[Laid upon the Table by the Colonial Treasurer, and ordered by the House to be printed, October 1, 1878.]

MEMO. OF ACCOUNT.

TASMANIAN MAIN LINE RAILWAY COMPANY.

Interest due by the Government from 1st November, 1876, to 30th June, 1878, at £32,500 per annum.....	£	s.	d.
And Interest at Six per cent. each quarter from its due date to 30th September, 1878.....	54,166	13	4
	3128	2	6
			57,294 15 10
Less Loan to the Company.....	£23,900	0	0
And Interest as agreed	1987	1	5
Amount awarded by Arbitrators on 21st August in respect of Tolls and compensation for running powers over Launceston and Western Railway Line.....	5703	0	0
And Interest upon same from 4th to 30th September, 1878, at Six per cent.....	25	6	2
			31,615 7 7
			£25,679 8 3

Colonial Treasury, 1st October, 1878.

WM. H. WINDSOR, Assistant Treasurer.

MEMO.

THE sum of £31,615 7s. 7d., being the amount due by the Main Line Railway Company to the Government of Tasmania, has been duly received at the Treasury.

Colonial Treasury, 1st October, 1878.

WM. H. WINDSOR, Assistant Treasurer.

TO ALL TO WHOM these Presents shall come I FRANCIS DOUGLAS GREY a Lieutenant-Colonel of Her Majesty's army and a Director of The Tasmanian Main Line Railway Company Limited (hereinafter called the said Company) at London in England but at present temporarily residing at Hobart Town in Tasmania Send Greeting—WHEREAS by four several Deeds Poll or Powers of Attorney under the Seal of the said Company and dated respectively the fourth day of March one thousand eight hundred and seventy-three the twelfth day of November one thousand eight hundred and seventy-four the ninth day of July one thousand eight hundred and seventy-five and the seventeenth day of February one thousand eight hundred and seventy-six the said Company gave and granted to CHARLES HENRY GRANT their Chief Engineer and general Manager of the Main Line Railway in Tasmania the powers and authorities in the four several Powers of Attorney mentioned and set forth—AND WHEREAS by a Deed Poll or Power of Attorney dated the twenty-eighth day of May one thousand eight hundred and seventy-eight and under the seal of the said Company (after reciting that at their request and pursuant to Resolutions passed by the Board of Directors of the said Company I had agreed to proceed from London to Tasmania accompanied by the Secretary of the said Company as a Deputation on behalf of the said Board for the special purpose of settling and adjusting with the Government of Tasmania all the questions and differences then existing between the Government and the said Company) the said Company with the consent and authority of the Directors thereof nominated and appointed me the Attorney of the said Company for the special purpose of settling and adjusting all questions and differences which had arisen or existed or should thereafter arise or exist or be depending between the Tasmanian Government and the said Company on any subject whatsoever and for the purposes aforesaid the said Company gave and granted to me all the powers and authorities which were or for the time being should be exerciseable by the Directors or a duly constituted Board of Directors of the Company acting on its behalf under or in virtue of the present or future regulations of the said Company and as if I the said Attorney constituted such Board acting and competent to act as such on behalf of the said Company in accordance with such regulations with full power for me the said Attorney to appoint any one or more person or persons to act under or in lieu or substitution for me for all or any of the purposes aforesaid and with all or any of the powers and authorities thereby given to me including this power of substitution and either revocably or irrevocably or absolutely or under such conditions or limitations as I the said Attorney should think fit—AND by the said Power of Attorney now in recital the said Company without controlling or limiting the generality of the powers and authorities conferred upon me the said Attorney as aforesaid gave and granted to me the said Attorney the further special powers and authorities thereafter expressed—AND WHEREAS by a Deed Poll or Revocation under the seal of the said Company and dated the twenty-eighth day of May one thousand eight hundred and seventy-eight reciting the last recited Power of Attorney also dated the said twenty-eighth day of May last in favour of me the said FRANCIS DOUGLAS GREY and reciting that the said Company had determined that all the Powers of Attorney and all other powers at any time theretofore given by the said Company to the said CHARLES HENRY GRANT should be revoked and withdrawn the said Company did thereby revoke annul and make void the powers granted to the said CHARLES HENRY GRANT in and by the several before-mentioned Powers of Attorney and also all or any powers which the said Company might theretofore have given or granted or agreed to give or grant to the said CHARLES HENRY GRANT such Revocation to take effect immediately upon the arrival in Tasmania of me the said FRANCIS DOUGLAS GREY—AND WHEREAS I the said FRANCIS DOUGLAS GREY arrived in Tasmania on the twelfth day of August last—AND WHEREAS the said recited Power of Attorney in my favour and the said recited Deed Poll or Revocation annulling the powers granted to the said CHARLES HENRY GRANT dated respectively the twenty-eighth day of May last were duly filed and registered in the Registry of Deeds at Hobart Town on the twentieth day of August one thousand eight hundred and seventy-eight—AND WHEREAS I the said FRANCIS DOUGLAS GREY have settled and adjusted one of the questions in difference existing between the Government and the said Company and I am about to depart from Tasmania and return to London leaving certain other questions disputes and differences between the Government and the said Company still existing and unsettled—AND WHEREAS I am desirous of substituting and appointing the said CHARLES HENRY GRANT to be the Attorney of the said Company in my place and stead for the purpose of settling and adjusting such questions differences and disputes and for this purpose to give to him all the powers granted to me by the said recited Power of Attorney of the twenty-eighth day of May last but only for such limited period as is hereinafter mentioned—AND WHEREAS I am further desirous of reviving the former powers given and granted to the said CHARLES HENRY GRANT and of giving him the further powers hereinafter mentioned for the purpose of enabling him to manage the said Main Line Railway and to carry on and conduct the business and affairs of the said Company in Tasmania—NOW THEREFORE KNOW YE that I the said FRANCIS DOUGLAS GREY in exercise and pursuance of the powers conferred upon me by the said recited Power of Attorney dated the twenty-eighth day of May one thousand eight hundred and seventy-eight do HEREBY SUBSTITUTE AND APPOINT and in my place and stead put the said CHARLES HENRY GRANT as my substitute and as the Attorney for and on behalf of the said Company to do exercise and perform all the acts deeds

matters and things hereinafter mentioned that is to say to do perform exercise and execute all the acts deeds powers matters and things mentioned or enumerated in the said recited Power of Attorney of the fourth day of March one thousand eight hundred and seventy-three as fully and effectually as if the same were here set out and as fully and effectually as the said CHARLES HENRY GRANT might have done performed exercised and executed the same under the said Power of Attorney of the fourth day of March one thousand eight hundred and seventy-three if the said Power of Attorney had not been revoked by the Deed of Revocation before recited AND ALSO to do perform exercise and execute during the continuance of the present Session of the Parliament of Tasmania which is now sitting but no longer all the acts deeds powers matters and things mentioned and enumerated in the said recited Power of Attorney in my favour dated the said twenty-eighth day of May last as fully and effectually as if the name of the said CHARLES HENRY GRANT had been inserted throughout the said Power of Attorney instead of the name of me the said FRANCIS DOUGLAS GREY and as fully and effectually as I the said FRANCIS DOUGLAS GREY could do perform exercise and execute the same if these presents were not executed it being my intention by these presents to confer upon and delegate to the said CHARLES HENRY GRANT during the present Session of the Parliament of Tasmania but no longer the whole of the powers and authorities which under the said recited Power of Attorney of the twenty-eighth day of May last I have the power to confer and delegate—AND ALSO immediately upon and after the termination of the present Session of Parliament to do perform exercise and execute all the acts deeds powers matters and things mentioned and enumerated in the several before-recited Powers of Attorney dated respectively the twelfth day of November one thousand eight hundred and seventy-four the ninth day of July one thousand eight hundred and seventy-five and the seventeenth day of February one thousand eight hundred and seventy-six as fully and effectually as if the same were here set forth and effectually as the said CHARLES HENRY GRANT might have done performed exercised and executed the same under the three last named Powers of Attorney if the same Powers of Attorney had not been revoked by the Deed of Revocation before recited—AND I the said FRANCIS DOUGLAS GREY do hereby especially nominate constitute and appoint the said CHARLES HENRY GRANT to be the true and lawful Attorney of the said Company for the purposes next hereinafter mentioned that is to say to ASK demand sue for recover and receive of and from the said Government or the officer or person for the time being liable to pay the same all interest now due or hereafter to grow due to the said Company under and by virtue of the Contract entered into between CHARLES DU CANE Governor of Tasmania and the said Company dated the fifteenth day of August one thousand eight hundred and seventy-one—AND on non-payment thereof or of any part thereof respectively to commence carry on and prosecute any actions suits or other proceedings which may be necessary for recovering and compelling the payment thereof—AND to ask demand sue for recover and receive of and from all the persons liable to pay the same any debt or sum due or to grow due by such person or persons to the said Company and on non-payment thereof or of any part thereof respectively to commence carry on and prosecute any actions suits or other proceedings which may be necessary for recovering and compelling the payment thereof—AND on payment of the said interest or of any part thereof and of the said debts or sums of money or any part or parts thereof to sign seal give and execute good and sufficient receipts releases and other discharges for the same respectively—AND ALSO to state settle adjust compound or submit to arbitration all actions suits accounts claims and demands whatsoever which now are or hereafter shall or may be pending between the said Government and the said Company or between any person or persons whatsoever and the said Company upon such terms and in such manner in all respects as the said CHARLES HENRY GRANT shall think fit and at discretion to defend any action suit or other proceeding which may be commenced or brought against the said Company their successors or assigns—AND ALSO to state or join in stating on behalf of the said Company with the said Government any special case for the opinion of the Supreme Court of Tasmania which the said Attorney may think it desirable to state to obtain the opinion and decision of the said Court upon any question arising out of the construction of the said Contract or any Act incorporated therewith or upon any question dispute or difference now or which may hereafter be depending between the Government and the said Company—AND ALSO to attend any meeting of creditors of any person or persons indebted to the said Company to prove any such debt or debts and to accept receive and give receipts for any composition or dividend thereon and to vote at all such meetings of creditors on behalf of the said Company—AND ALSO to exercise all such powers and sign all such documents and do and take all such acts things and proceedings which the said Company could do if personally present under and by virtue of the Bankruptcy and Debtors Acts or any other Acts or Laws for the time being in force in Tasmania—IN WITNESS whereof I the said FRANCIS DOUGLAS GREY have hereunto set my hand and seal this eighteenth day of September one thousand eight hundred and seventy-eight—FRANCIS D. GREY L. S. Signed sealed and delivered by the said FRANCIS DOUGLAS GREY in the presence of HENRY DOBSON Solr. Hobart Town.

WE hereby certify that the before-written is a true copy of the original substitution under Power of Attorney of which the same purports to be a true copy the same having been examined and compared therewith by us this Fourth day of October, 1878.

H. LEMPRIERE SMITH, } Clerks to Dobson & Mitchell, Solicitors,
ARTHUR M. ECKFORD, } Hobart Town.

Dated 18th September, 1878.

COL. F. D. GREY

TO

CHAS. H. GRANT ESQRE.

Attested Copy.

SUBSTITUTION

UNDER

POWER OF ATTORNEY.

Original filed and registered this fourth day of October one thousand eight hundred and seventy-eight at a quarter to one P.M.

GEO. PATTEN ADAMS,
Regr. of Deeds
No. 1711

DOBSON & MITCHELL.

TASMANIA.

THE GOVERNMENT OF TASMANIA. Dr.

To TASMANIAN MAIN LINE RAILWAY COMPANY, LIMITED.

From 1. November, 1876, to 30 June, 1878.	To amount of Interest due by the Government from 1 November, 1876, to 30 June, 1878, at £32,500 per annum	£ s. d. 54,166 13 4
	Interest at Six per cent. from the due date of each quarter up to 30 September, 1878	3128 2 6
		<hr/> £57,294 15 10 <hr/>

Amounting to Fifty-seven thousand two hundred and ninety-four pounds fifteen shillings and ten pence.

(Signature of Claimant)—*The Tasmanian Main Line Railway Company, Limited,*
by their Attorney—

C. H. GRANT.

£57,294 15s. 10d.

Received from the Honorable the Colonial Treasurer the sum of Fifty-seven thousand two hundred and ninety-four pounds fifteen shillings and ten pence, being the amount of the above Account of Particulars; but such payment is made and received without prejudice to any further or other claim by or against the Government of Tasmania and the Tasmanian Main Line Railway Company under or arising out of the Contract between the Government and the Company.

1. 10. 78.

The Tasmanian Main Line Railway Company,
by their Attorney—

C. H. GRANT.

Witness to the payment—J. BENNISON.
1. 10. 78.*Colonial Treasury, Hobart Town, 13th September, 1878.*

MEMO.

THE Colonial Auditor is doubtless aware that a Bill is now before the Legislature to authorise the payment by the Government of guaranteed interest to the Tasmanian Main Line Railway Company, Limited, under the terms of the Contract between the Government and the Company, to date from the 1st of November, 1876, to the 30th June, 1878, with interest at the rate of six per cent. upon each quarter's subsidy from the due date thereof.

The Colonial Treasurer forwards herewith, for the Auditor's information, copy of the Bill referred to, as also Paper No. 76 containing the Contract, case, and opinion of counsel.

The Colonial Treasurer has the honor to draw the Auditor's attention to the proposed payment, and to the provisions of the Contract in respect to accounts, with a view to obtain the Auditor's report as to what examination in his opinion will be necessary to satisfy the Government that the claim of the Company is based upon an expenditure supported by proper vouchers.

W. R. GIBLIN, *Colonial Treasurer.**The Colonial Auditor.**Audit Office, 17th September, 1878.*

ASSUMING that the Honorable the Colonial Treasurer refers to the capital sum expended by the Tasmanian Main Line Railway Company, Limited, as well as the expenditure for maintenance of the Line, inasmuch as the interest payable to the Company after the opening of the Line is dependent upon the actual amount expended in construction up to £650,000, the Colonial Auditor proposes to reply accordingly.

With regard to interest during construction, the Honorable the Colonial Treasurer is reminded that information was sought by this office in Query 305 of 19th August, 1873, and in letters of 19th February, 1875, and 3rd April, 1876, respecting certain unadjusted items and other matters consequent upon the payment of interest during construction, and that no satisfactory reply has been forwarded to the questions raised, the last communication on the subject being from the Colonial Treasurer (Mr. Innes) on 4th April, 1876, in reply to an urgent reminder, viz., "That the Colonial Treasurer had no definite information to communicate respecting the adjustment of the interest account between the Government and the Company;" the subsequent remarks herein must therefore be taken to be made in absence of such information.

It appears by the vouchers furnished this office that the Government from time to time paid the quarterly claims of the Tasmanian Main Line Railway Company, Limited, for interest during construction as they became due, less a certain amount retained pending the adjustment of the

matters above referred to, and that the vouchers furnished by the Company had satisfied the Government that such expenditure was actually incurred for the construction of the Railway; for, as far as the Auditor is aware, no question had been raised as to the sufficiency of the vouchers, the amount of expenditure for construction shown by the Company up to the 15th March, 1876; (the date for the completion of the Line), exceeding the sum of £650,000. It is questionable, therefore, whether the Government has not admitted the expenditure of the full amount required under the Contract for construction, and whether, under these circumstances, an official audit of the construction accounts of the Company can now be demanded. It is, however, very desirable that the account of the Company with the Bank of New South Wales, London, made up to 31st March, 1876, should be supplied to the Government (supposing this has not already been done), as also the original sub-contracts let by the Company during construction, seeing that sub-contractors' receipts for total amounts have been forwarded as sub-vouchers without details.

With regard to interest for maintenance from 1st November, 1876,—it is noticed that the Bill for appropriating a sum for the payment of interest to the Tasmanian Main Line Railway Company, Limited, names and authorises a specified amount; but it is thought that the intention of Parliament is to provide for payment only of the amount of the guaranteed interest (with interest for deferred payments) which the Company could claim upon properly audited accounts, supposing the completion of the Contract as to construction expenditure to be admitted for the purpose of such payment; and looking at Sections 8 to 11 of the Contract, the Auditor is of opinion that the Government would not be justified in paying the amount referred to, or any part thereof, unless a distinct understanding is arrived at with the Company for the institution of a minute audit of the Traffic Accounts from 1st November, 1876. Such an audit would occupy considerable time and entail a large amount of labour; and as delay in payment of the interest, or part of it, might cause inconvenience, it is suggested that a reasonable sum on account might be paid to the Company pending the completion of the necessary audit.

W. LOVETT, *Colonial Auditor.*

The Hon. the Colonial Treasurer.

MEMO.

Colonial Treasury, 1st October, 1878.

THE Colonial Treasurer, concurring in the recommendation of the Auditor, has this day paid to the Tasmanian Main Line Railway Company the sum of £57,294 15s. 10d., being £54,166 13s. 4d. in respect of guaranteed interest from the 1st November, 1876, and £3128 2s. 6d., being interest at 6 per cent. upon each instalment of such guaranteed interest from its due date up to the 30th September, 1878.

As another instalment of guaranteed interest, amounting to £8125, fell due on the 30th September, though not payable until 14 days after the delivery of the Abstract—Section 8 of Contract—the Colonial Treasurer has not kept back any part of the interest from the 1st November, 1876, to 30th June, 1878, pending an audit of the accounts, as at the interview this day, at which the Auditor was present, Mr. C. H. Grant, in the presence of the Solicitor-General and the Assistant Treasurer, stated his readiness to give every facility for the audit; and it was agreed that the Contract not requiring a pre-audit the payment might be made, and the accounts should afterwards be audited as rapidly as the work to be done and the other claims upon the Colonial Auditor's time and attention would permit.

The Colonial Treasurer has taken a special receipt from Mr. Grant, in a form settled by the Solicitor-General, which, it is believed, sufficiently protects the rights of the Colony, both as to the post-audit and other questions at present unsettled between the Company and the Government.

W. R. GIBLIN, *Colonial Treasurer.*

The Colonial Auditor.

MINUTE PAPER FOR THE EXECUTIVE COUNCIL.

Lands and Works Office, Hobart Town, 30th September, 1878.

SUBMITTED,

THAT under and by virtue of the power conferred by Section 5 of "The Main Line of Railway Amendment Act," 34 Vict. No. 13, Mr. William Henry Greene, Civil Engineer, of Kyneton, in Victoria, be appointed to examine and report whether the works of the Tasmanian Main Line of Railway are in good and efficient repair and working condition.

NICHOLAS J. BROWN,
Minister of Lands and Works.

THE Governor in Council approves.

E. C. NOWELL.
29. 9. 78.

MINUTE PAPER FOR THE EXECUTIVE COUNCIL.

Lands and Works Office, Hobart Town, 30th September, 1878.

SUBMITTED,

As a case of emergency that Mr. William Henry Greene, C.E., appointed to examine and report whether the works of the Tasmanian Main Line Railway are in good and efficient repair and working condition, be allowed remuneration at the rate of Four guineas (£4 4s.) per diem from the date to which the Minister of Lands and Works may certify; to be provided for upon a Supplementary Estimate.

NICHOLAS J. BROWN,
Minister of Lands and Works.

The Governor in Council approves.

E. C. NOWELL,
30.9.78.

MAIN LINE RAILWAY DEPUTATION.

Correspondence in continuation of H. A. Paper No. 76 of the present Session.

[Received 11 A.M. Tuesday, 8th October, 1878 (not by post).]

W. R. GIBLIN.—8. 10. 78.]

Melbourne, 2nd October, 1876.

SIR,

I CANNOT leave the country without recording the disappointment I feel at the result of my visit to Tasmania, and protesting at the same time against what I am loath to, but must, designate as the bad faith of the Government.

On the 27th April last you telegraphed to the Board in England in these words:—

“Government await Deputation with full powers to amicably adjust all differences.”

At that time the Government knew by telegram the opinion of Sir John Holker and his associates, and were in absolute possession of it before the Deputation left England. The first paragraph of the opinion runs thus:—

“(1) We are of opinion that the Government is bound to pay the guaranteed interest from the time at which the Line was opened for traffic from Hobart Town through to Launceston.”

Apart from the undertaking of your late colleague and Premier (Mr. Fysh), that in the event of such an unfavourable opinion the arrears of the guaranteed interest would be instantly paid, the Government have admitted, by the submission of a Bill to Parliament authorising the payment, that the question of interest from 1st November, 1876, was no longer open to contention—was no longer in dispute—and that, consequently, this did not constitute one of the “differences” the Deputation were invited to settle “amicably” with the Government.

How have the Government redeemed the pledge given and conveyed in their telegram? It is unnecessary for me to dissect the correspondence that has taken place between us to show that while I, on behalf of the Company, have endeavoured faithfully—by offers of arbitration, of legal reference, or of compromise on all disputed points jointly or separately—to carry out the object of the visit of the deputation, the Government have throughout acted in a directly contrary spirit. I will only quote your own words, written after a fortnight’s negotiations, as evidence of the breach of faith of which I have to complain:—

“The Government absolutely reject the entire claim of the Company for interest from the 15th March to the 31st October, 1876. * * * The Government reserve their right to take any steps against the Company for the rescission of the Contract under the 6th, 7th, 8th, and 9th sections of “The Main Line Railway Amendment Act,” 34 Vict. No. 13, or by an action or otherwise to recover their claims, and the penalties incurred under the schedule to the Contract.”

Briefly stated this means that the Government refuse to entertain the notion of an “amicable” settlement; that they desire hostility—the hostility inseparable from litigation—unless the Company consent to cancel without equivalent the debt of the Government for 7½ months guaranteed interest. Further, if the Company seek to recover such debt in the Supreme Courts of the country, the Government will not content themselves with ordinary hostility, but will raise fresh issues, and wage a war of reprisals.

This language has been used, in so many words, by every Minister who has addressed the House during the passage of the Interest Bill through Parliament, and the leading journal of Hobart Town, inspired, if not subsidised, by the Government, has echoed it, openly advocating “aggression.”

The connection of the *Mercury* with the Government is evidenced by the repeated reference of the Editor in his leaders to documents in the possession alone, or which should have been in the possession alone, of the Government, and to the general progress of the negotiations which were being conducted privately,—in one instance quoting in inverted commas a phrase used at a particular interview.

And not content with their efforts to render the mission of the Deputation futile, the Government go yet a step further, and endeavour to saddle their own lack of good faith upon the Company and upon the Deputation. I adduce two instances in support of this assertion—(1) Speaking by your mouth in the House of Assembly on the 19th ultimo, they charge the Company with “deceit

and chicanery from first to last." Such language would have been unwarrantable even had the preceding statement you made respecting the rails and engines been true, which is not the case, and, under any circumstances, is wholly inconsistent with the idea of an "amicable" arrangement. I cannot refrain from saying that the offensive words are more properly applicable—the former to the act of the Government in inviting the Company to send out a Deputation on representations now proved to have been illusory; the latter to the use made by Mr. Fysh of such invitation to influence the Committee of the Stock Exchange, while suppressing the legal opinion before mentioned. (2) Writing by your pen to the Manager of one of the Banks, which had been induced to undertake the issue of the recent Government Loan,—an undertaking the Banks would never have entered into had the Government communicated to them, as they were, in my opinion, bound to, the letter of the Board to Lord Carnarvon, plainly intimating that the Company would oppose a quotation of the loan on the Stock Exchange,—the Government make the following statement, wholly without foundation, and with a knowledge that no written contradiction of it could reach the Bank Manager for a month at least after the receipt of your letter :—

"A Deputation from the Main Line Railway Company are now in Tasmania, ostensibly with a view to the amicable adjustment of all matters in difference between the Company and the Colony. Little disposition has, however, yet been shown to meet the reasonable demands of the Colony in a fair spirit."

The gross imputation conveyed by the word "ostensibly" is only paralleled by the reckless misstatement in the concluding sentence.

It is not without pain, believe me, that I have made these strictures on the Government over which you preside,—the more so as I feel it reflects undeservedly on the Colony, which my experience has shown me is not in accord in this matter with the present Government. But I should be wanting in my duty to myself, in my duty to the Company which have entrusted me with their powers and their confidence, if I did not thus formally protest against conduct which, in the face of the words of the invitation of the Government before quoted, I can only regard as unjustifiable, and apparently premeditated.

I have instructed the Company's Solicitors to take the necessary legal steps to enforce the payment of the arrears of guaranteed interest due for the period between the 15th March and 1st November, 1876; but, at the same time, I leave a Power of Attorney in favour of the General Manager to conclude during the present Session of Parliament an amicable settlement, by compromise or arbitration, of the differences between the Government and the Company, in the event of the Government so desiring.

I have the honor to be,

Sir,

Your obedient Servant,

FRANCIS D. GREY.

The Hon. W. R. GIBLIN, Treasury, Hobart Town.

Colonial Treasury, Hobart Town, 22nd October, 1878.

SIR,

I HAVE the honor to acknowledge the receipt of a letter from you, dated "Melbourne, 2nd October, 1876," which reached me, not by the post, on the 8th instant, some days after you had left for England, and I was therefore unable to reply to it so that my answer might reach you prior to your arrival in London.

A copy of this letter has been printed, avowedly at the request of the Tasmanian General Manager of the Company, in the *Tribune* of Saturday, the 19th instant, a newspaper printed in Hobart Town, but this "copy" is headed "Hobart Town" without date; and on the same day a copy appeared in the *Cornwall Chronicle*, a newspaper published at Launceston, with the heading "Hobart Town, 18th September, 1878," and the Editor states that the contents of the letter in question had been telegraphed to him from Hobart Town, presumably by Mr. Grant. I should not notice these discrepancies were it not that they appear to indicate that you had composed the letter now under acknowledgment some days before you quitted Hobart Town, but had, for some reasons best known to yourself, delayed forwarding it until a reply could not possibly reach London at the same time that a copy of your letter would do. As Mr. Grant has informed the Tasmanian public, through the medium of the *Tribune* of the date above given, that your "letter is necessarily the indictment of the Government, on contract matters, in the commercial centre of the whole world," it is to be regretted that you did not so time the delivery of your "indictment" as to permit of a reply being forwarded to you prior to your departure from Tasmania.

The letter in question is so offensive and inaccurate that I should have made my reply to it of the briefest, but for the fact that larger interests than those of a personal or temporary character are involved in your charges; and the avowal of the ulterior purpose for which your local representative informs us your letter was written seems to justify, if not to demand, that the fallacies with which your letter teems should be exposed.

You commence by the reiteration of the oft-made and oft-refuted statement, that the legal opinion recently obtained by this Government from English Counsel sets at rest a question in dispute between the Government and the Company, namely, whether the Government ought, or ought not, to pay the Company the guaranteed interest for a certain period. You are well aware that in so stating you evade the real question. You were made aware in the Colony, if you were previously ignorant of the fact, that the chief ground of the Government's objection to paying the interest was the unsubstantial, imperfect, and dangerous character of the Line,—in other words, that the Company had not performed its contract. Is this "set at rest" by the opinion of the English Counsel? Is it "no longer open to contention?" Is it "no longer in dispute?" Can you truthfully assert that the question of the fulfilment of the Contract is not, not merely one of the differences, but the "main difference" which the Company were invited to settle amicably with the Government? You have been repeatedly informed that the Government desired an amicable settlement of *all matters in dispute*; and I repeatedly pressed upon you a general reference of *all questions* to a Board of Arbitrators. Such a course you came ostensibly to Tasmania to propose, or to follow, as appears from Mr. Grant's letter to me, dated 30 April, 1878, in which he asks that the Government would promise, on the arrival of the Deputation, "in the event of no agreement being arrived at by mutual understanding," that they would be "willing to arbitrate *all differences* before any such tribunal as may be agreed upon, or by that provided in the Contract;" and in that letter Mr. Grant deprecates the prospect of such an arbitration being refused to the Deputation on their arrival.

You came to Tasmania avowedly to settle *all differences* by discussion, if possible, if not by arbitration. We failed to arrange our differences by discussion, and you have from the first steadfastly refused to arbitrate the main points in difference, though you have never shown, and cannot show, any more equitable, more just, or more satisfactory way of adjusting all matters in dispute. Where then is the "bad faith" of which you affect to complain? I am aware that you have stated that the opinion of English Counsel rendered arbitration needless; but how? The construction of the Line remained as it was before; neither better nor worse. The payment of the interest, made in loyal fulfilment of that obligation which technically we are advised we must meet though the conditions be unsatisfied, does not admit that the Company had "earned" that interest, or had faithfully fulfilled its contract. The arbitration we proposed would have set at rest for ever all questions as to the past construction and present condition of the Line; would have indicated and ordered what, if anything, was needed to be done to put the Line in the state required by the contract; would have decided what sum was to be paid by the Colony to the Company, not as now without prejudice, and with all counter-rights reserved, but as a *bona fide* adjustment of all conflicting claims; would have removed heartburning and the rankling sense of injustice which now remains when men find they are called upon to pay without a fair consideration of, or decision upon, their well-founded objections to the work that has been done. And yet this arbitration, carrying with it every element of fairness and amicable settlement, you have persistently refused to entertain, and charge us with a want of good faith in proposing.

You venture to quote as an evidence of another "breach of faith" on the part of the Government a portion of a paragraph from my letter of the 31st August, as though it indicated the views with which the Government approached the discussion of matters with you, yet you admit that it was written "*after a fortnight's negotiations*;" and you are well aware that it was only after you had refused all the proposals made by the Government on the 17th August, and had finally declined every overture made by the Government in our numerous interviews between the 17th and 30th of August, that my letter of the 31st was most reluctantly written, because we had been unable to approximate to a settlement by verbal discussion of our differences. We had by that time failed to arrive at any "amicable settlement," and we were driven, by your refusal to arbitrate, to stand by our legal position, pay you what we were legally advised to do, and pursue our own remedies for your Company's alleged wrong-doing by such methods as the law provided. That letter was but the outcome of the disappointment the Government felt at the uncompromising attitude you had assumed on the faith of the English opinions, and I fear also on the strength of the extraordinary action of the Committee of the Stock Exchange. We desired no "war of reprisals," we courted no "hostility," we counselled no "aggression;" and our one fault has been that now, as in time past, we have been ready to go beyond what "law" would require for the sake of peace and fair dealing. The opinion of the English Counsel proves that, in their judgment at least, had former Governments acted with less consideration for the Company they would not now have been in the position of being called upon to satisfy a demand they believe to be unjust, because the law awards it, and yet be exposed to the taunt of acting in "bad faith" if they assert their right to pursue the remedies which the same law reserves to them.

Your reference to the *Mercury* as "inspired, if not subsidised, by the Government" is as offensive as it is untrue. The Government have neither subsidised nor inspired the journal you refer to; and it is to be feared that a recent experience of the mode in which some Railway Companies are said to control, or at any rate to influence, a portion of the press, not in Tasmania alone, has warped your judgment as to what acts are possible to, or are likely to be practised by, the Government of a British Dependency.

If any matters pending between us were prematurely divulged, I must suggest that the "breach of faith" was in all probability that of one of your own employés or confidants,—as I was able to demonstrate to you while in Tasmania that a document, which you assured me had not passed out of your possession, was actually promulgated by some person, or persons, who had obtained the information they disseminated as your employés, or from their hands. As to my statement in the House of Assembly, that the Company in its inception was promoted by "deceit and chicanery," and that practices of a like character had too much prevailed through the entire construction of the Line—the evidence on that subject is as well known to you as to myself. You have always freely admitted that the Company was originally a "Contractor's Company," and the Line a "Contractor's Line," while disowning all personal complicity with the conduct complained of. I cannot, therefore, acknowledge that my statement was in any way too strong for the occasion.

I believe you were present in the House of Assembly at the time of the delivery of the speech to which you refer, and if so, you must be well aware that I made no such statement as that attributed to me in the paper from which you quote as to the "rails" as a whole, or as to the "engines" at all. I simply stated, as the fact was, that I believed that a portion of the rails used in the construction of the Main Line had been previously examined and rejected by the Engineer of the Indian Government, and that the "carriages," not the "engines," had been described as "the refuse of an English workshop." The accuracy of the first part of the statement you are, perhaps, in a position to confirm; the latter part is a statement of an opinion that derives support from Mr. Clark's memorandum, and from the evidence of others who have inspected that portion of the rolling stock to which I then referred.

I must remind you that the Government, in acceding to the proposal of the Directors that a deputation should visit Tasmania for the purpose of arranging matters amicably, had a right to expect very different treatment from that which they received at your hands; that the Government felt bitter disappointment at the indisposition you showed to meet them on the fair basis offered for your consideration; and that it was after our hope of "amicable settlement" had become faint indeed, that I came to the conclusion that the Company were relying upon the support they expected to derive from political opponents of the Government in the Colony, and from the Committee of the Stock Exchange in London, to coerce the Government into a surrender of their Contract rights; and having that in consideration I wrote to our Bankers, in London, the passage which you quote,—a passage which, with the information I now possess, I affirm to be strictly accurate; nor does it contain any expression which I desire to qualify or withdraw. It will be noted that the letter to which you object was written after our verbal negotiations had been broken off by your refusal to accept terms you had yourself indicated as satisfactory; and that the letter to the Bank of New South Wales was written on the same day as my letter to you of the 31st August. Is it not, to say the least, disingenuous to quote the letter written after you had refused all the amicable overtures of the Government, and had put them at arm's length, as proof of the want of "amicable spirit" with which the Government commenced the negotiations? It would be as just, though perhaps more accurate, to assert that the antagonistic spirit of your present letter is the real key to the failure of negotiations between us, and to point to it as a proof that you did not desire a compromise at all, but simply an unconditional surrender.

With regard to your final threat of legal proceedings, the Government must await, with what equanimity they can command, the result of any litigation you may feel disposed to initiate. They consider that they have already paid to the Company a larger sum than any fair tribunal would have awarded as a compensation for the train service rendered up to the 30th September, 1878; but as you have denied them the opportunity of putting their case before a tribunal which should have the power to equitably adjust all matters in difference, and have decided to stand upon the legal rights of your Company, you must not complain if the Government are reluctantly compelled to exercise the legal rights which they possess, and of which the payment of interest does not deprive them.

They have had no wish for litigation, and should it ensue they will have the satisfaction of knowing that they did all they honorably could to avert it.

I have the honor to be,

Sir,

Your obedient Servant,

W. R. GIBLIN, *Colonial Treasurer.*

Lieut.-Colonel GREY.

MAIN LINE RAILWAY DEPUTATION.

Correspondence in continuation of Paper No. 76, H.A., of the present Session.

[Received 10 A.M., 29 Oct. 1878, after seeing it in print in the *Tribune* newspaper of that morning.—W. R. GIBLIN, 29. 10. 78.]

*Tasmanian Main Line Railway Company, Limited, General Manager's Office,
Hobart Town, 28th October, 1878.*

SIR,

A LETTER from you addressed to Colonel Grey having, notwithstanding your former protestations against such a proceeding, been published seven days before it can even be posted, addressed to that gentleman, I am compelled, in his absence, to reply thereto, and inform the Tasmanian Public, at least, in what widely different terms the case therein may be stated, and, as I trust, to prove with more truth.

You first remark that the letter dated Melbourne, the 2nd instant, reached you by private hands on the 8th instant. It was enclosed to me, and I availed myself of the opportunity to take a copy; in doing which a clerical error was made in the date, which I much regret, since it had the effect of exercising your imagination, and wasting your valuable time. You, however, fail to observe that the letter was induced by, and some of the remarks founded upon, your address to the House of Assembly on the 19th September, at which time Colonel Grey was in Launceston; and as he left Tasmania at 8 A.M. on the 20th, the papers of that date, containing a full report of that speech, did not reach him in Melbourne until taken over by Mr. Davison, who left on the 27th ultimo. The utterly incorrect and groundless charges made in that speech forced a reply, which you received at the earliest opportunity.

You are also inaccurate in the statement that I telegraphed Colonel Grey's letter to the *Cornwall Chronicle*, since the records of your Department will prove that no one interested in the Railway was in any way concerned in this proceeding, which is simply an exemplification of vigour of management of the Press.

You next accuse Colonel Grey of evading the real question at issue between the Government and the Company, which you assert to be, mainly, whether the Company have fulfilled their contract with the Government: but this is a strangely one-sided view of the case. The Company have persistently asserted that they *have fulfilled* their contract, and demanded their guaranteed interest. "Either pay us, or give proper reasons for not doing so," was alone the Company's consideration. The Government would do neither the one nor the other; and professed to act legally in the refusal. The Company then obtained the very best legal advice procurable, being of the present Attorney-General of Tasmania, of the senior Member of the Tasmanian Bar, of one of the most eminent Equity Counsel in the Australias, residing in Melbourne, and of two world-renowned English Counsel, being Q.C.'s, and especially learned in railway law. All these opinions were couched in the very strongest and similar terms against the contention of the Government, and added thereto were the publicly expressed views of the principal Tasmanian Counsel and Solicitors. But this consentaneity of legal opinion did not satisfy Government, although they had not even *one* opinion (on a properly stated case) in controversion thereof, but they elected to be tried by a court of their own selection, (one member of which they believed to be biassed in their favour), with the result that, on the submission of their own *ex parte* and very one-sided (in some respects positively untrue) case, they had a final judgment recorded against them, in the very conclusive words, "The Government is bound to pay the guaranteed interest."

This final decision was not at once acted upon, although the Premier positively promised that it would be; but it was *concealed* from the Directors of the Company, who were persuaded to send out a Deputation, at a great cost and waste of their funds, to settle what was already past an issue. Is it, may I ask, in your experience that the plaintiff in an action having secured a verdict unreservedly in his favour, seeks to set it aside and resort to arbitration? Directly you handed Colonel Grey the opinion you acknowledged that the Government *must pay* the interest, and no question ever after arose on that point. The Government did pay, *not* "in loyal fulfilment of that obligation," as the whole tenor of your letter *clearly proves*, but to avoid the ignominy of a judgment recorded against them in a Tasmanian Court, with its attendant heavy legal costs.

Had the Government any cause to complain of the condition of the Line which they had inspected by various officers throughout its construction, they should have done so, on having formal notice on the 10th March, 1876, (after several preliminary notices) that the Line would be formally opened for traffic under the Contract conditions on the 13th March, 1876. They, however, whether

from satisfaction with the line, supineness, from arrogant self-conceit, or ignorance of contract law, allowed the Line to be opened and used *according to contract*; and there legally ended the question of construction, which has since been mooted simply as an excuse for the non-provision and non-payment of the guaranteed interest. Had the case been otherwise, why did not the Government exercise its unquestionable legal rights under the 5th, 6th, 7th, 8th, and 9th clauses of "The Main Line Railway Amendment Act?" Nay, more than this, why did they by the unfair use of a special prerogative of the Crown prevent the same question being raised by the Company?

Your long and elegant panegyric upon "arbitration as carrying with it every element of fairness" would have read better if made earlier in the trial, and before your own Judges had awarded against you. No imputation of want of good faith could then have been made; but, singularly enough, the Government, and more especially their organ of the Press, persistently imputed bad faith to the Company for proposing and pressing for acceptance the *exact* arbitration you now so ardently profess to desire.

I have referred to *thirteen* of my letters, in which "*such a settlement* was urged upon the Government—and in fact" I repeatedly pressed upon you "a general reference of all questions to arbitration"—but the Government "persistently refused to entertain" this proposition although "carrying with it every element of fairness and amicable settlement," and took the extremely unusual course of writing behind my back to my Directors; therefore, upon them alone rests the onus of steadfastly refusing a most "equitable," "just," and "satisfactory" way "of adjusting all matters in dispute."

Had you even entertained my proposal of arbitration, instead of writing my Directors the (to say the least of it *very equivocal*) letter of the 24th December last, there would have been no occasion for the whole of the somewhat pitiful complaints made in your letter, and I should have avoided the "charge" of "want of good faith in proposing it."

But did Colonel Grey refuse—as you state—to settle all differences by arbitration? He remarks that he endeavoured "by offers of arbitration, of legal reference, or of compromise, on *all* disputed points, jointly or separately, to carry out the object of the visit of the Deputation." You state, that having "failed to arrive at any amicable settlement," you were driven by his refusal to arbitrate to stand by your legal position. Surely this *tu quoque* style of argument might have been concluded if both the disputants were serious. You make the question one of personal veracity, what then states Colonel Grey in his letter of the 28th August last?

"The Company are now, as ever, willing and desirous to submit any and every point in difference between them and the Government to arbitration, save that of the payment of guaranteed interest from 1st November, 1876, in which there can be no longer any honest difference of opinion. The Company ask for no concessions from the Government, and consequently can see no equity or justice in the proposals of the Government asking concessions from the Company. Mutual concessions might be made, with advantage, but only by mutual consent; failing which on any point arbitration ought to be resorted to."

Finally in his letter dated the 3rd September, he proposes "now that the main question is out of the way, to refer *all points* still in dispute and which we may fail to adjust in discussion to arbitration, such is my notion of an amicable and just arrangement."

If these words—which clearly comprehend every possible claim or demand by either side—merit your definition of a "refusal to arbitrate," I fear it is useless to enter into negotiations.

Upon what foundation therefore rests your long eulogistic description as to the beneficial results of *your* arbitration, wholly lost by Colonel Grey's action? or your remark to Mr. Larnach that the Deputation were only "ostensibly" attempting "to adjust matters in difference, and exhibiting little disposition to meet the reasonable demands of the Colony in a fair spirit?"

Whatever the opinion of English Counsel may prove as to the action of former Governments, respecting which I believe few of your readers will agree with your interpretation, it can scarcely be asserted that the words "the Government is bound to pay" from November, 1876, applied in April, 1878, proves that the "one fault has been, that now, as in time past, we have been ready to go beyond what law would require for the sake of peace and fair dealing." It will scarcely be denied that the general tenor of the opinion proves the Government to have been mistaken in their law, unreasonable in their requirements, and utterly illegal in their action throughout the controversy.—(*Vide* answers Nos. 1, 2, 3, 4, 6, 7, 8, 10).

As regards your reference to the *Mercury*, I may remind you that on frequent occasions I have had to bring forward *proofs* of the inspiration mentioned, and I regret that in reply you indulged in innuendo, where you could not support it by fact.

I am, however, at a loss to find in Colonel Grey's letter that he charges a "breach of faith" upon the Government in regard to the private negotiations being stated to the editor of that journal; but it is surely ungenerous to charge upon the Company's employés that they committed such, when I wrote you on the 3rd September, explaining, and giving proof, that the premature promulgation of

the document you had complained of was a gross irregularity of the printer's alone. These letters you published with the correspondence on the Main Line Railway Deputation, (No. 76).

Your explanation that the expression "Contractor's Company" or "Contractor's Line" involved "deceit and chicanery through the entire construction of the line," shows a grave misapprehension of these terms, which may be applied to a *very large* number of railways all over the world.

The expressions simply imply that the lines are made on the personal liability, in the first instance, of the Contractors, with their allied capitalists, lawyers, and engineers, because of too risky and speculative a character to be primarily taken in hand by a public Company. It would be absurd to deny such a reasonable profit on their investment; for were pure patriotism the sole motive power for such an expenditure of time and money there would be as few Promoters of Public Companies as Public men.

The Government *were advised*, and were *perfectly well aware* that in the commencement of the negotiations they were virtually arranging with the Contractors who constructed the line; and it is not due to their knowledge or vigilance that—through altered circumstances—their interests were protected by the Board of Directors of a Public Company. The Government took *no precautions whatever* against "deceit" or "chicanery" on the part of *their* Contractors; and have every reason to congratulate themselves that the "Company"—whom they now revile—were more wise and cautious. Your reflection upon the Company was therefore as uncalled for as it is entirely untrue.

With much regret I have to use equally strong terms to the remarks as to the carriages, which could only have been uttered in a temporary forgetfulness. No one has been *better informed* than yourself that they were all made by probably the largest and most important carriage-building Company in the world, to the designs of Mr. J. Cleminson, and under his inspection. That some engineers do not approve their pattern, as applied to this road, in no degree justifies their being described as "the refuse of English workshops." They last, and do their work exceedingly well.

The engines have, by common consent, been certified as of excellent workmanship, while I have the most positive and satisfactory assurance that none of the rails used in this Line had ever been examined and rejected by an engineer of the Indian Government, although probably originally made for use in India.

As before stated, Colonel Grey was not aware of the details of your speech until he arrived in Melbourne, or I feel sure he would not have left the Colony without replying to such an entirely groundless and gratuitous attack.

Had he referred to a file of newspaper reports giving your addresses in Parliament on the Main Line Railway question, which all bristle with what were known to be incorrect statements, he might have readily proved a further exemplification of the words "deceit" and "chicanery;" indeed, had he but heard your speech to the House of Assembly on the appointment of Mr. W. H. Greene, reported last Friday, and contrasted it with the positive undertaking of his honorable colleague the Minister of Lands given the Company, he would appreciate an extremely felicitous application of the words.

Your remark "that the Government, in acceding to the proposal of the Directors that a deputation should visit Tasmania for the purpose of arranging matters amicably," gives the opportunity for the "bitter" complaint that when in the first instance I announced the proposal to the late Premier it was received with *very little favour*; and in London, Sir P. Julyan, on behalf of the Government, also discountenanced it. Only when the game was up, and the Government *in extremis*, did they show the extreme desire for the visit of the Deputation, which would certainly never have been made had the Company not been deceived as to the Counsel's opinion. It is now quite apparent why the Government after their receipt of the opinion refused to entertain my proposal that the expenses of the Deputation should follow the result of the cause.

After the expressions from the Colonel's letters before quoted, I trust the public will consider it an entire misuse of words to say "that the Government felt bitter disappointment" that they were not met "on a fair basis," and that they had "hope of an amicable settlement," but it was attempted "to coerce them" into a "surrender of their Contract rights," and the Deputation "had put them at arm's length." To any mind not wholly imbued with the consideration of their side only, and quite incapable of anything but strong partizanship, the proposals of Colonel Grey must prove anything rather than that he "did not desire a compromise at all, but simply an unconditional surrender."

Pursuing the same acrimonious and unwarranted tone, you allude to the threat of legal proceedings, which I am at a loss to find made. Colonel Grey simply makes an exact statement as to his instructions to the Company's solicitors, and I very much regret that the tedious form of legal proceedings necessary has hitherto prevented the preliminary action being taken. I can well understand that the Government have no wish for litigation, but it appears to me that they have done all that is in their power to make it necessary, not less for the honor than in the pecuniary interests of the Company.

The Company have, for the sake of peace, offered to surrender the whole of their large claims to consequential and other damages due them from the illegal action of the Government, and to bury all differences of every kind on the payment of about half the arrears of interest still undoubtedly due to them; but if the Government insist on a legal war, they will try to enforce in equity the payment of the whole of their demands, and thereby obtain an acquittal of the serious charges so unjustly made against them.

In concluding this answer to your letter I must remark that long as yours is, it entirely omits to meet or reply to the most serious charges in Colonel Grey's letter. It cannot, therefore, but leave the impression on any reflecting reader that, taken in connection with your recent addresses to Parliament, in special pleading a losing cause, with your opponent absent, you rely upon abuse of the other side; or, like a boy in a fright, being worsted, retaliate from a safe position by shouting nicknames.

Finally, I desire to call your attention to the *fact* that *every course desired by you*, and represented as being the essence of equity and justice, is *still open* to the Government for pursuance. The Company, having endowed me with the fullest powers, authorised me to meet you in mutual negotiation, in *arbitration on any and every point in dispute*, or in the Supreme Court, to which you are driving them.

It is worthy of remembrance that the sum of all differences between the Government and Company has been narrowed down by yourself and Colonel Grey to about £12,000, which total appears insignificant in amount as compared with the injury sustained by the Colony through the prolonged warfare and mutual recrimination which results. It is most discouraging to me, as Railway Manager, that the Colony and Company, whose interests are really identical, and I am *equally bound to consider*, should not be in friendly relation; and inasmuch as the interest of the Colony is by far the larger and most important, it would be both a sincere pleasure and a great relief to me to assist in their final reconciliation.

I have the honor to be,
Sir,

Your most obedient Servant,

C. H. GRANT, *General Manager*.

The Hon. W. R. GIBLIN, M.H.A., Premier and Colonial Treasurer.

Colonial Treasury, Hobart Town, 29th October, 1878.

SIR,

I HAVE the honor to acknowledge the receipt of a letter from you, dated the 28th October, commenting upon a letter addressed by me to Lieut.-Colonel Grey, on the 22nd instant. I do not recognise your right to intervene in a correspondence to which you are not a party, and to discuss what took place at negotiations from which you, by Colonel Grey's desire, were excluded; and shall, therefore, await a reply from the gentleman to whom my letter was addressed.

I have, &c.

W. R. GIBLIN.

C. H. GRANT, *Esq., Manager T.M.L.R. Co., Hobart Town.*

*Tasmanian Main Line Railway Company, Limited,
General Manager's Office, Hobart Town, 31st October, 1878.*

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 29th instant, informing me that your correspondence on the Main Line Railway question having been direct with Colonel Grey, you cannot acknowledge my right to intervene, but would await a reply direct from him.

My only object in this communication is to remind you that Colonel Grey gave you notice he entirely surrendered his position and powers as a Deputation into my hands; and therefore ceases any official communication with you, being now simply *one* Member of the *Board* of Directors.

The responsibilities of his actions, together with that of the letter in question, therefore properly devolve upon myself alone, as also do the negotiations for an amicable settlement, which I should be much pleased to resume.

I have, &c.

C. H. GRANT.

The Hon. W. R. GIBLIN, M.H.A., Premier and Colonial Treasurer.