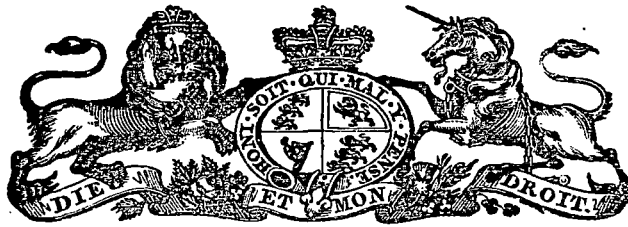


(No. 24.)



1869.

T A S M A N I A.

LEGISLATIVE COUNCIL.

LAUNCESTON AND WESTERN RAILWAY.

CORRESPONDENCE.

Laid upon the Table by Mr. Wilson, and ordered by the Council to be printed,
August 24, 1869.



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CORRESPONDENCE WITH THE HONORABLE THE COLONIAL
SECRETARY.

108.

*Launceston and Western Railway Company, Limited,
Launceston, 13th August, 1868.*

SIR,

I HAVE sent by post a copy, each, conditions, specifications, and tender, with lithographic copy of the section throughout, for the use of the Government.

A copy has been sent to the Colonial Treasurer some time ago for the same purpose : perhaps you may deem it desirable to have the present copy in the Parliamentary Library.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Hon. the Colonial Secretary, Hobart Town.

109.

Colonial Secretary's Office, 15th August, 1868.

SIR,

I HAVE the honor to acknowledge, with thanks, the receipt of copies of the conditions, specification, and tender for the construction of the Launceston and Western Railway, with lithographic copy of the section throughout, forwarded with your letter of the 13th instant.

I have, &c.,

(Signed) RICHARD DRY.

H. DOWLING, *Esq., Secretary Launceston and Western Railway Company.*

110.

*Launceston and Western Railway Company, Limited,
Launceston, 15th August, 1868.*

SIR,

You have received, I understand, from the Railway Department in Melbourne tracings of carriages and other particulars of their construction ; and, as it will spare the Officers of that Department the trouble of furnishing this Company with copies, I have the honor to beg that you will permit me to have them that the work of copying may be done here. If inconvenient to you to spare them for a short time, I can get them by favour of Mr. Higinbotham, but shall be glad if this request can be complied with.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Hon. Sir R. DRY.

111.

Colonial Secretary's Office, 18th August, 1868.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 15th instant, requesting the loan, for the purpose of copying, of the tracings of carriages, and other particulars of their construction, obtained from the Railway Department in Melbourne.

The Government, in seeking the information, only acted for and at the instance of the Main Line of Railway Commission, to whom I have forwarded your letter, with the request that if convenient the Chairman will have the goodness to forward the papers to you.

I have, &c.,
(Signed) RICHARD DRY.

H. DOWLING, *Esq.*

112.

*Launceston and Western Railway Company, Limited,
Launceston, 13th August, 1868.*

SIR,

I AM to ask your attention to a letter from this Office, of the 21st February last, with reference to a list of Stationery articles charged by the Commissioner for taking the Railway poll, and which should be delivered to this Company; and have to request that that Officer be applied to respecting them, in order to their return.

I have, &c.,
(Signed) H. DOWLING, *Secretary.*

The Hon. the Colonial Treasurer, Hobart Town.

The List is here repeated.

	£	s.	d.
Despatch box with cover.....	4	5	0
Demy blotting-book	0	10	0
Twelve-inch ebony ruler.....	0	3	6
Perry's pencil, pen, and knife	0	5	0
Two Perry's spring inkstands	0	7	0
One large ditto.....	0	6	0
One paper weight.....	0	3	0
One wafer stamp	0	2	0
	£6	1	6

Referred to the Colonial Secretary.—It appears to me that the Despatch Box, referred to in the annexed list, is the only article that Mr. Yates should be called upon to deliver up to the Government for the use of the Company. If the Colonial Secretary concurs with me in that opinion, he will perhaps be good enough to give instructions for an application to be made to Mr. Yates to deliver the box up to the Government.

(Signed) THOS. D. CHAPMAN.
August 14, 1868.

113.

Colonial Secretary's Office, 18th August, 1868.

SIR,

I HAVE the honor to call your attention to a letter from this Office of the 5th March last, relative to certain Stationery articles the property of the Launceston and Western Railway Company; and to request that you will have the goodness to return to the Government the Despatch Box therein referred to at your earliest convenience.

R. C. YATES, *Esq., Hobart Town.*

I have, &c.,
(Signed) RICHARD DRY.

114.

*Launceston and Western Railway Company, Limited,
Launceston, 25th August, 1868.*

SIR,

THE attention of the Directors has been called to a letter written by Mr. Innes, one of the Railway Commissioners, at p. 22 of the lately published Correspondence, on the question of the election of Auditors at the annual meeting of the Shareholders in April last.

In order that no misconception may again arise on this subject, and to correct now the impression that the Directors have in some way lost sight of their duty in connexion with the Acts of Parliament by which the affairs of the Company are regulated, I am instructed to point out that the Joint Stock Company's Act provides, specifically, for the election of Auditors annually by the Shareholders; and that, if no election of an Auditor or Auditors is then made, the Supreme Court, or any one of the Judges thereof, may appoint an Auditor, and fix his remuneration.

The Directors, therefore, were bound to provide for such an election by the Shareholders. They were, however, aware that such an election could not be deemed a substitution for the Audit prescribed by the Railway Act, No. 2.

This will be seen by the Correspondence (No. 81 letter), which proves that a month before any intimation had been received from the Government on this question I had addressed the Auditor, asking him as to the form in which he desired the Accounts to be submitted.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Hon. the Colonial Secretary, Hobart Town.

115.

Colonial Secretary's Office, 27th August, 1868.

SIR,

I HAVE the honor to acknowledge the receipt of your communication of the 25th instant, referring to a letter written by the Hon. F. M. Innes, Esquire, one of the Railway Commissioners, on the question of the election of Auditors at the Annual Meeting of the Shareholders in April last.

I have, &c.,

(Signed) RICHARD DRY.

H. DOWLING, *Esquire, Secretary Launceston and Western Railway Company.*

116.

Railway Commissioners' Office, Launceston, 11th November, 1868.

SIR,

I HAVE the honor to bring under the notice of the Government the following proceedings connected with the carrying out the works of the Launceston and Western Railway.

Up to the present date only two progress certificates, amounting to £7190 19s. 11d., for works executed under Messrs. Overend and Robb's Contract, have been received and passed for payment by the Directors; and on each occasion I have applied to the Board to be furnished with a bill of quantities, or with the same data used by the Company's Engineers in framing such certificates, to enable me to satisfy my colleagues that the amount so certified has been spent upon the Railway and Works, as contemplated by the Acts of Parliament; and upon each occasion this information has been withheld from me, the Engineers asserting that it is *impossible* for them to measure the works when in progress, and it would be a "gross fraud" upon the Company for them to attempt to give any quantities. The Board accepted this explanation, and the only alternative that I had was to refuse to sign the cheque for the amount of such certificate.

I herewith enclose a form of Certificate for Works used by the Engineers and adopted by the Board of Directors, from which certificate you will perceive that the contract amount of work to be performed, and the money amount *only* of work executed, is given.

Unauthorised deviations are being executed during the progress of the works, involving an additional expenditure of a large amount of money not provided for or contemplated in Messrs. Overend and Robb's contract amount, or in any other way. And I beg to inform the Government that I am not in a position to certify to the correctness or otherwise of the last progress payment, as I have not had any data before me showing or explaining that such unauthorised deviations are not included in the amount of the said progress certificate.

The checks provided by the Acts of Parliament upon the expenditure of money involved in this undertaking are of the most slender character. I would, therefore, urge upon the Government the necessity of my being placed in such a position as will enable me at all times to furnish to the Government the most complete and reliable information possible to be obtained.

I also beg to mention,—with great respect to the Company,—that their withholding from me the information asked for naturally creates a suspicion. I may be wrong in my surmises, and if proved to be so, shall regret that I entertained the thought.

To prevent any further difficulties, and before the next progress certificate is presented for payment, I shall feel obliged by the Government informing me how I am to act, as I cannot ascertain from personal inspection of the works when in progress what portion is authorised and what portion is unauthorised, unless I am furnished by the Company's Engineers with the basis of their calculations, showing how the amount of each item in such certificate has been arrived at.

I also enclose for your information a copy of the form of progress certificate used in all Victorian works, whether a bulk sum or a schedule of prices contract.

I have, &c.,

(Signed) SAML. V. KEMP, *Commissioner Launceston and Western Railway.*

The Honorable the Colonial Secretary, Hobart Town.

MELBOURNE, MOUNT ALEXANDER, AND MURRAY RIVER RAILWAY.

CONTRACT No. 8.—WORKS AND PERMANENT WAY.

CRAGG, DALE, & ROSS, *Contractors.*

RETURN of Work executed and measured to this

day of

185

No. of Item.	Description of Work.	Schedule Quantity.		Quantity to be charged.		Rate.			Amount.		
						£	s.	d.	£	s.	d.
	TIMBER VIADUCT AT 2 MILES 21 CHAINS 87 LINKS.										
1	Excavation under planking	963	c. y.			0	1	6			
2	Ditto under platform over culvert.....	59	"			0	1	6			
3	Ditto in bank for piers at each end, removing the material and afterwards bringing back same, and reforming bank	340	"			0	2	6			
4	Metalling under planking	1,022	"			0	12	0			
5	Hardwood planking under cills	9,747	c. f.			0	3	5			
6	Ditto in platform under cills over culvert.....	1,026	"			0	3	5			
7	Ditto cills on planking	7,001	"			0	4	1½			
8	Ditto in uprights under main beams.....	2,832	"			0	4	2			
9	Ditto, ditto, outer beams.....	708	"			0	4	5			
10	Ditto in walings	3,540	"			0	4	1½			
11	Ditto in diagonals.....	3,296	"			0	4	8			
12	Ditto in capsills	2,875	"			0	4	8			
13	Ditto in road and outer beams.....	7,925	"			0	4	4			
14	Ditto in longitudinal struts.....	4,680	"			0	4	8			
15	Ditto in planking over main beams	10,715	"			0	3	5			
16	Ditto in kerbing	1,114	"			0	4	2			
17	Wrought iron in spikes	16,211	lbs.			0	0	4			
18	Ditto in bolts.....	49,312	"			0	0	7			
19	Ditto in coach screws	1,976	"			0	0	7			
20	Ditto in collars on cills	2,955	"			0	0	5½			
21	Ditto plate washers	16,642	"			0	0	6			
22	Ditto in Y plates	3,907	"			0	0	7			
23	Ditto in Y plates (cranked).....	9,768	"			0	0	7			
24	Ditto in straps	19,781	"			0	0	6½			
25	Ditto in feather edged washers	6,505	"			0	0	8			
	<i>Mcm.—The price of the Ironwork is to include Painting.</i>										
	BALLASTING AND LAYING PERMANENT WAY.										
26	Ballasting with broken bluestone as per specification	2,313	c. y.			0	12	0			
27	Of laying a single line of way, including the carriage of all rails, chairs, keys, pins, and sleepers, as per specification	800	l. y.			0	5	6			
..	To maintaining the viaduct as described, the embankment, and all the works and permanent way of this contract for the space of twelve months after the line has been opened for public traffic .....	..	..			..
	PROVISION.										
	<i>The whole or any portion of which if not ordered to be used is to be deducted from the amount of contract.</i>										
28	Of sawn hardwood timber, framed, in viaduct	2,000	c. f.			0	4	3			
29	Of wrought ironwork in bolts, nuts, &c., and fixing	3,000	lbs.			0	0	7			
30	Bluestone metal, broken as described, for platform of viaduct	1,500	c. y.			0	12	0			
	TOTAL.....	..	..			..

LAUNCESTON AND WESTERN RAILWAY.

CERTIFICATE FOR WORKS No. 2.

The Launceston and Western Railway Company, (Limited),

To MESSRS. OVEREND & ROBB.

No. of Item in the Schedule.	Description of Work.	Price of Work as per Contract.			Total Value of Work done to date of this Certificate.		
		£	s.	d.	£	s.	d.
1	Fencing	10,752	0	0	95	4	0
52	Road diversion	542	13	0	523	5	0
112	Cast iron pipes	1479	16	2	875	9	6
113	Timber bridges	288	19	11	97	16	8
115	Ditto	282	13	2	52	4	2
130	Sleepers	18,752	17	0	93	18	0
134	Forming	1873	4	0	7	14	0
135	Clearing	303	5	0	50	0	0
148	Cutting, No. 12	10	2	6	2	11	0
149	Ditto, 13	229	4	0	171	18	0
150	Ditto, 14	133	11	6	97	14	0
151	Ditto, 15	85	2	9	42	10	6
152	Ditto, 16	234	4	6	156	3	0
156	Ditto, 20	365	16	9	320	3	0
157	Ditto, 21	19	14	6	19	0	0
158	Ditto, 22	267	3	0	262	10	0
159	Ditto, 23	48	4	3	48	0	0
160	Ditto, 24	264	14	0	264	0	0
161	Ditto, 25	207	10	0	205	0	0
162	Ditto, 26	517	15	4	513	14	0
163	Ditto, 27	170	17	0	170	10	0
164	Ditto, 28	38	3	0	37	14	0
165	Ditto, 29	782	8	6	778	15	0
166	Ditto, 30	421	4	0	400	0	0
167	Ditto, 31	1367	9	6	1350	0	0
168	Ditto, 32	379	13	0	300	0	0
172	Ditto, 36	579	6	9	158	6	8
173	Ditto, 37	2378	4	0	150	0	0
174	Ditto, 38	5159	19	1	287	9	11
175	Ditto, 39	74	9	6	67	10	0
176	Ditto, 40	826	5	3	218	15	0
264	Side cutting	2061	9	0	150	0	0
Gross value of work done to this date .....		..			7967	15	5
Less 10 per cent. as per Contract .....		..			796	15	6
We estimate the gross sum due to Contractors to this date at .....		..			£7170	19	11
Gross sum estimated as above		£	s.	d.	7170	19	11
Less amount already paid		3702	7	3			
Amount now payable		£3468	12	8			

(Signed) DOYNE, MAJOR, & WILLETT, *Engineers.*

117.

Hobart Town, 13th November, 1868.

SIR,

MR. KEMP having shown me his letter giving the reasons which had led him to decline to attach his signature to the second account of Messrs. Overend and Robb under their contract with the Launceston and Western Railway Company, I think it right to acquaint you that, in adopting a different course of procedure from him, I was by no means assured that I was in the right. In fact the question was beset by difficulties, while an immediate decision was necessary; and I was mainly influenced in acting as I did by a desire to obviate the serious charge upon the Company of 10 per cent. for the period of delay in the payment to the Contractors after the date at which such payment (assuming everything to be correct) was due to them by the conditions of their contract. But I am equally alive with Mr. Kemp to the importance of the considerations put before you by

him; namely, that the accounts for work executed in connection with the Railway should be properly certified, and that no room should be left for an evasion of that condition of the Railway Act which requires that, in case of any deviation from the specific conditions of contract, the approval of the Governor in Council should be first obtained.

I have, &c.,

(Signed) F. M. INNES.

The Hon. the Colonial Secretary.

118.

Railway Commissioners' Office, Launceston, 16th November, 1868.

SIR,

WE have the honor to call your attention to the following particulars in connection with the progress of the Launceston and Western Railway.

In the Schedule of Quantities furnished to us by the Engineer of the Company, to enable us to base our calculations that the line could be opened for a sum not exceeding Three hundred and fifty thousand Pounds, and on which our certificate was sent in to the Government on the 23rd day of January last, such Schedule provided for a 65 lbs. rail to the lineal yard.

We find, however, that, without any previous communication to us as Commissioners, or to the Board of the Company at which we sit as Directors, the order transmitted by the Engineers to England provides for rails of 72 lbs. to the lineal yard, thereby entailing an addition to the original estimate of cost on this head alone of upwards of Five thousand Pounds (£5000).

In visiting the works in progress on the Line, we find that the slopes of several cuttings are now in course of being flattened from a quarter to one, as provided for in the Contract between Messrs. Overend and Robb and the Launceston and Western Railway Company, to one in one, thus involving a large—it may be a very large—addition to the cost of the undertaking.

This deviation has been commenced without any regard to the requirements of the law as interpreted by the Honorable the Attorney-General, which provides that, before any departure is made from the plans, specifications, and estimates approved of by the Government, the concurrence of the Governor in Council should be obtained.

In No. 16 Embankment a two feet iron pipe has been substituted for a two feet brick culvert, to which the same remark applies, as in the preceding paragraph, to the omission to obtain the necessary sanction for the alteration.

We refrain in this communication from doing more than adverting to the probable bearing of the deviation from, and additions to, the works connected with the Launceston and Western Railway Line on the period within which the contract for its execution will be completed, and consequently on the amount of interest which will have to be defrayed out of the capital, or otherwise provided, before the Line is in operation.

We have abstained also, as beside our object in addressing you, from any discussion of the advisableness, irrespective of cost, of the substitution of a 72 lbs. rail for a 65 lbs. rail, or of the flattening of the slopes of the cuttings. We do not question that in both these instances the deviations are improvements, but, nevertheless, the effect of their adoption must be to contravene our certificate to the Government on which Three hundred thousand Pounds (£300,000) raised by the Government Debentures was placed at the disposal of the Company, although we are in no respect responsible for that result; and, lastly, whether improvements or not improvements, additions or not to the cost of the undertaking, we attach great importance to the enforcement by the Government of the law, as it has been propounded to us, that the Company, which was required to obtain the concurrence of the Executive to its contract for the construction of the Line, should not be permitted to evade the force of that condition by any general terms introduced into such Contract in the manner indicated in our letter to you of the 18th day of July last.

We have, &c.,

(Signed) SAML. V. KEMP, } Commissioners under the Launceston
FRED. M. INNES, } and Western Railway Acts.

To the Hon. the Colonial Secretary, Hobart Town.

119.

Colonial Secretary's Office, 19th November, 1868.

SIR,

I HAVE the honor to forward, for the information of the Directors of the Launceston and Western Railway Company, the enclosed letters from the Railway Commissioners,* and to request that you will favour me with your observations thereon at your earliest convenience.

I have, &c.,

(Signed) RICHARD DRY.

The Chairman of the Board of Directors of Launceston and Western Railway Company.

120.

*Launceston and Western Railway Company, Limited,
Launceston, 21st November, 1868.*

SIR,

I HAVE the honor to acknowledge receipt of your letter of the 19th instant, addressed to the Chairman of this Company, with enclosures; namely,—

Copy letter Messrs. Kemp and Innes, 18th July.

„ Mr. Kemp, 11th November.

„ Mr. Innes, 13th November.

„ Messrs. Kemp and Innes, 16th November.

2. These papers I at once referred to the Engineers of the Company, and their memorandum reply is enclosed.

3. The letter of the 18th July, I beg to observe, is confined to an application to the Government, founded on the insertion amongst the General Conditions of the Contract of two Clauses (6, 6a.), without which, it is clear, the Contract would have been defective; inasmuch as, in event of any alterations being required by the Company,—whether within or outside the prescribed total cost of £350,000,—the Directors could not have enforced compliance on the Contractors.

4. You will be aware that this letter, with your reply covering the opinion of the Honorable the Attorney-General on the point raised by it, were published in the Parliamentary Paper (No. 16, 1868); and I beg to inform you that the Board of Directors have already had them before them for consideration. With all respectful deference to the opinion of the Honorable the Attorney-General, the Directors have been advised that these Clauses were essential to the perfecting of the Contract, and that there existed no legal disability to the Company making such terms a condition of their Contract. I should perhaps fail in my duty to the Company if I did not here say that the contract terms, before being adopted by the Board, were submitted to, and were finally settled by, Mr. Wilberforce Stephen, at Melbourne.

5. The next enclosure is the letter of Mr. Kemp, dated the 11th November, and which is in the nature of a complaint, that the Company have withheld from him a “bill of quantities;” or, as he further puts it, “the same data used by the Company’s Engineers in framing their certificates.”

6. The memorandum by the Engineers is so explicit on this point that it only remains for me to say, that in my capacity of Secretary and Manager of this Company, the certificates of the Engineers, on which progress payments have been made, seem to me not only in strict accordance with the 27th Clause of the General Conditions, but they certainly afford the most simple, and at the same time most effective, check on the payments made on account of each item of the Schedule; and they have, assuredly, been regarded to be satisfactory by the Directory, and by at least one of the Commissioners.

7. I quite agree with the Engineers that it is much to be regretted Mr. Kemp should have assumed that the Company have a purpose to serve in withholding information. I am sure that the Engineers, as well as every person officially connected with the Railway, are anxious to supply—and have supplied—all necessary information to the Board, of which the Commissioners are *ex officio* members; and this should, I conceive, satisfy the Commissioners. If, however, they remain after all dissatisfied, then their professional coadjutor should supply what else they require; and I assume it to have been for this, amongst other duties, that a salaried professional gentleman was

* Kemp and Innes, 18th July, 1868, to Colonial Secretary; S. V. Kemp to Colonial Secretary, 11th November, 1868; F. M. Innes to Colonial Secretary, 13th November, 1868; Kemp and Innes to Colonial Secretary, 16th November, 1868.

selected as Commissioner. The duty would appear to me to be very simple, inasmuch as it would consist only of determining whether, on any "item" enumerated in the Schedule to the Contract, too much money had been allowed on account by the certificate.

8. The occasion of thus replying to your letter seems to me to be a favorable one for submitting to the Government that there appears to be a difference between Messrs. Kemp and Innes and the Directors in their respective views of the requirements of the Railway Acts.

9. Nowhere, as I can gather, is any Commissioner called upon (as Mr. Kemp puts it) to "certify the correctness of progress payments." His course of duty seems to be to report to the Government, from time to time, on the Contract; and specially to mark what he may deem to be illegality in the proceedings of the Company. This, surely, is the clear scope of the 7th Clause (30th Vict. No. 28).

10. Again, the letter of the 16th misquotes the Act. It does *not* provide, nor in my opinion was it ever intended to provide, that it is illegal to depart from "the plans, specifications, and estimates approved by the Government." It is clear, indeed, that it is nowhere provided that these *shall be approved* by the Government; but only is it enacted that any contract made by the Company shall be submitted to the Commissioners, and that by them the said contract or contracts shall be, from time to time, reported on to the Governor in Council; and then, further, that no deviation from the terms of such contract shall be legal without the consent of the Governor in Council.

11. In pursuance of this provision, as you are aware, the Company took a Contract for the whole Railway, so far as the same is to be constructed in the Colony; and they made an ample return of estimated cost of rails, &c., and of office expenses during construction. These were, in due course, "submitted to the Commissioners for inspection." On these they have to report to the Governor "from time to time." I should infer that should such reports satisfy the Governor in Council that the Company are proceeding illegally, His Excellency may move the Supreme Court to restrain these proceedings; but I most respectfully, but most urgently, press upon the consideration of the Government whether payments to the Contractors should be made in any way to depend on the settlement of any question whatever which may arise between the Government and Company on reports of the Commissioners, or otherwise; and, it may be, demanding the interposition of the authority of the Judges, and necessarily involving the long delay attendant on complaint and defence;—always, of course, presuming that the Contractors hold a certificate from the Engineers, being in their judgment a fair and equitable payment on account; and being, in the terms of the General Conditions, an "estimate from the schedule of prices *as the price or value of the work performed.*" (See Secs. 27, 28.)

12. The Directors have understood the intention and purport of the 7th Clause of the Act to be, a provision against any alteration in the terms of the Contract which might jeopardise the construction of the whole line for £350,000. I can, indeed, speak with confidence on this point, as the clause was drawn by myself and adopted by the promoters, in order to meet the ungenerous assumption of some parliamentary opponents that it was *not* the design of the promoters to complete the line; but only to build it to some point undefined, from which the Government would have to complete it. It was never intended, I submit with confidence, that the 7th Clause should limit the power of the Company to make such alterations during construction as practical experience might suggest to be improvements in details, so long as the original sum of £350,000 was not exceeded.

13. I may with confidence assure the Government that the Directors desire to act with the good faith which has characterised the conduct of the promoters from the very beginning, in the further prosecution of the important work they have in charge; but I need scarcely say that, to do this effectively, they must claim for their Engineers and for themselves the entire confidence of the Governor in Council, that whilst they intend to do their work well, it will be their duty to do so strictly within the requirements of the law; and upon all the points raised in this correspondence it must be the wish of the Board of Directors most respectfully to consider the opinions and wishes of the Government.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Honorable the Colonial Secretary.

(Copy.)

MEMORANDUM on MR. KEMP'S Correspondence with the Government concerning Progress Certificates, weight of Rail, and other matters, referred to us by the Secretary.

MR. KEMP complains that our Certificates for progress payments show "only the money amount" of work executed; that is, that they do not state the actual measurements or "quantities" of work done. He desires to be supplied with the data upon which we base our monthly estimates; and he states that extra and "unauthorised" works are being executed, and that he has no means of knowing whether or not these are included in our Certificate.

We think the latter statement may afford some explanation of the others, as it seems clear to us that Mr. Kemp has failed to comprehend our system of contract. On one side we have a Schedule of the works to be performed. These are separated into so many distinct items, and a fixed price is set against each item. On the other side we have a Certificate showing the value of each item at a particular date, the number of the item being given; and it is as easy for Mr. Kemp as it is for the Board to see at once, by comparing the Schedule and the Certificate, that no item is overpaid. How then can extra and "unauthorised" works be included in our present Certificates?

Our monthly Certificates are framed in all respects according to English practice, and in a manner that affords ample protection to the funds of the Company. Prior to giving a Certificate we make a careful inspection of the works from end to end, and then simply by the aid of the Schedule, and our professional judgment and experience, we estimate the value of the work executed. (See Clause 27, General Conditions of Contract.) We do not recollect having asserted that it would be a "gross fraud" upon the Company for us "to attempt to give any quantities," but we have said—and we repeat—that in the present condition of the earthworks it would be impossible to give such detailed quantities as would, even approximately, represent the true quantity of work done at any particular time; and therefore to state definitely that so many cubic yards have been excavated would be simply to state what we could not prove, or, in other words, to mislead the Board by supplying unreliable figures.

We observe that Mr. Kemp informs the Government that the action of the Company in "withholding" the information he demands, and which we have explained it is not in our power to provide, "naturally creates a suspicion;" and he adds, "he may be wrong in his surmises, and if proved to be so shall regret that he entertained the thought." We respectfully submit that language of this kind, used with reference to the Company and its Officers, requires some explanation, and should not be allowed to pass unnoticed.

The Board has fully approved of the form and manner of our Certificates, and is, we believe, equally satisfied of their integrity and fairness to both the Company and the Contractors. If Mr. Kemp is not, we submit that the onus of showing them to be incorrect or dishonest lies with him; and we fail to see that more elaborate returns on our part would afford any further guarantee on either point.

We have only to add, that we have not made, nor do we intend to make, any deviations from the terms of the Contract without the consent of the Governor in Council. The alterations in some of the slopes, referred to by Mr. Kemp, are unavoidable. We find the material will not stand at the slope we had hoped it would, and if not *taken* down to a flatter one, it will simply *fall* down. We reported to the Board in our Progress Report of November 2nd, that some alterations would have to be made in this respect at certain places, but until the works were somewhat further advanced we could not definitely advise them on the point. In our next Progress Report we shall probably be able to do so, and in the meantime we have given only such general instructions as will secure the due protection of life and limb; and we need scarcely repeat that no payments on account of this extra work have been made, either through our Certificate or otherwise.

Weight of Rail.

The statement of Messrs. Kemp and Innes in their letter to the Hon. the Colonial Secretary, dated 16th November, to the effect that we—the Engineers—altered the weight of the rail from 65 lbs. to 72 lbs. to the yard "without any previous communication to them as Commissioners, or to the Board of the Company at which they sit as Directors," is disingenuous and untrue, as we think the following account of the matter will show.

The Act requires that, before any guarantee is given by the Government to the Bonds of the Company, the Commissioners shall report that they have examined the plans, specifications, and estimates of the said Railway; and whether the said Railway can be opened for traffic for a sum not exceeding £350,000.

To enable this to be done, the Commissioners were furnished with plans prepared by the consent of the Board, and an estimate of quantities, expressly for the purpose of assisting them to make the said Report. This estimate was necessarily approximate only at that time, the working drawings not having been commenced, and in it the rails were set down at 65 lbs. to the yard.

On these plans, &c. the Commissioners reported on the 23rd January, 1868, that the Line could be opened for traffic for a sum not exceeding £350,000, and the Governor's consent was formally given for the undertaking to proceed.

The working drawings, specifications, and detailed estimate being completed, Tenders were obtained, and a Contract for the works, "so far as they are to be constructed within the Colony," was let to Messrs Overend and Robb in July, 1868.

In the meantime, in working out our plans in detail, a close consideration of all the conditions involved had led us to the adoption of a rail weighing 72 lbs. to the yard, and *on this basis* the quantity of rails required, as shown in our estimate dated the 16th July, 1868, is calculated.

This contract with Messrs Overend and Robb, and our estimate of rails, &c. "to be imported from abroad," (calculated as above stated), were submitted to the Commissioners on the 17th July, 1868 (*i.e.*, six months after they had first reported to the Governor in Council), and these papers were reported to the Governor by the Commissioners on the 24th July; in which report an estimate in detail is made by Mr. Kemp, giving, *not* our completed estimate submitted on 17th July, but the approximate one given last year, on which the Commissioners reported in January,—That the estimated sum for opening the Line for traffic was sufficient and reasonable.

The Engineers and Directors are not now to be blamed as if they had *deviated* under the terms of the Act 30 Vict., No. 28, Section 7, by substituting a 72 lb. rail for a 65 lb. rail.

No possible injury has been done in any way. In January it was shown that with a 65 lb. rail the Line could be opened for traffic for £350,000. In July, after the main Contract was taken, and a 72 lb. rail was adopted, it was shown to the Government that we could not only open the Line for traffic for £350,000, but that we had for contingencies a sum of £10,613.

We submit these facts in proof that no importance attaches to the question submitted by Mr. Kemp, and to show that we have not acted "without previous communication with the Board, &c.," and that—what is of more importance—no deviation whatever has been made from the Contract and Estimates sent to the Commissioners on the 17th July last.

DOYNE, MAJOR, & WILLETT.

Engineers' Office, Launceston, 20th November, 1868.

121.

Two matters appear to have been in dispute; viz. 1st, deviations; and 2nd, the right of the Commissioners to claim further information as to the amount of work done before signing a cheque for the amount of the work certified to by the Engineers.

1. As to *deviations*. Clauses empowering the Company to cause deviations to be made by the Contractor may as between Company and Contractor be necessary, but the Company cannot cause deviations to be made without the consent of the Governor in Council.

The object of the Legislature was to secure for the public a Line of Railway open for traffic from Launceston to Deloraine for the sum of £350,000, as the consideration for the public guarantee of the Bonds (now Debentures). If after submitting plans, specifications, and estimates of the works necessary for the completion of the Line for £350,000, and thereupon obtaining the guarantee, the Company can, without consulting the Governor in Council, make such deviations and alterations as it sees fit, and which may raise the cost of the Line to £500,000, the policy of the Act is wholly subverted.

The Company has £350,000 only at its disposal, and the Legislature required a perfect Line between Launceston and Deloraine as a consideration for the Government guarantee, and not an imperfect work or one completed for a shorter distance.

I have no doubt that no unnecessary deviation would be sanctioned by the Directors or their Engineers; but I think that the Legislature created a check the exercise of which can create no real difficulty, and one which ought not to be surrendered.

No charge for any deviation has been presented for payment, and no specific deviation has been ordered, so that the question as yet is hardly raised.

Mr. Dowling suggests that if the Company is proceeding illegally, the Governor may move the Supreme Court to restrain such proceedings, but protests against the Commissioners taking any action. I think Mr. Dowling overlooks the provisions of Section 4 of 30 Vict. 28, which requires

the moneys to be expended on the Railway Works "*with the approval of the Commissioners, and not otherwise.*" The Commissioners could hardly approve of an illegality of proceeding; and if in their opinion any illegality arose, I presume they would refuse to sanction the payment of any money in respect of it.

The Governor has no power to interfere; the custody of the money is taken out of the hands of the Crown, and the money can only be spent with the approval of the Commissioners.

I cannot believe that any difficulty will be raised on the part of the Directors or their Engineers in stating whether any certificate of work done embraces works of deviation from the contract.

With reference to no bill of quantities being furnished upon which the certificate is given, it appears that the materials for such a bill do not exist, as the certificates are given not from measurement but "from personal inspection and experience," and "by the aid of the Schedule of Prices." I don't think the Commissioners can require the Engineers to measure the works, but all information that can reasonably be given should, I think, be afforded to the Commissioners.

I regret the tone of asperity which the correspondence has assumed, as it can only prove detrimental alike to the interests of the public and the Company.

W. L. DOBSON.

27 November, 1868.

122.

Colonial Secretary's Office, 30th November, 1868.

SIR,

HAVING forwarded copies of the following correspondence,—viz.; Messrs. Kemp and Innes to Colonial Secretary, 18th July, 1868; Mr. Kemp to Colonial Secretary, 11th November, 1868; Mr. Innes to Colonial Secretary, 13th November, 1868; and Messrs. Kemp and Innes to Colonial Secretary, 16th November, 1868,—to the Chairman of the Launceston and Western Railway for his observations thereon, I now have the honor to submit his reply, together with a memorandum from the Engineers, for the consideration of the Commissioners.

I have, &c.,

(Signed)

RICHARD DRY.

The Hon. F. M. INNES, Esq., M.L.C.

123.

Hobart Town, 4th December, 1868.

SIR,

I HAVE the honor to acknowledge your communication of the 30th ultimo, and having forwarded it for the observations of my colleagues, I now submit my own.

Mr. Dowling's letter of the 21st November, in so far as it relates to *his* construction of the Railway Acts, I leave with the Government. I desire, however, to remark, that the Commissioners have never entertained the idea that it would be expedient or practicable to construct the Railway without "any alteration" in the plans of the Engineers; and, provided the alterations which experience indicated as desirable were within the scope of the main conditions on which Parliament sanctioned the work, no inconvenient delay would have been, or need be, interposed to their adoption. But, since the question has arisen, I think it well that the Government should be informed of the immediate occasion of the letter addressed to you on the 18th July last, wherein I desired, concurrently with Mr. Kemp, to know whether, in the opinion of the Crown Law Officers, certain conditions introduced into the Contract with Messrs. Overend & Robb could be so interpreted and carried out as to defeat the provision in the 7th Section of the 30 Vict. No. 28, "that no deviation from the terms of any Contract on which the said Commissioners have reported shall be lawful without the consent of the Governor in Council." The occasion of my writing that letter was, that at the Company's Board I heard these conditions of Contract quoted by the Secretary, Mr. Dowling, as relieving the Company from the obligation of complying with the Section just quoted,—a position which I then and there impugned, and one which, if it could be sustained, would admit of proceedings on the part of the Directory in defiance of all the precautions in the Railway Acts.

The question as to the form of certificate sent in by the Engineers with the Contractors' monthly accounts is one of professional usage; and I only advert to it for the purpose of acquainting you that the Company has no pretext on that head for complaint. Pending the receipt of information

which will decide whether Mr. Kemp, or Messrs. Doyne & Company, are right in the position they respectively assume, the cheques of the Company in favour of Messrs. Overend & Robb are duly signed by the requisite number of Commissioners. At the same time, I cannot refrain from adverting to the somewhat anomalous position in which the Company's Engineers stand to the Company as justifying on the part of Mr. Kemp a tenacious assertion of professional rules, and as dictating on that of the Engineers such a compliance with reasonable demands as would obviate doubts and terminate controversy. Mr. Doyne is not an Engineer engaged at a fixed salary and with a staff of assistants similarly engaged,—all liable to be dismissed in the event of their not giving satisfaction to the Company. He is himself a Contractor with that body for a sum of between seventeen and eighteen thousand pounds “to act as Engineer in Chief, employ the necessary staff, superintend the construction of the said Railway in a thoroughly efficient manner, either by himself or by properly qualified and competent assistants,” &c. He is a Contractor whose profit—just like that of Messrs. Overend & Robb, the execution of whose Contract he supervises—depends on the proportion which his outlay bears to the sum he is to receive; and, therefore, he is under the strongest inducements of self-interest to save where he can. I do not desire to cast any unwarrantable reflection on the Engineers; but neither do I think it right to be fastidious in the statement of the true nature of their position: and I leave it for the Government to consider, whether—in view of the large interest the country has in the Railway, and the serious consequences both to the Revenue and to the Railway Districts should it eventually be found that the undertaking has not been completed in a satisfactory manner,—it is not expedient to adopt the view taken in Mr. Dowling's letter of Mr. Kemp's duty, providing Mr. Kemp, in that case, with the professional assistance which he will require. Mr. Doyne's extreme reserve—for such it appears, at least to me,—as to the information embodied in his certificates accompanying Messrs. Overend & Robb's monthly accounts, is the immediate cause of the suggestion offered. It has been urged at different times in the Directory, in answer to those members who have been impatient at what they deemed a lax view of the obligations of the contracting Engineer, that, inasmuch as he is a large Shareholder in the Company, there is the very best guarantee for the manner in which he will discharge his engagements. I am constrained to repeat that which I have felt it incumbent to express at the Board, that this circumstance, so far from being a ground of satisfaction, appears to me the very reverse, inasmuch as it tends to embarrass the relations of the Company to Mr. Doyne, indisposing it to insist in disputed cases on its own view of his duties.

Among the enclosures in your letter is a Memorandum from Messrs. Doyne & Company, in which a statement in a communication from Mr. Kemp and myself to you is described as “disingenuous and untrue.” Regretting that these gentlemen do not appreciate courtesy and good breeding more highly than they seem to do, it is not to vindicate my veracity that I offer a rejoinder to their opprobrious words.

The most critical duty which the Commissioners have been called upon to perform under the Railway Act—that on the result of which hinged the question of whether the Railway was to be commenced or not—is set forth in Section 7 of the 30 Vict. No. 28. They were to report to the Governor in Council that, having examined the plans, specifications, and estimates of the said Railway and Works, “the said Railway can be opened for a sum not exceeding £350,000.” Thereupon, £300,000 was to be raised by Government Debentures, and the proceeds entrusted to the Company and Commissioners for the purposes of the Railway. The Commissioners, sensible of the delicacy and responsibility of the duty confided to them, required that the plans and estimates of the Engineers should be submitted in a proper manner, and they were so submitted, in a document bearing Mr. Doyne's signature in the first page, and his initials on every other page; and after the estimates, &c. had been duly considered, and the Commissioners, *on the bases supplied to them*, had reported that the Railway could be constructed for £350,000, the document was deposited, under their respective seals and signatures, in the Union Bank. In these estimates in detail the description of Rails provided for were Rails of 65 lbs. per yard. It was, therefore, with much surprise that it was discovered, in October last, that an order had been sent to England by the Engineers, dated 10th July, for Rails of 72 lbs. instead of 65 lbs., thus involving an additional cost of nearly £5000. Immediately the circumstance was found out, Mr. Kemp brought it under the notice of the Board, to the Members of which the substitution was as unknown hitherto as it had been to the Commissioners; and accordingly it was resolved by the Directors, “that the Engineers be requested to explain the circumstances under which this alteration had been made.” The explanation sought was given by those gentlemen in the following passage in a letter which was read at the Board on the 13th October:—

“The rough Memorandum which we supplied to Mr. Kemp to assist him in forming an estimate, in which 65 lbs. to the yard is mentioned as the contemplated weight of the Rail, was, of course, merely an approximation, as we had not then fully considered the question. When we afterwards made the actual designs, a closer examination into all the conditions of the traffic to be carried induced us to increase the weight to 75 lbs., and this was the section submitted to the Board in March last. Subsequently we decided it might be safely reduced to 72 lbs.; and the designs sent to England were altered accordingly.

“The weight of iron in the permanent way, included in our estimate dated 16th July, 1868, is calculated on this section.”

The word "surprise" would inadequately express the feeling with which I learned that the Schedule of quantities placed before the Commissioners by Mr. Doyne, and on which it was known that their report to the Governor in Council would be based, &c., &c., was nothing better than a "rough Memorandum," and no more binding than a "rough Memorandum" would be,—that, in fact, it afforded no reliable indication of the character of the Railway that would be constructed, but only an outline—a rough sketch—of a Railway that might be constructed at a cost not exceeding £350,000. Resolving, as a first step, to bring the matter under the consideration of the Board, I was about to do so when I found that, without any sanction from the Directors, the letter of Messrs. Doyne & Company had been handed back to the firm, and by them returned with the words "Rough Memorandum" erased, and "Schedule of Quantities" substituted. I leave it to be interpreted what value is to be attached to the change of words, under the circumstances related, and in connection with the summary mode of putting aside the estimate on the faith of which the Commissioners made their first report to the Governor in Council. The defence set up, that a closer examination of the conditions of traffic to be carried induced the Engineers to make the change, may be just; although, considering the number of years which have elapsed since the conditions of traffic had been the subject of Parliamentary evidence by Mr. Doyne, it might have been presumed that they were well ascertained by the time that he supplied the Commissioners with the bases of their report. But, if a change was found to have been expedient, it should at least have been unequivocally announced; and this leads me to the statements of the Engineers that this was done in the estimate for Rails, &c. submitted to the Commissioners on the 17th July—seven days, that is, *after* the 72 lbs. Rails had been ordered. Avoiding harsh or offensive expressions, I desire to refer you to that estimate as it appears in page 46 of the Parliamentary Report, No. 16, of last Session, where it will be found that the gross weight only of the substituted Rails is given by the Engineers,—all mention of the altered weight per rail is excluded. And, although the difference in the gross should, perhaps, have arrested the attention of the Commissioners, it did not do so; because in their report at that time to you, in estimating the cost of the Railway, not suspecting the change subsequently discovered, they kept before them the fuller estimate of the Engineers supplied to them in January wherein the weight per Rail is specifically stated. But how any oversight in the Commissioners, by which they failed to animadvert in July on a proceeding which equally escaped the notice of the Directory then, and until pointed out in October, can warrant the language of Messrs. Doyne & Company, I am at a loss to discover. The Commissioners would, however, have shown disingenuousness, and a want of fidelity to their trust, had they, because of any previous omission of duty, concealed instead of reported when they did a proceeding illustrative of the danger to which the Government and the Railway Districts are exposed of being imperceptibly saddled with the burden of a Railway far more expensive than Parliament contemplated, unless the sanction of the Executive be imperatively required for any departure from the specific conditions as to plan, &c. on which the undertaking was allowed to commence.

Regretting the length of this communication,—a length, however, which I have found to be unavoidable in pressing upon the Government the important consequences involved in the legal questions raised by Mr. Dowling,

I have, &c.,

(Signed) FRED. M. INNES.

The Hon. the Colonial Secretary.

I beg to add that I have written this communication without reference to my colleagues.

124.

Railway Commissioners' Office, Launceston, 9th December, 1868.

SIR,

I HAVE the honor to acknowledge the receipt (through Mr. Innes, on the 4th instant,) of your letter of the 30th ultimo, enclosing certain correspondence from the Commissioners, and a reply thereto from the Secretary of the Launceston and Western Railway Company, together with the Engineers' Memorandum on my correspondence with the Government, for my consideration; and in reply, I beg to state that I purpose dealing *only* with the Memorandum from the Engineers, leaving the question of the legal points raised in the Secretary's letter for the consideration of the Government.

In answer to the 2nd paragraph of the Engineers' Memorandum, I beg to say that I have not "failed to comprehend their system of contract," but only failed to comprehend their system of interpreting their Contract. The Engineers proceed to explain in the same paragraph how the figures of their Certificates are arranged, and say, "It is as easy for Mr. Kemp as it is for the Board to see at once, by comparing the Schedule and the Certificate, that no item is overpaid." If the Government are satisfied with this check only, then my services might be dispensed with, for any ordinary clerk could compare the figures as suggested by the Engineers. They proceed also to state in the same paragraph—"How, then, can extras and unauthorised works be included in our present Certificate?" In answer to this, I beg to say that under the present system of certifying for progress payments, and according to their showing, they might include both extras and unauthorised works in the value of the different items, and such extras, &c. could not be detected till the amounts

of such items were nearly exhausted, and the works represented by such item perhaps only half completed. The data asked for by me is to prevent any such manipulation of the different items in the Schedule. And I believe that the Engineers are fully cognisant of the importance of the data that I demand, and the necessity of their withholding it from me.

In answer to the Engineers' 3rd paragraph, I beg to say that I am totally unacquainted with their system of estimating the value of work executed for the purpose of making out a Certificate and a progress payment to the Contractors. And, with great deference to their "professional judgment, experience, and English practice," I never saw or heard of a Certificate of Works given, under the same circumstances, without proper and reliable measurements being certified to as being correct by the Engineers in charge of Works.

In answer to the 4th paragraph, I beg to say that I have no further reply to make than is contained in my letter which their Memorandum refers to.

In answer to the 5th paragraph, the Engineers state that "the Board has fully approved of the form and manner of their Certificates." In reply to this, I beg to say that I decline to be bound or guided by the approval of the Board to the actions of its own officers. The Engineers state in the same paragraph, "that the onus of showing the Certificates to be incorrect or dishonest lies with Mr. Kemp." In reply to this, I beg to say that I have no desire to shrink from any duty the Government may be pleased to impose upon me; and I will cheerfully undertake the duty of checking the returns of work executed by the Contractors, conditional to my being provided with proper skilled assistance, which will be a tax upon the finances of the Company, and which I thought might be obviated under the conditions of the Contract with their Engineers, by their supplying in their Certificates the information demanded by me.

In the 6th paragraph the Engineers state, "that we have not made, neither do we intend to make, any deviations from the terms of the Contract without the consent of the Governor in Council." (This, I take it, is one of the legal points raised in the Secretary's letter.) The statement made in this paragraph is so inconsistent, that I fail to understand the Engineers when they say that we have not made, nor do we intend to make, any deviations; and yet, at the same time, say that they have made deviations, and which will cost, according to their own showing, as per letter read at yesterday's Board meeting, from £8000 to £10,000. Upon this subject I shall be able to report to the Government more fully in a few days.

With reference to the remarks made by the Engineers about the extra weight of rails, and their referring to the statement made by Mr. Innes and myself as being "disingenuous and untrue," I have to declare that I have no recollection whatever of having seen or heard anything that referred to the substitution of a 72lbs. rail for a 65lbs. rail; and in proof of my assertion, I have searched the minutes of the proceedings of the Board of Directors, and the correspondence from the Engineers to such Board, and have failed to discover a single word bearing upon such substitution till the 18th day of August, 1868, when a letter was read at the Board from the Engineers, dated 10th July, to Mr. Hemans, in England, informing him that they had adopted his suggestions, and had provided for a 72lbs. rail. This occurred during my absence when I was in Melbourne; and immediately on my return early in October I discovered such substitution, and made my colleagues acquainted with the fact, and also brought it under the notice of the Board on the 6th day of October, 1868. The Engineers further remark, that a 72lbs. rail had been adopted by them, and an estimate of the same forwarded to the Commissioners in July, 1868. I beg to refer you to such estimate; and you will see that the gross weight of rails only is given, there omitting, whether by design or accident, all details of weight per lineal yard, fish plates, bolts, fastenings, &c., such as were provided in the former estimate furnished to the Commissioners, and upon which they based their calculations. The withholding of data in this instance goes to prove the desirableness of my having at all times the most reliable and complete information possibly to be obtained. If the Engineers practised any deception upon the Commissioners by withholding all information upon this subject, they alone are answerable for the results.

Attempts have been made to repudiate, disparage, and alter the name of the data that was furnished to the Commissioners in January last, and upon which data they based their report to the Governor in Council that the line could be opened for public traffic for a sum not exceeding £350,000; and I respectfully protest against such data being called "only approximate." If such information was only approximate, why was it not specifically stated on the face of it? And I should have known how to have dealt with it, and should have insisted upon being supplied with more complete and reliable information before I committed myself to a report where so many interests are involved.

I have, &c.,

(Signed) SAML. V. KEMP, *Commissioner Launceston and Western Railway.*

The Hon. the Colonial Secretary, Hobart Town.

Colonial Secretary's Office, 10th December, 1868.

SIR,

I HAVE had under consideration your letter of the 21st ultimo, and Memo. of the Engineers referred to therein, together with the letter of Mr. Kemp, which was submitted for your observations.

I much regret that any misunderstanding should have arisen between the Commissioners on one side, and the Directors and Engineers on the other; but the questions which have been raised are so important that I deem it necessary to state clearly the views of the Government, in the hope that existing difficulties may be removed, and that the Company may be enabled to proceed with the important work which they have undertaken in a manner satisfactory to themselves, to the Commissioners, and to the Government.

Two matters seem to be in dispute; viz., 1st, deviations; and 2nd, the right of the Commissioners to claim further information as to the amount of work done before signing a cheque for the amount certified to by the Engineers.

1st. As to deviations. Clauses empowering the Company to cause deviations to be made by the Contractors may, as between Company and Contractors, be necessary; but the Company cannot cause deviations to be made without the consent of the Governor in Council.

The object of the Legislature was to secure to the public a Line of Railway open for traffic from Launceston to Deloraine for the sum of £350,000, as the consideration for the public guarantee of the Bonds (now Debentures). If, after submitting plans, specifications, and estimates of the works necessary for completing the Line for £350,000, and thereupon obtaining the guarantee, the Company can, without consulting the Governor in Council, make such alterations and deviations as they see fit, and which may greatly increase the cost of the Line, the policy of the Act would be wholly subverted.

The Company has £350,000 only at its disposal, and the Legislature required a perfect Line between Launceston and Deloraine as a consideration for the Government Guarantee, and not an imperfect work, or one completed for a shorter distance.

I feel assured that no unnecessary deviation would be sanctioned by the Directors, or their Engineers; but the Legislature interposed a check, the exercise of which need not create any real difficulty, but which cannot be surrendered.

No charge for any deviation has been presented for payment, and no specific deviation has been ordered, so that, as yet, the question is not fully raised; but I would point out the desirability of the Company at once communicating to the Executive Government any contemplated deviation, especially one involving an increased expenditure, so soon as its necessity may become apparent.

Mr. Dowling suggests that if the Company is proceeding illegally, the Governor may move the Supreme Court to restrain such proceedings, but protests against the Commissioners taking any action. Mr. Dowling seems to overlook the provisions of Sec. 4 of 30 Vict. No. 28, which requires the moneys to be expended upon the Railway Works "*with the approval of the Commissioners and not otherwise.*" The Commissioners could not approve of an illegality; and if, in their opinion, one arose, I presume they would refuse to sanction the payment in respect of it.

The Governor has no power to interfere. The custody of the money is taken out of the hands of the Crown, and it can only be spent with the approval of the Commissioners.

I cannot think that any objection will be made on the part of the Company or their Engineers to stating whether any certificate of work done embraces works of deviations from the Contract. With reference to no Bill of quantities being furnished upon which the certificate is given, it appears to me that materials for such a Bill are not fully available, as the certificates are given, not from measurement, but from personal inspection and experience, and by the aid of the Schedule of prices. I do not suppose the Commissioners require, or can require, the Engineers to measure the work; but all information which can reasonably be obtained should, I think, be afforded to them.

I have, &c.,

(Signed) RICHARD DRY.

The Chairman of the Launceston & Western Railway Company.

*Launceston and Western Railway Company, Limited,
Launceston, 15th December, 1868.*

SIR,

I AM directed to acknowledge your letter of the 10th instant, in reply to the letter from this Board, and enclosures, of the 21st ultimo.

2. You have ample guarantees in the personal character and integrity of the Directors and Engineers, and in their large personal interest in the success of the undertaking, that the confidence which you now express will always be fully justified.

3. They would regret, equally with the Government, that any difficulties should be created in the way of the successful issue of the great work they have in hand; and they have been most anxious to avoid any.

4. I am to direct your attention to my letter of the 21st ult. in proof that the Board fully concur in the opinion of the Government, that "the object of the Legislature was to secure to the public a Line of Railway open for traffic, from Launceston to Deloraine, for the sum of £350,000;" and that "the Legislature required a perfect Line between Launceston and Deloraine, as a consideration for the Government Guarantee, and not an imperfect work, or one completed for a shorter distance." This concurrence you will find throughout my letter of the 21st ult., and particularly expressed in the passage, "The Directors have understood the intention and purport of the 7th Clause of the Act to be a provision against any alteration in the terms of the contract, which might jeopardise the construction of the whole Line for £350,000;" and, again, that the Clause itself was introduced by the Promoters to meet an ungenerous assumption that it "was *not* the design of the Promoters to complete the Line, but only to build it to some point undefined, from which the Government would have to complete it."

5. My letter of the 21st ult., however, is certainly misunderstood, when the Directors are made to say that they "protest against the Commissioners taking any action" in cases where they suspect the Company to be acting illegally. The 4th Clause, which you quote, has never once been lost sight of by the Directors, as clearly enacting that the moneys "shall be expended on the said Railway and Works with the approval of such Commissioners." But *this* approval, so far as the intentions of the Legislature is concerned, seems, in fact, to have been given when the Commissioners reported that a Tender had been accepted *for the whole Line*, with ample securities for its completion and opening for traffic, within the sum of £350,000; and the question really at issue has been whether such approval could be fairly suspended, at any time, when the Contractors presented a Certificate, by the Engineers, for work actually done, strictly within the terms of such Contract. The Commissioners, as *ex officio* Directors, were parties to this Contract; and what the Board have had to complain of is, that these Certificates of the amount of work executed thus strictly within the terms and prices of the Contract, though accepted by the Directors, have not been promptly accepted by the Commissioners,—rejected, indeed, altogether by Mr. Kemp; and that this course of proceeding has tended greatly to unsettle the Contractors' confidence in the *bona fides* of the Company; and, if persisted in, must be injurious to the credit of the Colony.

6. The copy of the last Progress Report of the Engineers, which I enclose, will advise you that the Board have been kept fully advised on questions involving any alteration in the Contract which have arisen; and similar Reports will deal with similar questions as they may arise.

7. I also enclose copy of a portion of a Certificate, and of a portion of the Schedule to the Contract, representing the items in the Certificate; and I trust the Government will regard this as a satisfactory proof, at once of the clearness and accuracy with which the payments on account are certified, and as affording sufficient warrant for the prompt payment of the Contractors, with ample security to the public and the Company.

I have, &c.,

(Signed)

H. DOWLING, *Secretary.*

The Hon. the Colonial Secretary, Hobart Town.

(Copy.)

*Launceston and Western Railway, Engineers' Office,
27th November, 1868.*

PROGRESS REPORT: accompanying Certificate No. 3. (Contract No. 1.)

WE have to report that, during the last month, the principal works in operation have been the earthworks, fencing, and the manufacture of gates; and that the rate of progress is satisfactory.

We indicated, in our last Report, that the slopes of some of the cuttings would have to be flattened; and it has since been found necessary to reduce those of cuttings Nos. 13, 16, 35, 37, 38, and 40, to slopes of $1\frac{1}{2}$ to 1 in the whole or in part; and these will have to be soiled. In our next Report we shall endeavour to give an estimate of the cost of these extra works.

The Contractors are labouring under some difficulty in obtaining a supply of bricks for the culverts; and, as delay in building them would, in many places, retard the progress of the embankments, we have decided to accept the proposal of the Contractors to substitute cast-iron pipes for brick culverts in some cases,—with the proviso that the substitution shall not increase the cost of the work.

This Certificate does not include any payments on account of extra works; but it does include payments on account of materials prepared for the works, and described in the Certificate.

Some of these materials,—such as gates, bridge work, cement, &c., which would be damaged by exposure, we have not required to be delivered on the Company's premises, having no Stores to put them into. We have, therefore, arranged with the Contractors to set apart a portion of their Stores in William-street for our use for this purpose (free of charge to the Company); and we take delivery of the materials there.

It may, perhaps, be well to explain that the sums allowed on items 125, 126, and 127,—masonry bridges,—are for cement delivered in store.

(Signed) DOYNE, MAJOR, & WILLETT.

(Copy.)

EXTRACT from Certificate for Works, No. 3.

<i>No. of Item in Schedule.</i>	<i>Description of Work.</i>	<i>Price of Work as per Contract.</i>			<i>Total Value of Work done to date of this Certificate.</i>		
		£	s.	d.	£	s.	d.
57	Culvert	82	19	4	60	0	0
58	Ditto	23	12	0	20	0	0
59	Ditto	684	6	6	50	0	0
60	Ditto	46	5	0	35	0	0
61	Ditto	20	3	0	15	0	0
62	Ditto	215	1	9	120	0	0
63	Ditto	26	0	0	20	0	0
67	Ditto	116	6	8	80	0	0
68	Ditto	41	15	0	35	0	0
	Less 10 per cent. ....		..		435	0	0
	Sum paid .....		..		43	10	0
					£391	10	0

No. of Item.	Description of Work.	Quantities.	Rate.	Cost.	
				£ s. d.	£ s. d.
	CULVERTS, (Brickwork).				
57	At 3 miles 25 chains, 3 feet opening.				
	Excavation	40 c. yd.	3s.	6 0 0	
	Brickwork	41½ c. yd.	36s.	74 5 0	
	Brickwork coping	20 c. ft.	1s. 8d.	1 13 4	
	Stonework in aprons	3½ s. yd.	6s.	1 1 0	
					82 19 4
58	At 3 miles 60 chains, 2 feet opening.				
	Excavation	13 c. yd.	3s.	1 19 0	
	Brickwork	11½ c. yd.	36s.	21 3 0	
	Brick cope	6 c. ft.	1s. 8d.	0 10 0	
					23 12 0
59	At 4 miles 32 chains, double 5 feet opening.				
	Excavation	416 c. yd.	3s.	62 8 0	
	Brickwork	341 c. yd.	36s.	613 16 0	
	Brick cope	48 c. ft.	1s. 8d.	4 0 0	
	Aprons	13¾ s. yd.	6s.	4 2 6	
					684 6 6
60	At 4 miles 56·5 chains, 2 feet opening.				
	Excavation	26 c. yd.	3s.	3 18 0	
	Brickwork	23½ c. yd.	36s.	41 17 0	
	Brick cope	6 c. ft.	1s. 8d.	0 10 0	
					46 5 0
61	At 6 miles 74 chains, 2 feet opening.				
	Excavation	11 c. yd.	3s.	1 13 0	
	Brickwork	10 c. yd.	36s.	18 0 0	
	Brick cope	6 c. ft.	1s. 8d.	0 10 0	
					20 3 0
62	At 8 miles 28·5 chains, 4 feet opening.				
	Excavation	127 c. yd.	3s.	19 1 0	
	Brickwork	107½ c. yd.	36s.	193 1 0	
	Brick cope	22 c. ft.	1s. 8d.	1 15 9	
	Apron	4 s. yd.	6s.	1 4 0	
					215 1 9
63	At 8 miles 53 chains, 2 feet opening.				
	Excavation	14c. yd.	3s.	2 2 0	
	Brickwork	13c. yd.	36s.	23 8 0	
	Brick cope	6 c. ft.	1s. 8d.	0 10 0	
					26 0 0
67	At 10 miles 65 chains, 3 feet opening.				
	Excavation	56 c. yd.	3s.	8 8 0	
	Brickwork	58½ c. yd.	36s.	105 6 0	
	Brick cope	19 c. ft.	1s. 8d.	1 11 8	
	Apron	3½ sq. yd.	6s.	1 1 0	
					116 6 8
68	At 11 miles 10·5 chains, 2 feet opening.				
	Excavation	23 c. yd.	3s.	3 9 0	
	Brickwork	21 c. yd.	36s.	37 16 0	
	Brick cope	6 c. ft.	1s. 8d.	0 10 0	
					41 15 0

127.

Railway Commissioners' Office, Launceston, 15th December, 1868.

SIR,

MR. KEMP having handed to me, for my consideration and report, the correspondence enumerated in your letter to the Honorable F. M. Innes, Esquire, of the 30th ultimo, and forwarded therewith, I deem it due to the Government and to myself to make some remarks thereon, explanatory of the course pursued by me on promptly signing the cheques for the amounts of the two last monthly Certificates furnished to the Contractors by the Engineers of the Company, although my professional colleague, Mr. Kemp, declined to do so, on the ground that the said Certificates did not furnish any schedule of quantities of the several works performed under the Contract of Messrs. Overend and Robb with the Company.

1. Such Contract was, in the first place, submitted to the Board of Directors, all the Commissioners being present in their capacity of Directors, and was considered and finally approved of by the Board.

2. The Contract was then submitted to the Commissioners for their inspection, in order that they might report thereon to the Government, in accordance with the 7th Section of the Railway Act, No. 2; and Mr. Kemp, as the professional Commissioner, and Mr. Innes and myself, as the non-professional Commissioners, did so, respectively, report on such Contract to the Government.

3. Amongst the General Conditions of such Contract, and embodied therein, is the following, as set forth in Clause 27 :—" Payments will be made to the Contractors every month of the amount which the Engineers may certify by estimate from the Schedule of Prices as the price or value of the work performed during the preceding month, together with the value the Engineers shall place on any suitable materials that shall be delivered upon the works, less ten per cent. upon such certificate amount."

4. No exception was taken either by the Board of Directors or by either of the Commissioners to the foregoing distinct and definite condition, nor was any suggestion made by Mr. Kemp that the Certificates so to be given by the Engineers should furnish schedules of quantities or any other information than that required by such condition.

5. The Contract, with such condition embodied therein, having been so approved of by the Board of Directors and the Commissioners, and duly executed by the Contractors and the Engineers of the Company, the Contractors were, in my opinion, in every way both legally and equitably entitled to the prompt payment of the monthly amounts certified by the Engineers to be due to them in accordance with the said condition, and that the absolute right of the Contractors to such payment upon the production of such Certificates could not in any way depend upon whether Mr. Kemp or the other Commissioners were or were not furnished by the Engineers with schedules of quantities or any other information whatever than that supplied by such Certificate; nor whether, if such schedules of quantities or other information required by Mr. Kemp were so supplied, Mr. Kemp's estimate of the amount due to the Contractors agreed with the estimate of the Engineers or otherwise. The form of Certificate forwarded by Mr. Kemp, "as used by the Engineers and adopted by the Company," is prepared in strict accordance with the condition embodied in the Contract (Clause 27) before referred to.

6. Clause 28 of the said general conditions term such monthly payments as "progress payments." It clearly regards them merely as payments upon account of certain defined works, contracted to be performed for certain defined and fixed amounts, and accordingly provides—"That, notwithstanding the giving of any Certificate that portions or the whole of the works have been satisfactorily performed, the Engineers may require the Contractor to remove or amend at any future time, previously to the final payment on account of the construction or maintenance of the works, any work that may be found not to have been performed in accordance with the Contract."

7. The Directors, doubtless relying with implicit confidence upon the professional and personal reputation of their Engineers, have, as above shown, absolutely and unreservedly confided to them, and to them alone, the very onerous and responsible duty of estimating the monthly amounts due to the Contractors, and of furnishing such Certificates for the due payment of such amounts, and to this arrangement the Commissioners may be said to have been consenting parties.

8. Influenced by the foregoing considerations, and by the conviction that by adopting such a course I should best promote or conserve the interests and credit of the Company, of the Government, and, I may say, of the community, I deemed it my imperative duty, as a Commissioner appointed by the Government to guard such interests, promptly to attach my signature to the cheques given for the monthly payments so certified by the Engineers, in strict accordance with the said condition of the Contract to be due to the Contractors, and to do all in my power to induce my fellow Commissioners to adopt the same views of the matter and to act accordingly.

9. I would here remark that the Commissioners have it in their power to scrutinise every item of the Certificates so given by the Engineers, and to take care that no greater amount is paid for any defined work than that fixed by the schedule of prices referred to in such condition as the total amount to be finally paid for the same; and I am decidedly of opinion that the furnishing of quantities with such Certificates would afford the Commissioners no additional facilities whatever for ascertaining the correctness or otherwise of such Certificates.

10. Mr. Kemp's letter to you of the 11th ultimo contains the following paragraph :—"I have applied to the Board to be furnished with bills of quantities, or with the same data used by the Company's Engineers in framing such Certificates, to enable me to satisfy my colleagues that the amount so certified has been spent upon the Railway and Works as contemplated by the Acts of Parliament, and upon each occasion they have been withheld from me." Upon this statement I would remark that whilst I am equally desirous with Mr. Kemp that every practicable information as to the progress of the works should be furnished by the Company to the Commissioners, I am, as one of the Commissioners, fully satisfied by the Certificates of the Company's Engineers, prepared in accordance with the terms of the Contract, that the amounts so certified have been spent upon the

Railway and Works as contemplated by the Acts of Parliament; and shall, as hitherto, be always prepared promptly to attach my signature to the cheques given for the amounts of such Certificates upon their production by the Contractors, irrespective of any other information than that comprised in such Certificate, and thereby, so far as is in my power, avert the very serious results, which, as I have before indicated, must inevitably accrue to the credit and interests of the Company, of the Government, and of the community, from withholding such payments.

11. Upon the latter part of the paragraph quoted from Mr. Kemp's letter,—that the bills of quantities had been withheld from him by the Company,—I would remark that, in compliance with Mr. Kemp's expressed wishes, the Board of Directors called upon the Engineers to furnish schedules of quantities with their monthly Certificates to the Contractors; that Mr. Doyne, one of the Engineers, attended at the next meeting of the Board, and distinctly stated that it was quite out of the power of the Engineers to furnish bills of quantities, founded upon the actual measurement of the earthworks whilst in progress, and that to supply any detailed quantities as reliable would be to practise an imposition upon the Company; that the Board accepted Mr. Doyne's explanation, and determined not to demand such quantities, and after hearing Mr. Doyne's emphatic statement, I feel bound to state that I entirely concurred in such determination; and I would here, in justice to the Company, also distinctly state that, so far as I have had opportunities of judging, they have at all times been ready to furnish all such information as was practicable to the Commissioners.

12. Mr. Kemp goes on to say—"I am not in a position to certify to the correctness or otherwise of the last progress payment, as I have not had any data before me showing or explaining that such unauthorised deviations are not included in the amount of such progress Certificate." Upon this statement I would observe that, as one of the Commissioners, I was quite satisfied by the prescribed Certificates duly signed and furnished by the Engineers that the several amounts payable under the same were on account of definite amounts fixed by the schedule of prices as the total cost of certain defined works, and that therefore no unauthorised deviations, as alluded to by Mr. Kemp, could be included in such progress Certificate; and the Engineers in their progress Report accompanying such Certificate clearly show that no such unauthorised works have been, or could be, included in such Certificates.

13. Messrs. Kemp and Innes, in their letter to you of the 16th ultimo, report that an additional cost of £5000 has been incurred by the Engineers of the Company transmitting to England an order for rails of 72lbs. instead of 65lbs. to the lineal yard, as provided by the schedule of quantities furnished by the Engineers to the Commissioners, upon which they based their Report of the 23rd day of January last, that the line could be opened for a sum not exceeding £350,000. The Engineers, in their memorandum of the 20th ultimo, state that the estimate of quantities so furnished to the Commissioners "was necessarily approximate only at that time, the working drawings not having been commenced."

14. On the 17th July last the Contract with Messrs. Overend and Robb, with the Engineers' estimate of rails, &c. to be imported from abroad, dated the 16th July, were submitted to the Commissioners. In this estimate the weight and cost of rails, which are stated by the Engineers to be computed at 72lbs. to the yard as so ordered from England, is thus given:—

Rails, 5400 tons, at £6 10s. per ton £35,100

In Mr. Kemp's estimate made after the Engineers' said estimate of 16th July last was submitted to the Commissioners, and dated 24th July, the weight and cost of rails, &c. is thus given:—

Rails	4800 tons (65lbs. to the yard)	at £6 10s....	£31,200
Fastenings for ditto	188 "	at £12	2256
Fish plates and bolts	235 "	at £8	1880
Weight	5223 tons	Cost.....	£35,336
Engineers' estimate	5400 "	Cost.....	35,100
Difference in weight	177 tons	Difference in cost ...	£236

15. Upon the said estimates of the Engineers and Mr. Kemp, dated respectively the 16th and 24th of July last, the Commissioners based their second and final Report that the line could be opened for traffic for the sum of £350,000, leaving, according to the estimate of the Engineers, a balance for contingencies of £10,613, and according to the estimate of Mr. Kemp, a balance for contingencies of £12,091 10s. 8d. It is therefore evident that, as the Engineers' estimate of 16th July last embraced the cost of rails at 72lbs. to the yard, no additional cost has been incurred since such estimate was submitted to the Commissioners, and so reported upon by them—"by the Engineers transmitting to England an order for rails" of that weight.

16. As in the correspondence I have now commented upon, as also in other correspondence between the Government, the Company, and the Commissioners, questions have arisen as to the relative positions which they respectively sustain with reference to the Launceston and Western

Railway, I would desire to state, that having read your letter to the Chairman of the Company of the 10th instant, wherein you so clearly state the views which the Government entertain upon this subject, I entirely concur with those views, and shall endeavour, in my capacity as Commissioner, at all times to carry out the same.

I have, &c.,

(Signed) THEODORE BARTLEY.

The Honorable the Colonial Secretary, Hobart Town.

128.

Colonial Secretary's Office, 5th January, 1869.

SIR,

I AM in receipt of your communication of the 15th December last, in which you state your reasons for promptly signing the cheques for the two last monthly certificates furnished to the Contractors by the Engineers of the Company.

As by law the control of the funds for the construction of the Railway is placed in the hands of the Commissioners, I am unwilling in any way to interfere with their discretion, or to express an opinion on the course they may deem it right to take, so long as no payments are made in excess of the Contract price for any item, or on account of works not included in the Contract and which have not been approved by the Governor in Council.

I have, &c.,

(Signed) RICHARD DRY.

T. B. BARTLEY, *Esq.*, *Launceston.*

129.

Launceston, Tasmania, 12th January, 1869.

SIR,

REFERRING to previous communications respecting the cost of the construction, &c., &c. of the Launceston and Western Railway, we have the honor to report that it is now ascertained that the additional cost entailed by the substitution of a 72 lbs. Rail for a 65 lbs. Rail, as previously reported upon by us, together with the extra cost of freight, will amount to £6000 (six thousand pounds). This, added to the extra cost of land, compensation, &c. (as per report furnished to the Board by the Secretary, amounting to £8000 (eight thousand pounds), will absorb the total of the contingent money, and leave a deficit of about £2400 (two thousand four hundred pounds). It will thus be seen that, in the amount raised by the Company, and derived from the sale of Debentures, as provided by the Legislature, there is nothing left to meet the said deficit, or to cover the cost of any deviations or additions to the works for which the sanction of the Executive may now or at any future period be sought.

We have, &c.,

(Signed) { SAML. V. KEMP,
FRED. M. INNES,

Commissioners Launceston and Western Railway.

The Hon. the Colonial Secretary, Hobart Town.

130.

Hobart Town, 30th November, 1868.

SIR,

It will be of material assistance to me, as a Commissioner under the Launceston and Western Railway Act, if you will obtain from the Governments of New South Wales, Victoria, and South Australia the answers of the Principal Engineers in their service to the following questions:—

1. When a bulk-sum Contract is let for the making of a Railway, and the Contractors send in with their Tender a detailed Schedule showing the number of items, quantity, rate, and price of executing each particular work that they have to execute in carrying out their Contract, and such Schedule forms part of their Contract,—Is it customary for an Engineer to a Company, or to the Government, to measure, or to guess at the quantity of earth-works, or any other description of work upon such Railway when in progress, for the purpose of authenticating proper payments to the Contractors? Please state both the English and Colonial practice should there be any difference between the two.

2. When Engineers are in charge, and have the supervision and control for Railway works,—Is it customary for them, when certifying on account of progress payments, to furnish a detailed statement in their certificate showing the approximate quantity of work executed of each item in such progress certificate? What is the English as well as the Colonial practice?

3. If, in the opinion of the Engineer, it is impossible for him to measure a cutting of earthwork when in progress, or to give the approximate quantity of work executed when a progress payment is demanded,—Is it repugnant to usage, or unprofessional, to require that the Engineer should furnish the basis of his calculations, showing how he has arrived at the money-value of each item referred to in his progress certificate?

4. From your knowledge as an Engineer will you give your opinion whether it is or is not possible for an Engineer to measure a cutting of earthwork when in progress, so as to ascertain the proportion of work executed therein?

Permit me to suggest that an *early* reply to these questions is desirable.

I have, &c.,

(Signed) FRED. M. INNES.

The Hon. the Colonial Secretary.

131.

Tasmania,

Colonial Secretary's Office, 30th November, 1868.

SIR,

I HAVE the honor to request that you will have the goodness to cause to be obtained and furnished, for the information of this Government, the answers of the principal Engineers in the service of your Colony to the following questions:—

1. When a bulk-sum Contract is let for the making of a railway, and the Contractors send in with their Tender a detailed Schedule showing the number of items, quantity, and rate, and price of executing each particular work that they have to execute in carrying out their Contract, and such Schedule forms part of their Contract, is it customary for an Engineer to a Company, or to the Government, to measure or to guess at the quantity of earthworks, or any other description of work, upon such railway when in progress for the purpose of authenticating progress payments to the Contractor? Please state both the English and Colonial practice should there be any difference between the two.

2. When Engineers are in charge, and have the supervision and control of railway works, is it customary for them, when certifying on account of progress payments, to furnish a detailed statement in their Certificate showing the approximate quantity of work executed of each item in such Progress Certificate? What is the English as well as the Colonial practice?

3. If, in the opinion of the Engineer, it is impossible for him to measure a cutting of earthwork when in progress, or to give the approximate quantity of work executed when a progress payment is demanded, is it repugnant to usage or unprofessional to require that the Engineer should furnish the basis of his calculations showing how he arrived at the money value of each item referred to in his Progress Certificate?

4. From your knowledge as an Engineer will you give your opinion whether it is or is not possible for an Engineer to measure a cutting of earthwork when in progress so as to ascertain the proportion of work executed thereon?

I have, &c.,

(Signed) RICHARD DRY.

The Hon. the Chief Secretary, Victoria.

132.

South Australia,

Chief Secretary's Office, Adelaide, 22nd December, 1868.

SIR,

I HAVE the honor, by desire of His Excellency Lieutenant-Colonel Hamley, to forward herewith particulars relating to railway contracts, in compliance with the request contained in your letter of the 30th ultimo.

I have, &c.,

(Signed) JOHN V. BAGOT.

The Hon. the Colonial Secretary, Tasmania.

Engineer in Chief's Office, Adelaide, December 21st, 1868.

SIR,

I HAVE the honor to reply to the queries put in a letter addressed by the Chief Secretary of Tasmania to this Government connected with Railway practice in this Colony.

Question 1.—When a bulk-sum Contract is let for the making of a Railway, and the Contractors send in with their Tender a detailed Schedule, showing the number of items, quantity, rate, and price of executing each particular work that they have to execute in carrying out their Contract, and such Schedule forms part of their Contract, is it customary for an Engineer to a Company, or to the Government, to measure or to guess at the quantity of earthwork, or any other description of work upon such Railway when in progress, for the purpose of authenticating proper payments to the Contractors? Please state both the English and Colonial practice, should there be any difference between the two.

Answer 1. It is customary for an Engineer to a Company, or to the Government, to measure the quantity of earthwork, or other description of work when in progress, for the purpose of authenticating proper payments to the Contractors; but there is no necessity for any pretence to accuracy in a bulked-sum Contract, so long as the Engineer satisfies himself that he does not make too large an advance.

The usual mode adopted with Railway Contracts is to have a book containing the quantity of earthwork in each chain of cutting when finished, accurately calculated from the cross sections; and any Engineer can, by identifying the chainage, estimate the amount taken out to a certain finished point: it is usual then to measure the remaining portion, including the gullett. An Engineer who is accustomed to measure railway cuttings can estimate with great exactness the quantities removed at every successive measurement, without having constantly to use the tape. Masonry and other works should be measured. I am not aware of any difference in the English and Colonial practice, excepting that the Colonial practice has a tendency to greater accuracy in measuring up for progress measurements than the English.

Question 2.—When Engineers are in charge, and have the supervision and control of Railway works, is it customary for them, when certifying on account of progress payments, to furnish a detailed statement in their certificate, showing the approximate quantity of work executed of each item in such progress certificate? What is the English as well as the Colonial practice?

Answer 2.—It is not customary in England for the Engineer in charge to furnish a detailed statement for progress payments of the approximate quantity of work executed under each item; but, as far as my experience in these Colonies has afforded me an opportunity of judging, it is customary to furnish the gross quantity under each item.

The Resident Engineer in charge on the ground always furnishes the details to the Head Office, where they are checked. (Regulations issued by this Department forwarded herewith.)

Question 3.—If in the opinion of the Engineer it is impossible for him to measure a cutting of earthwork when in progress, or to give the approximate quantity of work executed when a progress payment is demanded,—Is it repugnant to usage, or unprofessional, to require that the Engineer should furnish the basis of his calculations, showing how he arrived at the money-value of each item referred to in his progress certificate?

Answer 3.—It is certainly not impossible to measure a cutting of earthwork when in progress, and it is quite possible to give the approximate quantity of work executed when a progress payment is demanded; and such measurements are usually made as indicated in Answer No. 1.

It is not repugnant to usage and unprofessional to require an Engineer to furnish the basis of his calculations, showing how he arrived at the money-value of each item referred to in his progress certificate.

Question 4.—From your knowledge as an Engineer, will you give your opinion whether it is or is not possible for an Engineer to measure a cutting of earthwork when in progress, so as to ascertain the proportion of work executed thereon?

Answer 4.—It is possible to measure a cutting of earthwork when in progress to ascertain the proportion of work executed thereon, but it is rarely actually measured with a tape for every progress certificate, especially in a bulk-sum Contract, when such exactness would not be required.

I have, &c.,

(Signed) H. J. MAIS, *Engineer in Chief.*

The Hon. the Commissioner of Public Works.

South Australia,

Engineer in Chief's Office, Adelaide, 1st May, 1867.

GENERAL INSTRUCTIONS TO RESIDENT ENGINEERS.

1. The Resident Engineer will have entire charge of the works over which he may be placed, and will be responsible to the Engineer in Chief for the accuracy of such works, and for the material and workmanship therein being of the quality described in the specifications. All level and field books are to be kept in ink, and on no account in pencil, and must be consecutively numbered and registered.

2. He will have under him, should the magnitude of the works require it, one or more Assistants or Inspectors, who will be appointed by the Commissioner of Public Works, but who will act entirely under his instructions; and he will be held responsible for the proper discharge of their duties by these Inspectors, immediately reporting to the Engineer in Chief any dereliction of duty or incompetency on their part.

3. He shall personally inspect, if possible, every day—and in no case less than once in every two days—every portion of the works under his charge, and shall keep a written record of the result of such inspection.

4. He shall instruct each one of his Assistants or Inspectors to report to him in writing, and in a form approved of by him, upon the progress and quality of the works respectively under their charge, every Monday; and he shall forward copies of these reports, accompanied by a written report from himself, to the Engineer-in-Chief upon the following Wednesday—such report especially setting forth any matters which may require settlement or any arrangements which have to be made by the Engineer in Chief in order to insure the uninterrupted progress of the works; and including lists in details of materials (if any) which have to be supplied by the Government; these reports, and each paragraph thereof respectively, to be properly numbered to facilitate reference. Requisitions are to be sent in along with the monthly accounts, and the quantity of each sort of forms demanded, so that no delay may be caused in furnishing the returns for want of such forms, which can be obtained on application at the office of the Engineer in Chief. He is not to allow any person, except a known authorised officer, to get a copy of or extract from any manuscript, plan, section, or other document relating to the District, without special authority from the Engineer in Chief.

5. Should any matter requiring immediate attention arise, a special report thereon to be at once forwarded to the Engineer in Chief.

6. The Resident Engineer will receive from the Engineer in Chief copies of the contract specification and schedule of prices respectively, working plans, sections, and drawings, and also of Acts of Parliament, and agreements; and he shall allow no deviation from the terms, conditions, prices, materials, or dimensions shown therein without authority in writing from the Engineer in Chief.

7. Except in cases where the absolute safety of the works require immediate steps to be taken, the Resident Engineer shall not give any order for additional works, until he shall have obtained the consent in writing of the Engineer in Chief, and in case of such emergency as aforesaid, he shall obtain the written approval of the Engineer-in-Chief at the earliest opportunity.

8. He shall, together with the contractor's agent, check all measurements for the monthly certificates, and shall obtain the signature of the contractor's agent to all measurements which may be agreed upon between them. He shall also prepare the certificates for the signature of the Engineer-in-Chief, in accordance with the contract.

9. All correspondence shall be properly registered, press copies being kept of all letters dispatched upon the business of the Department. All notices to contractors and others to be in writing.

10. The general duties of the Resident Engineer will be as follows:—

To set out the centre line of the works.

To set out the side widths.

To furnish to the Engineer in Chief plans and lists, showing the position and quantity of land required for the works, for side cutting, spoil, or ballast, or for temporary purposes; such lists also giving dates at which the respective portions of land will be required.

To arrange with the contractor's agent a detailed mode of carrying on the works, so as to ensure, as far as possible, their being simultaneously completed, to avoid all unnecessary expense, and to properly proportion the quantity of material to be delivered on the works, from time to time, either by the contractor or the Government, to the rate of progress of the works.

To set out the several works in detail, in accordance with the drawings.

To carefully examine all drawings which he may receive, either from the Engineer in Chief or others, and to compare their dimensions with the setting out on the ground.

To report to the Engineer in Chief any discrepancy or omission in the drawings, or any alteration therein, which he may think advisable, either by increasing or diminishing the quantity of the work shown thereon.

To ensure the necessary compliance with the provisions of the agreement, or Acts of Parliament, and the submission to the proper authority of all designs requiring approval.

To keep an accurate register of the depths of all foundations below formation level, together with the notes as to the quality of such foundations.

To assure himself of the sufficient strength of all centres, scaffolds, coffer-dams, and other temporary expedients used in carrying out the works; and in all cases where the cost of such temporary works has to be borne by the Government, to take care that no unnecessary quantity of material is used.

To inspect and approve all foundations of abutments, piers, retaining or wing-walls, or other important works, before the work is commenced thereon, and to record the date of such approval.

To keep daily measurements of all works, underground or otherwise, likely to be afterwards inaccessible, and daily accounts of all day work, and, if possible, to agree upon such measurements and day work with the contractor's agent at the time.

To check the day work accounts, which are to be rendered weekly.

To superintend the striking of all centres, or other operations requiring especial care.

To measure up the whole of the works on of the month, and prepare a certificate in such form as the contract shall direct, together with a statement and plan, and section, if necessary, showing progress made during the month, for the information of the Engineer in Chief.

To arrange, subject to the approval of the Engineer in Chief, all temporary or permanent accommodation or drainage works, with the owners or occupiers of the various lands in which the works may be situated, unless otherwise instructed; and to see that, unless otherwise arranged, the land required for the works is properly fenced off before the work is commenced, and that all trespass and annoyance to the occupiers of the adjoining land is avoided.

To examine the permanent way and all materials brought upon the works, and to assure himself that such materials have been properly passed and marked by the Government Inspector.

To submit, for the information of the Engineer in Chief, a system of drainage to be carried out throughout the works, wherever necessary.

To arrange for the marking of all permanent or temporary piles paid for by the Government before they are driven, and to prove the limit of resistance before such piles are cut off. A proper record must be filed in the office of all works of this description for future reference.

To weigh, if necessary, at the contractor's expense, all ironwork, including permanent way materials, which may be brought upon the works, and to keep accurate lists thereof.

To prepare, upon the basis of the working drawings, all sketches of minor details which may be required for the works.

To see (except upon special emergency) that no works are, upon any pretext, carried on upon Sunday.

To assure himself that proper arrangements are made for the welfare and comfort of the men employed upon the works.

To set out the centres for the permanent way and for crossings, and to take especial care that all curves are properly joined up with the straight portions of the way.

H. C. MAIS, *Engineer in Chief.*

SETTING OUT.

1. The site of the works to be carefully examined before the works are set out, and the excavation and embankment, as far as possible, balanced; all unnecessary severance of lands to be avoided.

2. The levels for the working sections to be taken at every chain upon the centre-pegs, and at every ditch, or road, or undulation of the ground. Cross sections to be taken at every two chains on sidelong ground, and at every road or railway crossed or otherwise affected by the works. Permanent bench-marks to be established at every twenty chains, and all levels to be checked before being sent in for plotting. No variation exceeding one-twentieth of a foot between two bench-marks will be passed.

3. The straight portions of the works to be set out by a theodolite, and to be checked back before being passed.

4. The commencement and termination of all curves to be marked by three pegs—one upright, and two slanting—and also by two permanent pegs set out clear of the works at right angles to and on either side of the tangent—a record of their position being kept. The intersection of the tangent, or some point on each tangent clear of the works, to be also marked by permanent pegs, and a record kept of their position. The curves to be set out by the theodolite and chain, and checked back; no error of more than one inch in the position of the pegs to be passed.

5. A standard chain chain-length to be carefully set out and permanently marked at some convenient point, and every chain used upon the works to be tested at least once a day.

6. Borings to be taken every ten chains upon the site of all cuttings exceeding ten feet in depth, and upon the site of embankment and other places where considered necessary; the result of these borings to be carefully recorded in a book kept for that purpose, and proper samples kept of the various materials passed through, together with lists of the slopes proposed in each case to be adopted, to be submitted to the Engineer in Chief for his approval.

7. The side width to be then set out in the usual way, with proper allowance for sidelong ground.

8. The scales to the inch recommended for the working sections are for country works—four chains horizontal, and twenty feet vertical.

9. The formation levels of the works to be constantly checked from the bench-marks, due allowance being made for settlement in embankments, and care to be taken to retain the centre pegs as long as possible.

10. The Resident Engineer is to check personally the setting out of all important works, and to so arrange the pegs that they may not be disturbed during the progress of the works. Their position must also be marked upon the working drawings.

11. In setting out the lines for skew arches, both for the face of the bricks, face stones, skew-backs, and spiral courses, the development must be taken from a line intermediate between the intrados and extrados of the arch.

FENCING AND EARTHWORK.

12. No work should be commenced upon the private lands until the land to be used for the works has been properly fenced in, and the Resident Engineer should see to the same being placed in proper line, and as far as possible protect all adjoining lands from trespass or injury; and proper means of communication must be kept up between adjoining properties of the same owner, and to carry on the natural drainage.

13. The soil or turf for a spade deep should be carefully laid aside from the site of the cuttings and embankments, to cover the slopes.

14. The following precautions should be carefully observed in carrying out the earthworks :—

15. To make proper allowance for the subsidence of embankments—which can only be ascertained by experiment in each case.

16. To drain away, where practicable, all water which would find its way into the cuttings, and to carry out efficient drainage throughout the works.

17. To round off the formation from the centre to the sides, and to so arrange the gradients that there may be no lodgment of water in any part of the works.

18. To pun the earth behind the wing-walls and abutments, when required by the Engineer in chief, before the tip is allowed to approach thereto.

19. To bench all steep sidelong ground before forming an embankment thereon.

20. To form an embankment to its full width at once, so as to avoid the necessity of future additions to the sides thereof.
21. To exclude from the embankments, as far as possible, all soft, peaty, or semi-liquid matter which might cause slips, especially at the foot of the slopes.
22. In excavating for foundations, care must be taken not to allow the excavation to be larger than the dimensions of the concrete or brickwork.

BRICKWORK, CONCRETE, AND MASONRY.

23. All bricks should be inspected upon their arrival as to their soundness, both by ringing them together and by breaking samples of them. Bricks which, on their arrival at the works, have their edges much chipped, are evidently not of good quality.

24. The greatest care must be taken upon the following points:—

25. That the lime used for the mortar is of good quality; that the mortar is thoroughly mixed in a pug-mill or otherwise, as specified, and used fresh—the use of too much water being avoided, as it drowns the lime and weakens it.

26. That the courses are well and truly laid, and properly grouted as specified, and neatly pointed with a drawn joint.

27. That no joint of mortar exceeds one-fourth of an inch in thickness.

28. That no brickwork is proceeded with in frosty weather.

29. That as few bats as possible are used, and none as headers; and that, in backing, &c. the whole are flushed up with mortar.

30. That the bricks are properly wetted as used.

31. Especial care must be taken to ensure the rings of all arches being properly laid and bonded together, in mortar or cement, as specified; and in case of skew arches, that the spiral lines are properly adhered to, and the face bricks well and truly cut.

32. Footings must each be two bricks, or six inches thick, with a quarter-brick, or two and a quarter-inch projection.

33. The concrete must be mixed dry, as specified, and wetted just before being used, and must be thrown into the foundations from a height of at least six feet, and formed solid, in layers not exceeding twelve inches in thickness.

34. The several materials may be safely loaded as follows:—

Concrete in mortar,	6 tons per sup. foot.
Ditto ditto cement,	10 "
Brickwork in mortar,	6 "
Ditto ditto cement,	8 "

35. Concrete must not project beyond the superstructure built upon it for a distance greater than half its thickness.

WROUGHT AND CAST-IRON WORK.

36. In calculating the strain upon structures carrying the railway, the rolling-load must be estimated as if the whole bridge were filled with locomotives; and in structures carrying roads, the rolling-load must be taken at eighty pounds per superficial foot.

37. Then for cast-iron work:—Three times the permanent load, added to six times the rolling-load=the distributed breaking weight of the structure.

Then w =breaking weight of one girder in the centre, in tons.

a =area of bottom flange, in inches.

d =depth in inches.

l =span in inches.

$$\text{then } w = \frac{a \times d \times 25}{l} \text{ where the load is in the centre, and } w = \frac{a \times d \times 50}{l} \text{ where load is distributed.}$$

38. Cast-iron girders should not be used, as an ordinary rule, for spans over forty feet.

39. Plate girders should be used for spans from 30 to 100 feet. Lattice or bowstring girders cannot be economically used for spans of less than 100 feet.

40. The greatest strains that can be brought upon the tables of a wrought-iron girder must not exceed five tons per sectional inch; and where acting by tension, allowance must be made for rivets.

41. All ironwork must be carefully examined on arrival, in order that all imperfect or rough castings, plugged holes, or badly-built wrought ironwork may be detected.

42. Cast-iron work should be tested twice to one-half its breaking weight.

43. If the deflection be too great, the work should be carefully sounded all over with a hammer, by which means a flaw may readily be detected.

44. A sectional inch of wrought-iron, when in tension, should not have more permanent set than 1-40th of an inch for every 12 feet of length with 10 tons, nor break with less than 20 tons; or a bar, 3 feet 3 inches long, 1 inch wide, and 2 inches deep, placed edgewise on supports 3 feet apart, should not break with a less load than 3000 lbs.

45. Wrought-iron, in tension in roofs, may be loaded to a maximum of seven and a half tons per sectional inch.

46. On no account are crowbars to be inserted in any of the holes in the ironwork for bridges or other structures, either in moving the same about, setting them in their place, or for other purposes.

PERMANENT WAY.

47. Before laying the permanent way, the centre line is to be set out on the formation, and great care is to be taken with the straight line and curves to have them well and truly laid.

48. Pegs driven to the rail level should be placed at every chain and change of gradient along the formation.

49. The following points require attention:—

50. That the rails are straight.

51. That the fishplates and fastenings fit tightly and well.

52. That the rails are laid truly to gauge.

53. That a proper super-elevation be given to the exterior rail on all curves.

54. That proper allowance is made for expansion—viz., not less than 1-8th of an inch per rail of fifteen feet in length.

55. That the rails or chairs be properly upon the sleepers.

56. That the rails have a true inclination inwards of 1 in 20.

57. That all holes for trenails, spikes, &c., are bored truly vertical.

58. That the sleepers are properly spaced and laid square with the line.

59. That the ballast is properly packed underneath the sleepers, opened out intermediately for drainage, and left slack underneath the centre of each cross sleeper.

60. That the permanent way is laid at the level shown on the section, and left with a good top and properly straitened.

61. That all materials that are injured may be replaced, and, to avoid this as far as possible, that the road is kept in good order while ballasting is being carried on.

62. That unless specially ordered, no rails or sleepers are received which have not been purchased by the Government, and which have not been passed by the Government Inspector.

63. That all rails and sleepers not laid are properly stacked, and all fishplates and fastenings stored, to protect them from the weather.

64. That the permanent way is thoroughly cleared of water by drains, and in no case, where it can be avoided, less than three feet below rain level.

TIMBER WORK AND PILING.

65. Timber, for use in large scantlings, should be straight grained, and free from knots and ringshakes.

66. For piles, whole sticks should be used, as if they are cut from timber of large dimensions they are apt to split in driving.

67. Sheet piles should be fitted together before driving, as otherwise they will never fit afterwards.

68. Care should be taken that the pile shoes are driven perfectly home. They may be either wrought or cast-iron, according to the nature of the material through which they are to pass, and should not be of less weight than twenty pounds each.

69. All piles should be rung.

70. Piles should be driven until they will not go more than a quarter of an inch at a blow with a twenty cwt. monkey, falling ten feet.

H. C. MAIS, *Engineer in Chief.*

Adelaide, May 1st, 1867.

FORM OF LETTER-BOOK.

RECEIVED.

Serial Number.	Pigeon-hole.	Date.		From whom.	Whence.	Abstract of Contents.

DISPATCHED.

Serial Number.	Pigeon-hole.	To whom.	Whither.	Date.		Abstract of Contents.

FORM OF CERTIFICATE.

[Insert name of Railway.]

MEASUREMENTS for Month ending

Division No.

Section No.

Certificate No.

No. in Schedule.	Quantity.	Description.	Rate.	Amount.			Total.		
				£	s.	d.	£	s.	d.

FORM OF MONTHLY REPORT.

Sheet No.

[Insert name of Railway and name of Work.]

(Designation taken from specification, thus) :—

Fencing

Brickwork

&c., &c.

SPECIAL INSTRUCTIONS TO RESIDENT ENGINEERS.

Engineer in Chief's Office, Public Works Department, Adelaide, July 1st, 1867.

1. Resident Engineers are hereby specially requested to furnish to their Clerks of Works such departmental measurement and other books, as may be required for the efficient conduct of their business, from time to time.

2. Resident Engineers will take a receipt for any and every book thus furnished to their Clerk of Works as they are issued, inserting therein the number and kind of book, the receipt for which will be held in charge and duly filed by the Resident Engineers.

3. Resident Engineers are to assure themselves that the General Instructions issued to Clerks of Works, and bearing the above date, are rigidly carried out in every particular that it is possible so to do, and they are enjoined to enforce the stipulations contained in clause 6 of these instructions, and no excuse can be entertained for any departure from this most important regulation.

4. Resident Engineers are specially requested to satisfy themselves by personal inspection of the quantity and quality of any works that will ultimately become inaccessible, or that are underground, before they are covered up, and in all such cases it is of the utmost importance that daily records should be made by Clerks of Works in their measurement books, and upon their copies of the contract drawings, of the amount and date of the work so executed; and, where practicable, the signature of the Contractor or his authorised agent should be obtained to all measurements of works liable to be ultimately inaccessible previous to the work being so covered up.

5. Resident Engineers are requested to see that the various measurements are carefully and properly entered in the books by Clerks of Works; and Resident Engineers are enjoined to report immediately to the Engineer in Chief any incompetency or negligence exhibited by Clerks of Works in this particular, as no deviation from the instructions above referred to will be permitted under any circumstances.

6. Resident Engineers are required to take every precaution in measuring up work for the progress certificates to contractors, and they will frequently during the progress of the works satisfy themselves that their own previous measurements, as well as those of their Clerks of Works, are correct, in order to prevent any overpayment to the contractors on any item of their contract; and they must, moreover, frequently compare their measurements and

those of the Clerks of Works with the measurements obtainable from the contract drawings, especially noting the quantity and quality of any extra work which may have been ordered, in writing, by the Engineer in Chief, the measurements of which must be kept totally distinct from the original contract when any given amount of work is contracted for.

7. The General Conditions of Contract, recently printed and attached to the specifications, are to be enforced where necessary to do so; and any departure therefrom by the contractor is to be immediately notified to the Engineer in Chief.

8. No erasures by knife or other means will be allowed, nor shall any leaves be torn out from any measurement-book, level-book, or other document relating to this department; but any errors made in noting a measurement shall be cancelled by drawing a pen through the item wrongly entered and endorsed accordingly.

9. Special attention is also drawn to the last paragraph of clause 1 of the GENERAL INSTRUCTIONS issued to Resident Engineers, bearing date May 1st, 1867.

10. Resident Engineers are requested to obtain in writing from the various contractors the names of any agents, or other persons authorised to act on their behalf, who will represent the contractors upon the contract during their absence, and who have authority to sign to any measurements and other documents on behalf of the said contractors.

It is essential that this be done, to carry into effect the regulations contained in clause 4 of these instructions.

11. All measurements made must be entered in the measurement books issued for this purpose, and each page must be commenced with the number of the measurement or certificate, the date on which the measurement was made, and the names of the parties present during such measurement.

12. All measurements of earthwork for progress payments must be made with a decimal tape; and no final measurement shall be made until the levels of such work are verified with the instrument, and that the works are executed in conformity with the contract.

13. The site of all side-cuttings shall be carefully levelled at every half chain, both longitudinally and transversely, before any excavation is commenced; and the same precaution shall be taken before finally measuring such side-cuttings, by levelling the surface of the excavated ground at points immediately beneath those levelled over the original surface. The height of any boys left for temporary measurements, or to preserve the original pegs, shall not be depended upon as giving a correct result; but the mode indicated above—namely, by testing the levels of the original and excavated surfaces, and ascertaining the heights by deducting the one from the other.

14. Permanent bench-marks must be made adjacent to every bridge or other structure to facilitate reference, and the heights of various courses of masonry or brick-work taken with the level with reference to the permanent bench-mark and transferred to the drawings.

15. In setting out permanent centre lines of railway pegs, not less than two inches square must be driven into the ground immediately behind the level-pegs (which are flush with the ground), and numbered consecutively with steel stamps or figures denoting thereon the proper chainage of the line. The space between these chain-pegs shall then be nicked out with a spade over the centre line, and a turf left undisturbed round each level peg.

16. Resident Engineers are required to take charge of all measurement books as they are filled up, and to forward them to the Engineer in Chief's Office as soon as they can be dispensed with upon the works.

17. Resident Engineers will furnish to each Clerk of Works under his charge a copy of the "General Instructions" to Clerks of Works, for which they will give a receipt as a guarantee that they have received the instructions.

18. These regulations are to be considered as supplementary to those issued on the 1st May, 1867, and do not in any way cancel them.

H. C. MAIS, *Engineer in Chief.*

133.

Victoria,
Chief Secretary's Office, Melbourne, 24th December, 1868.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 30th ultimo, requesting certain information in connection with Contracts for the construction of Railways.

In reply, I transmit to you the accompanying copy of a Memorandum received from the Engineer-in-Chief of the Victorian Railways.

I have, &c.,

(Signed) JAMES M'CULLOCH.

The Hon. the Colonial Secretary, Tasmania.

(Copy.)

*Engineer-in-Chief's Office, Railway Department,
Melbourne, 10th December, 1868.*

MEMO.

I BEG most respectfully to urge that I ought not to be asked to give replies to the questions asked by Sir R. Dry. They have reference, I presume, to differences of opinion that may have arisen between the Government of Tasmania and the Engineer employed on the Railway Works there; and if I were to give an opinion on these, at the request of one of the parties, I should be doing what is contrary to all professional usage. I am not Consulting Engineer to the Tasmanian Government, nor in any way connected with the Railway Works that are being carried on there. It would, therefore, I submit, be unreasonable to require me to give an opinion on any question that may arise in connection with these Works, and would entail a responsibility that might prove embarrassing hereafter.

(Signed)

T. HIGINBOTHAM, *Engineer-in-Chief.*J. STEVENSON, *Esq., Acting Secretary for Railways.*

134.

*Colonial Secretary's Office, Sydney,
New South Wales, 16th February, 1869.*

SIR,

IN reply to your letter of the 30th November last, I have the honor to enclose herewith copy of a Memorandum by the Engineer-in-Chief of the Railway Branch of the Public Works Department of this Colony, containing his answers to the several questions propounded by you on the subject of Contracts for Railway Construction, and which this Government deemed it proper to furnish to you as desired, notwithstanding that it appeared to their professional officer a departure from professional etiquette to do so.

I have, &c.,

(Signed)

JOHN ROBERTSON.

The Hon. the Colonial Secretary of Tasmania.

(Copy.)

*Department of Public Works, Railway Branch, Engineer's Office,
Sydney, 8th February, 1869.*

MINUTE PAPER.

SUBJECT—INFORMATION FOR THE TASMANIAN GOVERNMENT.

HAVING had an interview with the Honorable the Colonial Secretary, I now give the following answers to the questions submitted by the Tasmanian Government.

I, however, still consider that to give information in this manner is infringing on the strict rules of professional etiquette.

1. It matters little, whether the Contract be for a lump sum, or the work has to be performed on a schedule of prices, in what manner the amount of Certificate is arrived at.

The Engineer may, for his own satisfaction, measure the works, and then certify to the Government that a certain amount is due to the Contractor,—withholding, at the same time, the details upon which he has framed his Certificate.

It is not assumed that an Engineer would guess at the amount of work done; but, knowing the quantities in the cuttings or in the bridges, he may, from the working sections and drawings, arrive with tolerable accuracy at the proportion of work executed, and on this give a Certificate. Should, however, the Government desire to have the details before passing the Certificate, they should be given.

In this Colony all details are given with every Certificate; but this is not the invariable practice in England.

2. This is answered in No. 1.

3. It is not impossible to measure any works in progress with sufficient accuracy to justify the giving of a certificate; and it is not unprofessional to require the Engineer to "furnish the basis of his calculations, to show how he arrived at the money value of each item referred to in his Certificate."

4. This question is answered in No. 3.

(Signed)

JOHN WHITTON.

33

135.

Colonial Secretary's Office, 5th March, 1869.

SIR,

REFERRING to your Letter of the 30th November last, I have now the honor to forward the accompanying documents received from the Governments of Victoria, New South Wales, and South Australia, having reference to Railway Contracts.

I have, &c.,

(Signed)

B. T. SOLLY.

The Hon. F. M. INNES, Esq., M.L.C.

136.

*Launceston and Western Railway Company, Limited,
Launceston, 10th March, 1869.*

SIR,

THE Directors have been informed that you are in possession of Engineering opinions from some of the professional men in the service of the neighbouring Governments on the question of their practice in the matter of certificates to Contractors.

I have the honor to beg that you will be pleased to give instructions for copies being forwarded for the information of the Directors : and as early as possible.

Yours very faithfully,

(Signed)

H. DOWLING, *Secretary,*

The Hon. the Colonial Secretary, Hobart Town.

137.

Colonial Secretary's Office, 11th March, 1869.

SIR,

I HAVE the honor to forward for your perusal the accompanying copy of a communication received from the Secretary to the Launceston and Western Railway Company, with the request that you will enable me to supply the information therein desired.

I have, &c.,

(Signed)

RICHARD DRY.

The Hon. F. M. INNES, Esq., M.L.C.

138.

Railway Commissioners' Office, Launceston, 13th March, 1869.

SIR,

I HAVE the honor to acknowledge your Letter of the 11th instant, with the enclosure from Mr. Dowling, and in reply beg to remind you that some time since my two colleagues, as Commissioners under "The Launceston and Western Railway Act," were at issue with each other as to the form in which the Company's Engineer should furnish certificates with the Monthly Accounts of the Contractors, Messrs. Overend & Robb, and that the question being purely one of professional practice I was unable to decide between them. In these circumstances, from a desire that neither the Contractors nor the Company should be prejudiced, I consented to give the second signature required by law on the part of the Commissioners to the cheques in favour of the Contractors, or such certificate as Mr. Doyne contended, and the majority of the Directors seemed to consider, was enough. But, lest in so doing I was in error, I intimated that my signature would be given only until such time as the proper course in such matters was authoritatively ascertained, when, of course, I should be at liberty to act in the interests of the public as the rules enforced in other Colonies where Railways have been constructed might indicate to be right. And in order to possess myself of reliable information for my guidance as a Commissioner, I addressed you certain questions to which I solicited that you would obtain replies from the Chief Engineers in the service of the Governments of Victoria, South Australia, and New South Wales. I did not acquaint the Company with the fact of my having taken this step ; first, because my relations to the Company placed me under no obligation to do so ; but, secondly and more decidedly I did not do so, because

I felt that my object would thus in all probability be defeated. It is undeniable that professional men shrink from giving opinions which are liable to compromise each other, and in the present instance it is demonstrated by the fact that the Government Engineer in Victoria declined to give the information sought, in answer to the very plain and matter of fact questions put to him, while the Engineer in New South Wales at first refused, and only yielded when his Government insisted on his doing so.

The several replies I received at your office on Friday afternoon, and having reached this on Monday night, I laid them before my colleagues on Tuesday forenoon, and attended the meeting of the Directory of the Company in the afternoon to read them there; but as the sitting was a protracted one, I intimated only then that I would read them at the next Tuesday's meeting. No objection was raised, and a minute was made of my intention in the usual manner. No instruction was given to Mr. Henry Dowling to interpose between the notice of my intention and its execution by applying to you for the documents; no wish of the kind was expressed by any one present, and his proceeding in addressing you to the effect he has done, if it have the concurrence of any of the Directors after private consultation with him, certainly was not authorised in the usual and regular manner.

(Signed) I have, &c.,

FRED. M. INNES.

The Honorable the Colonial Secretary.

If after the above explanation it appears to you expedient to comply with Mr. Dowling's request, so as in effect to forestal me in the notice which I have given for the next meeting of the Directory, I shall copy the lengthy documents as expeditiously as I can and furnish you with the originals. But to-day I am unable to do anything towards the task, as the papers are in Mr. Kemp's hands at his private residence at St. Leonard's.

139.

Colonial Secretary's Office, 13th March, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of yesterday's date, and in reply to inform you that the Government are perfectly satisfied with the course you adopted with reference to the letters received from the Governments of the other Colonies in reply to the queries addressed to them respecting the nature of the certificates required in connexion with payments to be made for work done on Railways in course of construction; and there appears no necessity for supplying Mr. Dowling, the Secretary, with copies of the documents referred to before the meeting of the Directory on Tuesday next.

I have, &c.,

(Signed) RICHARD DRY.

The Hon. F. M. INNES, Esq., M.L.C.

140.

Colonial Secretary's Office, 13th March, 1869.

SIR,

WITH reference to your application for copies of the communications received from the other Colonies respecting the certificates usually required in connexion with the payments to be made for work done on Railways in course of construction, I have the honor to inform you, that by a letter received from Mr. Innes it appears he intended to produce the correspondence referred to on Tuesday last at the meeting of the Board of Directors, but that owing to the protracted nature of the sitting he intimated that he would read them at the next Tuesday's meeting.

Under these circumstances the Government cannot see any necessity for the documents being copied and placed in your hands at an earlier date.

I have, &c.,

(Signed)

RICHARD DRY.

H. DOWLING, Esq., Secretary Launceston and Western Railway Company.

141.

*Launceston and Western Railway Company, Limited,
Launceston, 15th March, 1869.*

SIR,

I AM in receipt of your letter of the 13th, in answer to my application for copies of certain papers obtained from the adjoining Colonies with reference to Railway practice, and stating that, from a letter received by you from Mr. Innes, it appears that at the last meeting of the Directors he had intimated that he would read them at their next meeting; and that, under these circumstances, you say, the Government cannot see any necessity for the documents being copied and placed in my hands at an earlier date.

I agree with the view thus expressed, seeing that the papers I requested were not supplied by return of post; but could they have been so furnished, the business of the Board would have been facilitated.

I desire to explain that Mr. Innes, on giving notice of his intention so to read these papers, declined to place them on the table of the Board, and it became my duty to ask you for copies; and had these been supplied at once, it would have facilitated their consideration on Board day. As it is, the office records of the Company will be complete when Mr. Innes has read them, and allowed them to be copied for the use of the Board.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Honorable the Colonial Secretary, Hobart Town.

142.

Municipal Chambers, Longford, 14th December, 1868.

SIR,

I HAVE the honor to call your attention to the accompanying letter from the Secretary of the Launceston and Western Railway Company, and to request to be informed if the Government will sanction the sale of the land therein referred to by the Longford Municipal Council.

I also forward for your information the Report of a Committee of the Council formed to enquire into the subject. I have to request that the documents may be returned.

I have, &c.,

(Signed) GEORGE GIBSON, *Warden.*

The Hon. the Colonial Secretary.

143.

Colonial Secretary's Office, 15th December, 1868.

SIR,

I HAVE the honor, by direction of the Colonial Secretary, to acknowledge the receipt of your letter of yesterday's date, requesting to be informed if the Government will sanction the sale of certain land belonging to the Municipality to the Launceston and Western Railway Company.

The Colonial Secretary desires me to say in reply, that he will have no objection to submit for the favourable consideration of the Governor in Council that the power of sale of the area referred to should be granted to the Municipal Council, should such be the expressed desire of that body.

I have, &c.,

(Signed) B. T. SOLLY.

GEORGE GIBSON, *Esq., Warden, Longford.*

P.S.—In accordance with your request I beg to return the enclosures to your letter.—B.T.S.

144.

Railway Commissioners' Office, Launceston, 17th December, 1868.

SIR,

I HAVE the honor to report, for the information of the Governor in Council, that the cost of land required for the Launceston and Western Railway will very far exceed the amount provided in the respective Estimates of the Engineers of the Company and of Mr. Kemp, the professional Commissioner,—in both of which the land and compensation are provided for at £5000. I think it due to Mr. Kemp to state, that he was disposed to set this item down at a much larger amount, which would, of course, have reduced proportionally the balance of £12,091 10s. 8d. left upon his estimate for contingencies; but, upon his referring the question of cost to me, as having more Colonial experience as to the value of land, I gave it as my decided opinion that the sum of £5000, as estimated by the Company, being upwards of £12 per acre throughout the whole line, would be amply sufficient; and Mr. Kemp reduced his estimate in deference to such opinion. In giving such decided opinion for his guidance, I can only say, I was influenced by the knowledge that such a price was far above the marketable or actual value of the land; and I had no conception that such large amounts would have been demanded, and, in many instances of reference, awarded for compensation for severance, inconvenience, &c.

I will forward a reliable estimate of the whole cost for land, compensation, and legal expenses attendant thereon as early as I can. In the meantime I would state the following as an approximate estimate of same:—

	£
Purchase of land.....	5000
Compensation for severance, inconvenience, &c.	5000
Compensation for crops on same.....	600
Law costs and References	1400
	<hr/>
Say—	12,000
In Mr. Kemp's estimate of July last, and upon which the Commissioners based their second and final Report of 24th July, the amount estimated for land and compensation is given at.....	5000
And legal costs and arbitrations are provided for in the balance on such estimate, set down for contingencies, say.....	1400
	<hr/>
	6400
Amount of cost beyond estimate, including £600 for crops, not originally calculated upon.....	£5,600
	<hr/>

Had not the usual legal forms of arbitration been avoided, and any matter of difference between myself and the landowner been settled by a mutual reference to some third party agreed upon between us, the law costs would have involved a very much larger amount than that above estimated.

I have, &c.,

(Signed) THEODORE BARTLEY.

The Hon. the Colonial Secretary, Hobart Town.

145.

Railway Commissioners' Office, Launceston, 17th December, 1868.

SIR,

I BEG to bring under the notice of the Government that the amount already paid for land required for the Launceston and Western Railway, together with compensation and law charges, has already amounted to £5200; and I further beg to inform you that agreements have been necessarily entered into for the purchase of nearly the whole of the remainder of the lands so required, and which must be immediately paid for, and which will amount to nearly £7000 more,—making the total cost of such lands, compensation, and law costs amount to £12,000 (Twelve thousand Pounds).

In the estimates upon which my report of the 24th July last were based, the sum of £5000 was set down for land and compensation. The large claims allowed for severance, &c. has swelled the sum to the amount already stated above.

May I, in the meantime, request the favour of your advising me, with the least possible delay, what course the Government consider I ought to adopt to meet this extra payment which is unavoidable?

I have, &c.,

(Signed) SAML. V. KEMP, *Commissioner Launceston and Western Railway.*

The Hon. the Colonial Secretary, Hobart Town.

146.

*Launceston and Western Railway Company, Limited,
Launceston, 23rd December, 1868.*

SIR,

I HAVE the honor to advise you that the purchase of lands required by this Company, the compensation to be paid to owners and their tenants for growing crops, have been now so far ascertained, that I am in a position to report, for the information of the Governor in Council, a fair approximate estimate of the gross amount of money which will be required under these heads of expenditure.

This amount exceeds considerably the estimate which the original Promoters reported from time to time to Parliament, and which estimate the Directors adopted when calculating the cost of construction in July last. The actual cost of acreage taken is, perhaps, within that estimate; but the large claims made, and allowed, for "severance" and "inconvenience" have swelled the sum to its present proportions.

The settlements already made, many of them on reference, amount to £8382; and applying the average rate of these payments to remaining cases, £2190 will have to be provided for the payment of these. Tenants have been paid for growing crops £689; a total sum together of £11,261. The law costs, judging by the test of those already paid, will be £1500; and other expenses will probably bring the total sum to £13,500.

The amount of claims for land and compensation exceed £17,000; and should the unsettled portions be of the value of the sums put down by the valuator, will reach at least £18,400: so that the actual sum paid will, large as it will be, really be most satisfactory.

Under these circumstances, and looking to the extra works in some of the cuttings, arising from the unexpected unfavourable nature of the soil developed by the excavations now in progress, it is my intention to submit to the early consideration of the Directors the raising of the remaining capital of the Company, or a portion thereof, in order that funds may be provided for replacing such portions of the £350,000 as may be expended, under the sanction of His Excellency in Council, for lands or for extra works.

I shall have the honor of further advising you of the result of the deliberations of the Directors on this question at a future day.

I have, &c.,

(Signed) H. DOWLING.

The Hon. the Colonial Secretary, Hobart Town.

147.

Colonial Secretary's Office, 5th January, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your Report, dated 17th December, 1868, on the cost for land compensations and law incurred by the Launceston and Western Railway Company. These charges, I regret to find, are considerably in excess of the estimate on which the Commissioners based their Report that the Line could be opened for £350,000.

I have, &c.,

(Signed)

RICHARD DRY.

T. B. BARTLEY, Esq., Launceston.

148.

*Launceston and Western Railway Company, Limited,
Launceston, 9th December, 1868.*

SIR,

I HAVE the honor to report, for the information of His Excellency the Governor in Council, in pursuance of the provisions of "The Launceston and Western Railway Act, No. 2," that the Engineers of the Company have reported to the Directors that the excavations now in progress have made it evident that, from the nature of the soil, some of the cuttings will not stand at the proposed slope of a $\frac{1}{2}$ to 1, and that it will be necessary to flatten some of them, in the whole or in part, to $1\frac{1}{2}$ to 1; and that these will have to be soiled and sown with grass. They further report that the subject requires considerable study and deliberation; and that, at present, it will be impossible to say more, as regards cost, than to express the very general opinion that this will come within the sum put down as contingencies.

As these additional cuttings have not been provided for in the contract submitted to the Commissioners in July last—excepting so far as the rate at which the Company can claim to have them done, under the 5th Clause of the General Conditions,—I have the honor to beg that His Excellency the Governor in Council may be moved to grant permission for such additional slopes to be executed.

Meantime, I have the honor to add, that the Contractors have been instructed not to allow any risk to life or limb of the workmen, wherever the defective nature of the cutting appears to expose them to this risk, but in any such case to have the slope flattened at once; and in this very humane precaution I feel assured His Excellency the Governor will be pleased to concur.

I have, &c.,
(Signed) H. DOWLING, *Secretary.*

The Hon. the Colonial Secretary, Hobart Town.

149.

Colonial Secretary's Office, 15th December, 1868.

SIR,

I HEREWITH transmit a copy of a letter from the Secretary of the Launceston and Western Railway Company with reference to certain proposed deviations from the contract.

You will oblige me by stating whether, in your opinion, these deviations are necessary; and by making an approximate estimate, with as little delay as possible, of the extra expenditure they will cause.

I have, &c.,
(Signed) RICHARD DRY.

S. V. KEMP, *Esq., Launceston.*

150.

Railway Commissioners' Office, Launceston, 14th December, 1868.

SIR,

WE have the honor to forward herewith, for the information and consideration of the Government, copies of the Engineers' Progress Reports, of dates of the 2nd and 27th ultimo; and copies of the Secretary's letter to the Engineers of the 4th instant, and of their reply of the 5th instant; and we beg to state that we are not in a position definitely to report thereon until we are furnished with more detailed and precise information, showing the quantities of the extra works to be performed in the alteration of the slopes, referred to in such documents, and the actual rates at which such works are to be executed.

The peculiarity of the material excavated in some of the cuttings has proved, beyond doubt, that the slopes of such cuttings will not stand at the inclination provided for on the Contract. It is, therefore, necessary that they should be flattened, but the precise angles at which such slopes will stand involves differences of opinion.

We have, &c.,
(Signed) SAML. V. KEMP,
THEODORE BARTLEY, } *Commissioners under the Launceston*
FRED. M. INNES, } *and Western Railway Acts.*

The Hon. the Colonial Secretary, Hobart Town.

(Copy.)

*Launceston and Western Railway, Engineers' Office,
2nd November, 1868.*

PROGRESS REPORT: accompanying Certificate No. 2. (Contract No. 1.)

As shown by the Certificate the earthworks are at present the principal items in progress, and we consider that the Contractors are executing these in a satisfactory manner. The greater portion of the embankments and cuttings between the 4-mile and 8-mile pegs has been brought as near to completion as is at present desirable. Some of the larger cuttings beyond that point are making satisfactory progress, and we believe the works will be under construction in a few days as far as the Evandale Road.

Up to the present time but little progress has been made with the fencing, owing, we believe, to the difficulty in getting the materials delivered. A large quantity, however, is now upon the ground, and work has been commenced between 3 and 5 miles, and again at 7 miles.

In future Reports we shall be able to report more fully upon the progress and condition of the works; but from the present embryo condition it is difficult to describe them in more than general terms.

The excavation has made it evident that some of the cuttings will not stand at slopes of a $\frac{1}{4}$ to 1, and consequently it will become necessary to flatten them in some instances; but until further progress has been made we shall not be in a position to advise the Board definitely as to the best course to be pursued.

(Signed) DOYNE, MAJOR, & WILLETT.

*Launceston and Western Railway, Engineers' Office,
27th November, 1869.*

PROGRESS REPORT: accompanying Certificate No. 3. (Contract No. 1.)

WE have to report that, during the last month, the principal works in operation have been the earthworks, fencing, and the manufacture of gates; and that the rate of progress is satisfactory.

We indicated in our last Report that the slopes of some of the cuttings would have to be flattened; and it has since been found necessary to reduce those of cuttings Nos. 13, 16, 35, 37, 38, and 40, to slopes of $1\frac{1}{2}$ to 1 in the whole or in part; and these will have to be soiled. In our next Report we shall endeavour to give an estimate of the cost of these extra works.

The Contractors are labouring under some difficulty in obtaining a supply of bricks for the culverts; and, as delay in building them would, in many places, retard the progress of the embankments, we have decided to accept the proposal of the Contractors to substitute cast-iron pipes for brick culverts in some cases,—with the proviso that the substitution shall not increase the cost of the work.

This Certificate does not include any payment for extra works; but it does include payments on account of materials prepared for the works, and described in the Certificate.

Some of these materials,—such as gates, bridge-work, cement, &c., which would be damaged by exposure, we have not required the Contractors to deliver on the Company's premises, having no Stores to put them into. We have, therefore, arranged with the Contractors to set apart a portion of their Stores in William-street for our use for this purpose (free of charge to the Company); and we take delivery of the materials there. Such as are not placed in those buildings will be branded with the initials of the Company, and are not to be removed without an order from us in writing.

It may, perhaps, be well to explain that the sums allowed on items 125, 126, and 127,—masonry bridges,—are for cement delivered in store.

(Signed) DOYNE, MAJOR, & WILLETT.

*Launceston and Western Railway Company, Limited,
4th December, 1868.*

DEAR SIRS,

A RESOLUTION has passed the Board to the following effect:—"The portion of the Engineers' Report referring to the alteration in the slopes, does not give the full information necessary."

I beg to call your attention to this matter, that I may be enabled, at next meeting, to report generally on the whole question of extent, and probable cost, of the flattening of slopes which may not be found to stand at a $\frac{1}{4}$ to 1, as this was the object which led to the adoption of this Resolution.

I have, &c.,

(Signed) HENRY DOWLING.

Messrs. DOYNE, MAJOR, & WILLETT.

Engineers' Office, 5th December, 1868.

DEAR SIR,

WE have your Letter of the 4th instant, enclosing the substance of a Resolution passed by the Board on Tuesday last, to the effect that "the portion of the Engineers' Report referring to the alteration in the slopes does not give the information necessary."

We regret that this should have been deemed the case; but as we are not advised of the precise information required, or the purpose to which the information is intended to be applied, we are somewhat at a loss to understand the course of proceeding we are expected to adopt.

On the 2nd November we reported to the Board that "the excavation has made it evident that some of the cuttings will not stand at slopes of a $\frac{1}{4}$ to 1, and, consequently, it will become necessary to flatten them in some instances; but until further progress has been made we shall not be in a position to advise the Board definitely as to the best course to pursue."

On the 27th November, in continuation of the same question, we say:—"We indicated in our last Report that the slopes of some of the cuttings would have to be flattened, and it has since been found necessary to reduce those of cuttings Nos. 13, 16, 35, 37, 38, and 40, to slopes of $1\frac{1}{2}$ to 1, in the whole or in part, and these will have to be soiled. In our next Report we shall endeavour to give an estimate of the cost of these extra works."

We were not, nor are we now, in a position to report more definitely. In preparing the Contract we presumed on being able to maintain the entire saving consequent on adopting a slope of a $\frac{1}{4}$ to 1. This assumption on our part, seeing that a great many cuttings *will* stand at this slope, must be a great saving to the funds of the Company; but the fact that some of them will *not* stand, has now to be dealt with. This requires considerable study and deliberation, before committing the Company to such alterations. In not a few cases we hope to save the Company all expenses whatever, and in others, a portion of the cost, by the Contractors using the extra cuttings instead of side cuttings; and it will be impossible at present to say more as regards the cost, than the very general opinion, that the flattening of the slopes requiring it throughout the Line will be within the sum down for contingencies,—say from £8000 to £10,000.

With regard to the price at which extras will have to be taken, the 5th Section of the Contract provides that the "rate" or "price" affixed to each item must govern any alteration in that item. Whenever, therefore, we are in a position to determine the extent of the work to be done, the price at which it must be done is already a settled question.

We need scarcely say, that the extras thus forced upon us by the natural difficulties of the ground now developed will have our most careful study; and that not a moment will be lost in advising the Directors of the approximate cost, after we are in possession of facts sufficient to enable us to do so with confidence.

We have, &c.,
(Signed)

DOYNE, MAJOR, & WILLETT.

H. DOWLING, Esq.

151.

Railway Commissioners' Office, Launceston, 23rd December, 1868.

SIR,

WITH reference to your communication of the 15th instant, relative to certain deviations now in progress on the Launceston and Western Railway, I have the honor to intimate that the information already supplied through the Directory is not definite enough for me to comply with your instructions; and I have this day called upon the Secretary to supply me with such data as will enable me to furnish you with an approximate estimate of the cost of flattening the slopes *throughout* the Line. The letter of the 9th instant from the Secretary of the Launceston and Western Railway to the Government expresses in very general terms that the flattening of the slopes *now in progress* will come within the sum put down as contingencies. I presume the Government want to know from me the total cost of flattening all such slopes as will not stand at the inclination provided for in the contract, from one end of the Line to the other; and immediately after the receipt of the data that I have asked for, no time shall be lost in putting the Government in possession of the fullest information.

I am, &c.,

(Signed) SAML. V. KEMP, *Commissioner Launceston and Western Railway.*

The Hon. the Colonial Secretary, Hobart Town.

Colonial Secretary's Office, 5th January, 1869.

SIR,

IN your letter of the 23rd December you state that the information supplied through the Directors of the Launceston and Western Railway Company is not sufficiently definite to enable you to comply with certain instructions given by me on the 15th of that month; and that you had called upon the Secretary to supply you with such data as you require.

On the 2nd instant I had the honor to receive from the Secretary to the Company a letter, in which he informs me that the Engineers have furnished an estimate of the extra cost which the flattening of certain slopes will entail upon the Company. (Copies of letter and of my reply enclosed for your observations.)

The leading questions involved in the lengthy correspondence which has taken place between the Commissioners, the Company, and the Government are, 1st; Whether the information given by the Engineers in their Certificates is sufficient to warrant the Commissioners in signing cheques for the amount certified to be due to the Contractors?

2nd, Whether extras should be included in any certificate?

With reference to the first point, the Engineers state that to supply the information required by the Commissioners would be not only unusual and opposed to professional practice, but impossible. On these points I am not at present in a position to offer an opinion; but, without wishing to fetter the discretion of the Commissioners, would ask whether under the 27th Clause of the Contract they would not be warranted in taking the Certificates of the Engineers as *prima facie* evidence that the money was due to the Contractors, unless they were aware, or had strong reasons for supposing, that the Certificate was intentionally erroneous. Even should the payments on account be too large, the Contractors would be bound to finish the work contained in any item for which the overpayment had been made.

With reference to the second point, I have no hesitation in saying that no payment on account of deviations should, under any circumstances, be sanctioned by the Commissioners without the approval of the Governor in Council; and you will see that, in my letter of yesterday's date to the Secretary, I have requested him to furnish me with all available information as to any probable future charge for extras.

S. V. KEMP, Esq., Launceston.

I have, &c.,

(Signed)

RICHARD DRY.

*Launceston and Western Railway Company, Limited,
Launceston, 30th December, 1868.*

SIR,

I HAVE the honor to report, with reference to my letter of the 9th December, that the Engineers have furnished, in their Monthly Progress Report to the Directors read at the weekly meeting yesterday, an estimate of the extra cost which the flattening of certain slopes will entail upon the Company.

The extract which I have the honor to submit is as follows:—

“On the 22nd instant we reported (in reply to your letter of the 17th instant) that we had found it necessary to order the following alterations in the slopes of certain cuttings; viz.—

“In cutting No. 13, to be made 1 to 1 on west side.

Ditto, No. 16, ditto 1 to 1 both sides.

Ditto, No. 35, ditto $1\frac{1}{2}$ to 1, from 8 miles 10 chains to 8 miles 19 chains.

Ditto, No. 37, ditto $1\frac{1}{2}$ to 1, from 8 miles 60 chains to 9 miles 3 chains.

Ditto, No. 38, ditto $1\frac{1}{2}$ to 1.

Ditto, No. 40, ditto 1 to 1.

These alterations, necessitated by the nature of the material encountered, as the cuttings were developed, are all that we have hitherto ordered, and we estimate that they will involve an extra expenditure of about six thousand three hundred pounds (£6300). It will also be necessary to flatten the slopes of No. 42 cutting for a length of 10 chains, at a cost of about eleven hundred pounds (£1100), but against this we shall have to set off a sum of nearly eight hundred pounds (£800) for side cutting not required; leaving (say) three hundred pounds (£300) to be provided; and making the total cost of the alterations, so far ascertained to be necessary, six thousand six hundred pounds (£6600). We presume we need scarcely say that no allowance has been made for these extras in our certificate. We shall consult the Board shortly concerning the payment of them.”

I have further the honor to enclose, for the information of the Governor in Council, copies of correspondence on the subject of the proposed flattening of these slopes ; namely,—

From Mr. Kemp, 17th December.
To Engineers, 17th December.
From same, in reply, 22nd December.
To Mr. Kemp, 22nd December.
From Mr. Kemp, 23rd December.
To Mr. Kemp, 24th December.
To Engineers, 24th December.
From Engineers, 28th December.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Hon. the Colonial Secretary, Hobart Town.

(Copy.)

Railway Commissioners' Office, Launceston, 17th December, 1868.

SIR,

I HAVE the honor to inform you that I have this day received a communication from the Government, transmitting a copy of your letter of the 9th instant, asking me to state whether, in my opinion, such deviations as proposed in your letter are necessary, and requesting me to furnish, without delay, an estimate of the cost of all such alterations and deviations. May I therefore beg of you to ask the Engineers to furnish all the requisite data to enable me to comply with the request of the Government ; and also to state, whether such deviations will extend the time for the completion of the Line beyond that already stated in Messrs. Overend & Robb's Contract, and if so, to what extent?

I have, &c.,

(Signed) SAML. V. KEMP, *Commissioner Launceston and Western Railway.*

H. DOWLING, *Esq.*

(Copy.)

Launceston and Western Railway Company, Limited, 17th December, 1868.

DEAR SIR,

I HAVE to request that, prior to the next Board day, or as much earlier as practicable, you will advise what alterations in slopes you may have deemed it necessary to order.

And, further, whether you propose to extend the time for the completion of the Line beyond that already stated in the Contract, in consequence of such flattening of the slopes, and if so, to what extent.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

Messrs. DOYNE, MAJOR, & WILLETT.

(Copy.)

*Launceston and Western Railway Engineers' Office,
Launceston, 22nd December, 1868.*

DEAR SIR,

IN reply to your letter dated 17th instant, we have to inform you that we have ordered the following alterations in the slopes ; that is to say,—

Cutting No. 13, to be made 1 to 1 on west side.

Ditto No. 16, ditto 1 to 1 on both sides.

Ditto No. 35, ditto $1\frac{1}{2}$ to 1, from 8 miles 10 chains to 8 miles 19 chains.

Ditto No. 37, ditto $1\frac{1}{2}$ to 1, from 8 miles 60 chains to 9 miles 3 chains.

Ditto No. 38, ditto $1\frac{1}{2}$ to 1.

Ditto No. 40, ditto 1 to 1.

We do not anticipate that it will be necessary to extend the time for the completion of the Contract on account of these alterations.

We have, &c.,

(Signed) DOYNE, MAJOR, & WILLETT.

H. DOWLING, *Esq.*

(Copy.)

*Launceston and Western Railway Company, Limited,
Launceston, 22nd December, 1868.*

DEAR SIR,

Annexed, I have the honor to transmit to you letter from the Engineers, in reply to mine of the 17th instant, read at the Board Meeting yesterday.

I have, &c.,

(Signed)

H. DOWLING, *Secretary.*

S. V. KEMP, *Esq., Launceston and
Western Railway Commissioner.*

Railway Commissioners' Office, Launceston, 23rd December, 1868.

SIR,

I HAVE the honor to acknowledge the receipt, this day, of your letter of yesterday's date, annexed to a letter from your Engineer of the same date, containing indefinite information of alterations in certain slopes; and in reply, I beg to inform you that such information does not meet the requirements demanded by the Government.

May I request the favour of your supplying, without delay, the required information, in accordance with the enclosed form, and to state definitely whether such alterations to slopes, &c. will extend the time for the completion of the Line beyond that already provided for in Messrs. Overend & Robb's contract?

I regret that my letter of the 17th instant was not more explicit.

I have, &c.,

(Signed)

SAML. V. KEMP, *Commissioner Launceston
and Western Railway.*

H. DOWLING, *Esq.*

STATEMENT showing the Alterations necessary to be made to the Slopes of certain Cuttings on the Launceston and Western Railway Line, together with the Quantities that such Alterations will occasion, the Rates at which the Contractors are willing to execute such Alterations, and the Engineers' Remarks.

*Launceston,**December, 1868.*

<i>No. of Item in the Con- tract Schedule.</i>	<i>No. of the Cuttings in the Contract Schedule and Longitudinal Section.</i>	<i>Proposed Alterations to Slopes. Ratio.</i>	<i>Extra Quantities of Earthwork soiling and sowing such Alterations will occasion.</i>	<i>Rates the Contractors will undertake to execute all such extra Work and Slopes.</i>	<i>Engineers' Remarks.</i>
137	Cutting No. 1.				
136	Soiling & sowing.				
138	Cutting No. 2.				
	Soiling & sowing.				
139	Cutting No. 3.				
	Soiling & sowing.				
140	Cutting No. 4.				
	Soiling & sowing.				
141	Cutting No. 5.				
	Soiling & sowing.				
142	Cutting No. 6.				
	Soiling & sowing.				
143	Cutting No. 7.				
	Soiling & sowing.				
144	Cutting No. 8.				
	Soiling & sowing.				
145	Cutting No. 9.				
	Soiling & sowing.				
146	Cutting No. 10.				
	Soiling & sowing.				
147	Cutting No. 11.				
136	Soiling & sowing.				
148	Cutting No. 12.				
	Soiling & sowing.				

<i>No of Item in the Con- tract Schedule.</i>	<i>No. of the Cuttings in the Contract Schedule and Longitudinal Section.</i>	<i>Proposed Alterations to Slopes. Ratio.</i>	<i>Extra Quantities of Earthwork soiling and sowing such Alterations will occasion.</i>	<i>Rates the Contractors will undertake to execute all such extra Work and Slopes.</i>	<i>Engineers' Remarks.</i>
149	Cutting No. 13.				
150	Soiling & sowing.				
151	Cutting No. 14.				
152	Soiling & sowing.				
153	Cutting No. 15.				
154	Soiling & sowing.				
155	Cutting No. 16.				
156	Soiling & sowing.				
157	Cutting No. 17.				
158	Soiling & sowing.				
159	Cutting No. 18.				
160	Soiling & sowing.				
161	Cutting No. 19.				
162	Soiling & sowing.				
163	Cutting No. 20.				
164	Soiling & sowing.				
165	Cutting No. 21.				
166	Soiling & sowing.				
167	Cutting No. 22.				
168	Soiling & sowing.				
169	Cutting No. 23.				
170	Soiling & sowing.				
171	Cutting No. 24.				
172	Soiling & sowing.				
173	Cutting No. 25.				
174	Soiling & sowing.				
175	Cutting No. 26.				
176	Soiling & sowing.				
177	Cutting No. 27.				
178	Soiling & sowing.				
179	Cutting No. 28.				
180	Soiling & sowing.				

And so on, consecutively, to Item No. 259, Cutting No. 123 inclusive.

(Copy.)

Launceston and Western Railway Company, Limited, 24th December, 1868.

DEAR SIR,

I AM in receipt of your letter of the 23rd instant, with enclosures.

I respectfully take exception to your statement that the information I supplied to you on the 22nd instant is indefinite. I deem it to have been very definite, with reference to the points submitted to you by the Government, in my letter of the 9th instant,—copies of both which letters are before me.

After submitting the correspondence to the Chairman of the Directors, I have concluded upon forwarding your papers of the 23rd instant to the Engineers,—with a request, however, that further details be first supplied with reference to the cuttings proved to require the flattening of the slopes; and that early attention may follow to the remaining portion of your letter and enclosures. Unnecessary delay will be thus avoided, with reference to the early consideration, by the Government, of the application made to them by my letter of the 9th instant.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*S. V. KEMP, *Esq., Launceston and Western Railway Commissioner.*

(Copy.)

*Launceston and Western Railway Company, Limited,
24th December, 1868.*

DEAR SIR,

The data supplied to the Board by you, with reference to alterations in slopes, dated 22nd instant, are said by Mr. Kemp, for whose information they were supplied, to be not sufficiently explicit to enable him to answer the request of the Government; and he has forwarded the enclosed papers, to which I beg your attention.

Meantime, as these returns are lengthy, and to prevent any unnecessary delay with reference to the particular slopes,—in the flattening of which the Directors, on the 9th instant, asked the concurrence of the Government,—I have to beg you to furnish me with the following particulars at once, and to ask your early attention to the whole series of papers.

I need scarcely add that the Government require only approximate amounts under each head:—

1. The proposed alterations of slopes as ascertained to this date, or as near this date as may be.
2. Rates at which the Contractors will undertake to execute such extra works.
3. Quantity of soiling and sowing proposed for such slopes.
4. Rate at which the Contractors will do this work.
5. The extra time (if any) over the contract time which the Contractors will claim for these additional works.

I have, &c.,

(Signed) H. DOWLING, *Secretary.**Messrs. DOYNE, MAJOR, & WILLETT.*

(Copy.)

*Launceston and Western Railway Engineers' Office,
Launceston, 28th December, 1868.*

DEAR SIR,

WE have to acknowledge receipt of your letter of the 24th instant, covering a letter from Mr. S. V. Kemp, Commissioner Launceston and Western Railway, to yourself, dated 23rd instant, and an accompanying form, both of which we return.

In reply to the points specially put by you, we beg to say that your first question is clearly replied to in our letter dated 22nd instant.

2. The rates at which the Contractors will undertake to execute such extra works are decided by Clause 5 of the General Conditions.

3 & 4. We have not ordered any extra soiling or sowing up to the present time, nor do we think it necessary to do so for some time to come. We cannot, therefore, say at what rate the Contractors will do the work. See Clause 6A of the General Conditions.

5. We have communicated with the Contractors on this point, and shall be in a position to answer the question at an early day.

We regret that the data supplied to the Board by us with reference to the alterations in slopes, dated 22nd instant, "were not sufficiently explicit to enable Mr. Kemp to answer the request of the Government;" but we may remind you that we were not informed of the nature and extent of that request. We trust our Progress Report of the 26th instant will supply the information required.

We return the form attached to Mr. Kemp's letter, as we have nothing to add to the data and information already furnished to the Board.

We have, &c.,
(Signed)

DOYNE, MAJOR, & WILLETT.

H. DOWLING, *Esq.*

154.

Colonial Secretary's Office, 5th January, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 30th ultimo, with its enclosures.

From the extract which you make from the last Progress Report of the Engineers, it appears that an additional expenditure of Six thousand six hundred Pounds has become necessary for flattening certain slopes on the Line of Railway.

From the reply of the Engineers to your letter of the 24th December it appears that this additional expenditure has reference only to alterations "already ascertained to be necessary," but no opinion is expressed as to the probability or otherwise of further costly deviations becoming necessary as the Works proceed.

Mr. Bartley, in his Report of the 17th December last, informs me that the cost of land severance and law will be about Twelve thousand Pounds. In the original estimate these charges together were put down at Five thousand Pounds, which will thus be exceeded by Seven thousand Pounds. But Mr. Bartley points out that in the estimate on which the final Report of the Commissioners was based the sum of Fourteen hundred Pounds was added for legal costs and arbitrations, thus reducing the excess to Five thousand six hundred Pounds. This, with the sum of Six thousand six hundred Pounds for extra expenditure in flattening slopes, already ascertained to be necessary, brings the amount of expenditure unprovided for up to Twelve thousand two hundred Pounds, a sum in excess of the whole amount provided for contingencies. Under these circumstances, and before submitting these additional items for the approval of the Governor in Council, I have to request that you will furnish me with the fullest available information as to the probable necessity for further deviations involving an increase of expenditure; and further, that in the event of the expenditure exceeding in the whole £350,000 you will inform me how the Company propose to meet the additional cost of the Line.

I have, &c.,

(Signed) RICHARD DRY.

The Secretary Launceston and Western Railway Company.

155.

Railway Commissioners' Office, 6th January, 1869.

SIR,

REFERRING to my letter of the 23rd ultimo, in which I state that "I presume the Government want to know from me the total cost of flattening all such slopes as will not stand at the inclination provided for in the Contract from one end of the line to the other," I shall feel obliged by an immediate reply, acquainting me whether the Government require an estimate of the cost of flattening the slopes of the cuttings completed or in progress, or an estimate of the cost of similar deviations throughout the Line. Until I have this information I am unable to proceed with the Report which the Government has called for.

I have, &c.,

(Signed) SAM'L. V. KEMP, *Commissioner Launceston and Western Railway.*

The Hon. the Colonial Secretary, Hobart Town.

156.

Colonial Secretary's Office, 8th January, 1869.

SIR,

IN reply to your letter of the 6th instant I beg to state that the Government not only wish to have the total cost of flattening all slopes throughout the Line, but also to ascertain whether it is probable that other deviations entailing an additional expense may be necessary; but, as there are no funds available for this purpose, you will much oblige me by informing me, if possible, the approximate cost of obtaining this information.

I have, &c.,

(Signed) RICHARD DRY.

S. V. KEMP, *Esquire, Launceston.*

157.

*Launceston and Western Railway Company, Limited,
Launceston, 9th January, 1869.*

SIR,

I HAVE the honor to acknowledge receipt of your Letter of the 5th instant, (B 1246) which I will take the earliest opportunity of submitting to the Directors.

Meantime, with reference to your remark that the additional expenditure of £8600 "has reference only to alterations already ascertained to be necessary, but no opinion is expressed as to the probability of further costly deviations becoming necessary as the works proceed," I deem it desirable at once to inform you, that the Engineers reported to the Directors on the 5th December as follows:—

"In preparing the Contract we presumed on being able to maintain the entire saving consequent on adopting a slope of $\frac{1}{4}$ to 1. This assumption on our parts, seeing that a great many cuttings *will* stand at this slope, must be a great saving to the funds of the Company; but the fact that some of them will *not* stand has now to be dealt with. This requires considerable study and deliberation, before committing the Company to such alterations. In not a few cases we hope to save the Company all expense whatever, and in others, a portion of the cost, by the Contractors using the extra cuttings instead of side cutting; and it will be impossible at present to say more as regards the cost, than the very general opinion, that the flattening of the slopes requiring it throughout the Line, will be within the sum down for contingencies,—say from £8000 to £10,000."

No other deviations can arise, of any importance, in the works under contract with Messrs. Overend & Robb, excepting the flattening of slopes in places where the unforeseen nature of the soil enforces this; and this, it is evident, can only be ascertained as each cutting is gone into deeply; but the other questions comprised in your Letter can be treated at once with much greater exactness. They are questions which I have already submitted to the Directors, and upon which I am sure to have their early instructions.

I have, &c.,

(Signed) H. DOWLING, *Secretary.**The Hon. the Colonial Secretary, Hobart Town.*

158.

Railway Commissioners' Office, 13th January, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your communication of the 8th instant, wherein you state, "that the Government not only wish to know the total cost of flattening all slopes throughout the Line, but also to ascertain whether it is probable that other deviations, entailing an additional expense, may be necessary;" and you ask me "to inform you of the approximate cost of obtaining this information." And in reply I beg to state, that I anticipated this announcement from the Government, and before receiving your Letter, already alluded to, I made repeated applications through the Secretary, and at several Board Meetings, to be supplied with the fullest possible data, in detail, upon all these subjects, for the purpose of enabling me to lay before the Government the most reliable information of the cost of all such works; and I regret to say that I have not been, nor does there seem any inclination on the part of either the Directory or the Company's Engineers to supply me with such information as I know will be acceptable to the Government.

I would respectfully venture to suggest the desirableness of your demanding from the Directory the most complete and convincing data, in detail, of the cost of all such extra works, setting forth all contemplated alterations, additions, or deviations to, or from, the existing Contracts; together with the quantities and rates attached to each item of such works; and for them (the Directory) to state definitely whether any extra time for the completion of the same will be required, beyond that already provided for in Messrs. Overend & Robb's contract; and to point out to the Directory the expediency of their having a written undertaking from the Contractors, specifying clearly their willingness to execute all such extra works, at certain rates, and within a certain time, to be determined either by the Schedule attached to the specification, or by the Company's Engineers. I am aware that the Contract provides for all alterations, additions, or deviations, and rates at which they are to be executed; but from past experience I wish to guard against too much reliance being placed in the legality of the provisions of the Contract. I am not aware that any harm can result from having such a document.

With reference to the cost of my obtaining the information asked for in your Letter, I regret to say that I am unable to comply with the request, or even to mention an approximate amount, owing to my being kept in ignorance of the intentions of the Company's Engineers as regards all such contemplated alterations, additions, or deviations; but in the event of the information being supplied to me, in the form that I have herein suggested, no cost whatever will be entailed, as I shall be able to furnish all that the Government require without any assistance.

I have, &c.,

(Signed) SAML. V. KEMP, *Commissioner Launceston and Western Railway.*

The Hon. the Colonial Secretary, Hobart Town.

159.

Colonial Secretary's Office, 23rd January, 1869.

SIR,

I AM in receipt of your letter of the 9th instant in reply to mine of the 5th.

As it seems to me absolutely requisite that the question of additional cost arising from necessary deviations should at once be taken into consideration by the Government, upon the fullest available data as to the amount of such cost, you will much oblige me by furnishing the following information as soon as possible:—

A Statement setting forth in full detail all contemplated alterations, additions, or deviations, to or from the existing Contract, together with the quantities and rates attached to each item of such works.

I have also to request that the Directors will state definitively whether any, and if so, what extra time for the completion of the proposed alterations, additions, and deviations will be required beyond that already provided for in Messrs. Overend & Robb's Contract.

I think it would be desirable that the Directors should obtain from the Contractors a written undertaking specifically stating their willingness to execute all such extra works at certain rates, and within a certain time, to be set forth in the Schedule attached to the Specification when determined by the Company's Engineers.

I am aware that the present Contract provides for all alterations, additions, or deviations, and the rates at which they are to be executed, but to prevent the possibility of subsequent disputes, I strongly recommend this course for adoption by the Directors.

With regard to the last paragraph of your letter, referring to the question you state you have "already submitted to the Directors" as to the methods by which they propose to meet the additional expenditure now contemplated, I shall be glad to receive a further communication with as little delay as possible, as the subject clearly involves important considerations to the Government.

I have, &c.,

(Signed) RICHARD DRY.

H. DOWLING, *Esq.*

160.

Colonial Secretary's Office, 23rd January, 1869.

SIR,

I HAVE the honor by direction of the Colonial Secretary to acknowledge the receipt of your letter of the 13th instant, and in reply to acquaint you that a communication of this day's date has been addressed to the Secretary of the Launceston and Western Railway Company, copy of which is enclosed.

I have, &c.,

(Signed) B. T. SOLLY.

S. V. KEMP, *Esq.*

161.

*Launceston and Western Railway Company, Limited,
Launceston, 26th January, 1869.*

SIR,

REFERRING you to my letter of the 9th instant, I have now the honor to say that I have submitted your communication of the 5th instant to the Board of Directors, and that it has received their most careful and respectful attention.

This letter was previously sent forward to the Engineers, copy of whose Report I annex; and which will fully inform you of some of the causes which have led to the increase in the Company's expenditure during construction.

In addition to the facts therein given, I have to state that the other causes of disappointment, with reference to opening of the Line for traffic within the terms of the Act, are:—

1. The increased sums paid for land, and for compensation in respect to the use of such lands, to the owners along the Line.
2. The increased freights ruling in England.

You are aware that the interest on debentures to be paid during construction was originally calculated to be paid out of a capital of £400,000; and you will understand how burdensome this large payment has become now that it has to be paid out of the smaller amount of £350,000. Could provision be made for this payment of £36,000 from other sources, it would release ample funds to enable the Company to open the line. No other source, however, appears to be open to the Directors but the raising of a sum equal to the remaining moiety of the capital of the Company.

To do this by a further issue of ordinary shares is clearly impracticable in the very depressed condition of the agricultural and pastoral interests of the country, which, as respects the latter, may be said, indeed, to be unparalleled; and leaves no other course open but the borrowing of the money.

The lien which the Government will hold over the works and revenues of the Company under the 9th Clause of 30 Victoria, No. 28, should the Colonial Treasurer at any time have to pay interest on the Bonds of the Company, will effectually bar the open market against the successful negotiation of such a loan; and no alternative seems to be left which would be consistent with the engagements of the Company, but to move the Parliament to authorise the Government to raise the necessary funds on behalf of the Company.

The Directors, therefore, beg most respectfully to request the Government to authorise a loan to the Company of the sum of £50,000 (say Fifty thousand Pounds), being a sum equal to the remaining moiety of the capital of the Company, on security of the earnings of the Railway, after paying the interest on the £300,000 Bonds of the Company, and with a lien on the Railway Works.

The following carefully prepared estimates of the requirements of the Company have been made out with the view of placing before the Government not only the largest excess on former estimates likely to arise, but for additional works and rolling stock, to enable the Directors to work the Line under more favourable circumstances; the more important feature in which will be the economical working of the traffic, by spreading over a longer time the wear and tear of rolling stock; thus lessening the annual working expenses during the earlier period, when the revenues will not have been thoroughly developed, and so rendering more certain the payment of interest on the loans of the Company.

I am to add, that in the preparation of estimates for the mere opening of the Line, under the provisions of the Act, the promoters had in view sending forward orders for locomotives and other rolling stock at an early date, out of the remaining moiety of capital. At that time they did not contemplate the introduction of the 9th Clause into their Bill, and no foresight could have anticipated the depression of our local interests to which I have already referred.

I have, &c.,

(Signed)

H. DOWLING, *Secretary.*

The Hon. the Colonial Secretary, Hobart Town.

ESTIMATES referred to.

To meet additional cost of land, including law expenses, and extra accommodation works, claimed (say)	£10,000
Freight from London, put down at £10,000, add (say)	3500
Increase on iron work (say)	3000
Extra work in cuttings, as the flattening the slopes may be required (say)	12,000
Contingencies for locomotives and other rolling stock, &c., and electric telegraph, put down by the Engineers at £23,000 (say)	21,500
	<hr/>
	£50,000

(Copy.)

*Launceston and Western Railway, Engineers' Office, Launceston,
Tasmania, 16th January, 1869.*

DEAR SIR,

WE beg to acknowledge your letter of the 16th instant, enclosing for our perusal one from the Honorable the Colonial Secretary, dated 5th January, 1869, and requesting us to furnish you with information on all the points comprised therein which come within our department.

In compliance with your request, we have carefully revised our former estimates, aided by the important additional information which we now possess as to the nature of the materials with which we have to contend in our heavy earthworks, and the actual prices for which contracts for the iron-work have been accepted in England.

In our Progress Report of 26th December, 1868, we detailed for the information of the Board the alterations in the slopes of the cuttings which have become necessary up to the present time, and we then estimated their approximate cost at Six thousand six hundred Pounds (£6600), after deducting the quantity of excavated material used in place of the side cutting provided for in Messrs. Overend and Robb's Contract.

We cannot, of course, venture to say that no further alterations will become necessary as the works proceed; and therefore we would add to the estimate of our probable requirements the sum of (say) Five thousand four hundred Pounds (£5400) for contingencies in cuttings not yet developed, making a total sum of Twelve thousand Pounds (£12,000) for earthworks in excess of the present Contract.

We take this opportunity of pointing out the fact that the necessity for these extra works has not arisen from any error or oversight on our part, as it was always understood that the unusual slope we adopted was an experiment which we considered well worth trying in view of the limited means at the Company's disposal: the result—so far—has shown it to be so, since out of some fifty cuttings which have been opened up, embracing the heaviest on the line, only seven have hitherto required alteration,—proving that if we had at the outset provided for flatter slopes, much unnecessary expenditure would have been incurred.

Rails.

By the recent advices from the London Agents of the Company we find that in our lump sum estimate of £35,100 we did not allow sufficient in weight or cost for fish plates and fastenings; and with the prices now before us we conclude that an additional Three thousand Pounds (£3000) will be required on this item.

With these additions to the expenditure already sanctioned by the Governor in Council, we are confident the line can be opened for traffic in accordance with the terms of the Act: it may, however, be useful to you to be informed of the requirements we anticipate for the subsequent efficient and economical working of the line; and we therefore append an estimate of the additional expenditure which we believe will be necessary to render the resources of the Company adequate to the demands of its traffic.

We return herewith the letter of the Hon. the Colonial Secretary.

We are, &c.,

(Signed) DOYNE, MAJOR, & WILLETT.

HENRY DOWLING, *Esquire.*

*ESTIMATE of additional Expenditure required to open the Line in accordance with the Act.**Earthworks.*

Extra excavation so far as at present ascertained	£6600
Contingencies in cuttings not yet developed	5400
	— £12,000

Rails.

Extra cost of ironwork for permanent way	3000
	— £15,000

Estimate of additional Expenditure required for the more efficient working of the traffic.

Extra engines and rolling stock	£13,000
Erecting and fitting shops, tools, sidings, and other station arrangements, and telegraph	10,000
	— 23,000
	— £38,000

(Signed) DOYNE, MAJOR, & WILLETT, *Engineers.*
Launceston, 16th January, 1869.

162.

BY ELECTRIC TELEGRAPH.

11.40 A.M., 27th January, 1869.

PLEASE cause to be inserted in the seventh paragraph of my letter yesterday after "The Directors therefore beg most respectfully to request the Government to" the words "authorize payments out of the present funds as the necessity from time to time arises and move the Parliament to"—words omitted in error in transcribing yesterday.

I have, &c.,
 (Signed) H. DOWLING, *Secretary.*

The Honorable Colonial Secretary.

163.

Launceston and Western Railway Company, Limited,
Launceston, 27th January, 1869.

SIR,

I AM in receipt of your letter of the 23rd instant, which, having been first referred to the Engineers, was read to the Directors at their meeting yesterday.

I am directed to ask your attention to my letter of yesterday, and enclosure, in reply to yours of the 5th instant, and am to express the hope that the information then conveyed may be deemed ample in relation to the information asked.

The letter from the Engineers of the 25th, copy of which I enclose, the Directors adopted as, in their opinion, forming a very suitable answer to yours, and directed the copy to be forwarded.

I have, &c.,
 (Signed) H. DOWLING, *Secretary.*

The Hon. the Colonial Secretary, Hobart Town.

(Copy.)

Launceston and Western Railway Engineers' Office,
Launceston, Tasmania, 25th January, 1869.

DEAR SIR,

IN returning to you the letter of the Honorable the Colonial Secretary, dated the 23rd instant, which you have forwarded to us to report upon, we beg to say that our letter to you of the 16th instant answers all the questions raised, so far as we are now in a position to answer them; but we add the following remarks, with a view to farther assisting you to explain to the Government the exact position of the case.

We do not contemplate any "alterations, additions, or deviations to or from the existing Contract" beyond those which have been, or may be, forced upon us by circumstances beyond our control. Up to the present, the additions have been confined to extra work in some of the cuttings, by flattening the slopes where it has become evident that the experimental slope of a quarter to

one would not stand; and we hope that further additions will be confined to the same cause, while we are satisfied that the sum of twelve thousand pounds (£12,000) set down on our estimate of the 16th instant will be sufficient to meet all such contingencies.

It would be impossible for us to give the *detailed* quantities of the extra work which may have to be performed in each cutting, unless the Directors decide to instruct us to have *all* the slopes flattened at once, when we could, of course, estimate very accurately. This, however, we believe to be quite unnecessary, and would therefore be a useless expenditure. We recommend that the works shall be continued as at present, leaving each case to be met as it arises.

We do not anticipate that the extra works will require any extension of the time named in Messrs. Overend & Robb's Contract.

We respectfully submit that it is most undesirable for the Company to enter into any fresh negotiations, or raise any question on the subject of extension of time or payment of these extra works. We think that the provisions of the existing Contract, on these heads, afford the fullest security that can be desired; and that any new agreement could only tend to throw doubt upon it, and materially weaken the position of the Company.

We have, &c.,
(Signed) DOYNE, MAJOR, & WILLETT, *Engineers.*

H. DOWLING, *Esq.*

164.

Colonial Secretary's Office, 27th January, 1869.

GENTLEMEN,

I HAVE the honor to forward for your perusal and consideration the enclosed letter addressed to me by the Secretary to the Launceston and Western Railway Company, and I shall be glad to be favoured with your observations thereon.

I have, &c.,
(Signed) RICHARD DRY

The Commissioners Launceston and Western Railway Company.

165.

Railway Commissioners' Office, Launceston, 1st February, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your Letter of the 27th ultimo, requesting the observations of the Commissioners upon the Letter from the Secretary of the Launceston and Western Railway Company therewith transmitted, upon which, as *one* of the Commissioners, I beg to submit the following remarks.

It having been for some time past clearly apparent that the Company would require a large increase of their capital to enable them properly to complete the Railway to Deloraine, and to efficiently work the same, I have given the question of how such capital could be obtained my most careful consideration, and have come to the conclusion that the only practicable mode of obtaining such increased capital is that indicated in the Letter from the Secretary of the 26th ultimo, above referred to, and to which the sanction and assistance of the Government is sought by the Company; and I am decidedly of opinion, that the interests of all parties concerned in the success of the undertaking,—of the Company, of the Government, of the Railway District, and of the community at large,—can only be effectually protected and promoted by the prompt compliance of the Government with the request of the Company referred to, which I think must be evident from the following considerations:—

1. The purchase of the land required for the Railway, with the large amount paid for compensation and attendant law costs, *has already unavoidably absorbed* a very much larger amount than was provided for the same in the Estimates upon which the Commissioners based their Reports,—that the Line could be opened for traffic for a sum not exceeding £350,000.

2. The cost of flattening the slopes of the very extensive earthworks between the White Hills and Evandale Stations,—which the nature of the soil developed by the cuttings proved to be imperatively and immediately necessary,—must have already amounted to a large sum, which is rapidly increasing; and although the flattening of those slopes, and of such others as may hereafter prove to be necessary, must be promptly carried out and paid for, or the progress of the Railway must be stopped, there are no funds which can be applied by the Company and Commissioners to cover such additional cost without the sanction of the Government.

3. Taking into consideration the large sum required to cover the large amount already paid for land, in excess of that estimated for the same, the still larger amount which must be paid for flattening the slopes, the additional cost of ironwork and freight already ascertained, the absolute necessity of procuring additional "Rolling Stock," and other requirements to ensure that thoroughly efficient working of the Line which only can afford any reasonable hope of its becoming remunerative, it is my decided and deliberate opinion that the Company will require an additional capital of £50,000 to enable them to meet all such requirements.

4. As the cost of flattening the slopes before referred to, and also such sums as may be necessary to complete the flattening of such slopes, and of all others which the projected cuttings may prove to be necessary, must be forthwith paid by the Company, or, as I have before said, the Line must come to a stand, and the most serious consequences result, I would, as one of the Commissioners appointed to protect more especially the interests of the Government, of the Railway District, and, indirectly, of the community in general, most respectfully and earnestly recommend that the Governor in Council should promptly sanction such immediate payments for the flattening of the slopes above referred to, from the funds now at the disposal of the Company and the Commissioners, as after due investigation shall, in the opinion of the latter, be absolutely necessary; and also that the Government should apply to the Parliament to sanction their raising such additional capital of £50,000, by Debentures, for the purpose of a Loan to the Company—the disposal of the same to be subject to the sanction of the Governor in Council—secured upon the lien the Government already hold upon the Railway and Works, which lien, with the expenditure of such additional £50,000 in properly completing the Line, in the procuring of additional "Rolling Stock," and such other requirements as will provide for the efficient working of the Line, must be, without question, an ample and satisfactory security to the Government, whilst without such additional expenditure the lien which the Government now hold cannot much protect the interests of the Government or of the Railway District, which indeed can only be effectually promoted by the proper completion of the Railway, and by so providing for the efficient working of the same as may afford reasonable grounds for its being so remunerative as to obviate the necessity of levying any "Railway Rate," which it must be, on every consideration, the anxious desire of the Government and of the Railway District to avoid.

I have, &c.,
(Signed)

THEODORE BARTLEY.

The Hon. the Colonial Secretary, Hobart Town.

166.

*Launceston and Western Railway Company, Limited,
Launceston, 6th February, 1869.*

SIR,

REFERRING you to my letters of the 30th December, and January 9, 25, and 27 respectively, I have now the honor to report that the advices from the London Agents to the Company place me in possession of information respecting Contracts taken in England which enables me to forward a carefully amended estimate of the total sum of money likely to be required to enable the Company to complete the Line of Railway to Deloraine, so as to be opened throughout, in terms of the Act (30 Victoria, No. 28):

Having reason to believe that it will be more acceptable to the Government to have this amount clearly stated, and separately from any account of moneys which it may be deemed necessary to expend immediately after opening, I have prepared the two statements in separate details; and have to ask the very earliest approval of the Governor in Council to the expenditure.

Pending the consideration of the entire question, the Government will not, perhaps, object at once to authorise the payment of the sum of £12,000, or so much of that sum as may be required for the slopes in cuttings.

To save time, I have forwarded copies of these letters and estimates to the Railway Commissioners.

I have, &c.,
(Signed)

H. DOWLING, *Secretary.*

The Hon. the Colonial Secretary, Hobart Town.

STATEMENT of probable Moneys required, in addition to £350,000, to complete for opening, under the provisions of 30 Vict. No. 28, "The Launceston and Western Railway."

Engineering Extras.

	£
(A.) Earthworks in slopes, say	12,000
Staging for Longford Bridge, not included in London Contract.....	2000
Electric Telegraph, omitted.....	2000
	<u>£16,000</u>
Less contingencies in estimates, July, 1868	10,600
To be provided	5400
Add to Freight, estimated at £10,000, freight ruling higher than expected, say	3500
(B.) To Contracts taken in London, at say £66,000 or thereabouts for orders, at say £58,000..	8000
London Commissions, not estimated	2500
London Marine Insurance	875
Rolling Stock, less iron work, included in present Contracts	6000
(C.) Land—extra compensation	8071
(D.) Occupation Gates, extra.. ..	2000
Cartage iron-work to Longford from wharf	1000
	<u>£37,346</u>

A.—ESTIMATE of additional Expenditure required to complete the Line, as furnished by the Engineers:—

	£
Flattening Slopes, already ascertained to be necessary as reported, 26th December, 1868	6600
Estimated as sufficient to meet possible requirements as the cuttings are developed	5400
	<u>£12,000</u>
Telegraph, including the instruments, say	2000
Staging for Longford Bridge, to be erected according to the designs of the English Contractor, not yet arrived ..	2000
	<u>£16,000</u>

B.—The preliminary advice from the London Agents gives the following Summary of Amounts of Contracts.

	£	s.	d.
5316 tons Rails, at £6 7s. 6d.....	33,889	10	0
108 „ Fury Bolts, £11 7s. 6d.....	1228	0	0
72 „ Fish Bolts, £11 5s.....	810	0	0
38 „ Spikes, £10 2s. 6d.....	384	15	0
240 „ Fish Plates, £6 10s.	1560	0	0
6 sets Points, &c., about £31	186	0	0
South Esk Bridge, superstructure	18,440	0	0
Two Locomotives	4000	0	0
55 sets Wheels, Lamps, &c.....	4000	0	0
Total, say	£64,498	5	0

Our Estimate in July was.....	£59,650		
But from this now deduct, not ordered,—			
Turntables	£500		
Nine sets Points and Crossings, not ordered	270		
Cranes and Tanks, not ordered.....	1000	£1770=57,880	0 0

Actual difference on Estimate of July, 1868.....	£6618	5	0
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Set down as an approximate of £8000.

C.—Land.

	£
Amount awarded	8382
„ paid tenants	689
„ probable to pay, as roughly estimated by Mr. Bartley.....	2500
„ roughly estimated for Law Expenses, both sides	1500
	<u>£13,071</u>
Estimated in July, 1868, at	5000
Total extra for Lands	<u>£8071</u>

D.—Occupation Gates.

There are 27 Gates included as Occupation Road Gates in the Contract to Overend and Robb, averaging £59 each, about, or a total of £1609. I estimate that a number of additional Crossings must be given to occupiers of farms, at least 50 more, say at £40..... £2000

E.—FURTHER ESTIMATE of Expenditure, necessary to the efficient Working of the Line, after Opening.

	£	£
Two Locomotive Engines, f. o. b.	4200	
Freight for ditto.....	500	
Erection of ditto.....	200	
Duplicates for one	600	
		5500
Five Passenger Carriages (mixed), average cost f. o. b., say £400.....	2000	
Freight on ditto.....	500	
		2500
Forty Carriage Trucks, Horse-boxes, Ballast-waggons, Timber Trucks, Cattle and Goods Waggons (covered), open Trucks, &c., average £110 f. o. b.....	..	5500
Fitting Shops, Tools, Sidings, and other Station arrangements beyond those provided for	..	5000
Contingencies, including landing and erection of Carriages, &c. ....	..	4500
		<u>£23,000</u>
Say half, or.....	£12,700	
With.....	37,300	
	<u>£50,000</u>	

The Hon. the Colonial Secretary, Hobart Town.

167.

Colonial Secretary's Office, 9th February, 1869.

GENTLEMEN,

I ENCLOSE for your information and observations the accompanying letter from the Secretary to the Launceston and Western Railway Company, together with certain Estimates of cost of extras required.

I have, &c.,
(Signed) RICHARD DRY.

The Commissioners Launceston and Western Railway Company.

168.

Railway Commissioners' Office, Launceston, 10th February, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of yours of yesterday's date, with enclosures from the Secretary of the Launceston and Western Railway dated the 6th instant, and in reply I have the honor to request that you will be pleased to call upon the Directory to furnish me with all details of quantities and rates per cubic yard comprised in the sum of £6600 set down in Estimate A. for flattening slopes of certain cuttings, with copies of all orders for the same. Also, all particulars and data contained in the sum of £2000 for the staging of the Longford viaduct, mentioned in the same Estimate A. Also, all particulars and data and Schedule of weights furnished by Mr. Hemans, comprised in the sum of £18,440 for the iron work of the Longford viaduct, as mentioned in Estimate B. I beg to call your special attention to this item, and to refer you to the printed estimates of the cost of this work, and to inform you that the quantity of iron-work therein given (viz., 200 tons) was supplied to the Commissioners by the Company's Engineers, and upon which I based my calculations and estimate that this viaduct could be constructed for £6165 4s. 6d. I now learn through advices received from Mr. Hemans, the Consulting Engineer in England, that this viaduct will cost £18,440, occasioned by the unnecessary increased weight, and the unusual condition of demanding from the manufacturers that they shall erect the work in Tasmania.

I herewith annex for your information extracts from Mr. Hemans' letter.

The cost of this viaduct appears to me so exorbitantly high that I fear some egregious mistake has occurred, either by the Surveyors who were employed by the competing tenderers in England to take out the quantities, or by the designers of the viaduct in making it nearly four times heavier than there was any occasion for.

I also require to be furnished with all details comprised in the sum of £13,071 for land and law charges ; and all particulars contained in the sum of £2000 for extra occupation gates.

No time shall be lost, after being put in possession of the information herein asked for, in furnishing the Government with an amended estimate and observations upon the increased cost of the Line.

I have, &c.,

(Signed) SAML. V. KEMP, *Commissioner Launceston and Western Railway.*

The Hon. the Colonial Secretary, Hobart Town.

EXTRACTS from Mr. HEMANS' letter of the 23rd November, 1868, to Messrs. DOYNE, MAJOR, and WILLETT.

SOUTH ESK BRIDGE.

"Ten of the first firms in this country were invited to tender. Four of them refused, as they would not undertake the erection in Tasmania ; viz.—Cochrane's, the Horsley Company, the Butterley Company, and the Jaca Foundry Company. Six firms tendered. The highest tender was Andrew Handysides of Derby, £24,493. The lowest, De Bergne and Co., £18,440, *ex* any royalty on the suspension-link bed-plates, which, if any, must be an addition, left by the tenderer to my discretion.

"I had no hesitation in selecting De Bergne, whose work I have experience of as good, and who has already been employed in Tasmania. I enclose a Schedule of the weight of iron in the Bridge, taken out by a gentleman selected by the competing parties here.

"The Bridge is of great strength, and somewhat heavier than we generally put up now in England.

The tenders for this Bridge would have been considerably lower had not the erection in Tasmania been insisted on ; but after the communication of your strong views on this point I would not give up the requirement, although much pressed to do so.

(Signed) G. W. HEMANS.

169.

Colonial Secretary's Office, 12th February, 1869.

SIR,

I HAVE the honor to forward for your information and remarks the enclosed copy of a letter from Mr. Kemp, and I beg to direct special attention to the item of £18,440 therein alluded to, for the construction of the Bridge across the South Esk.

The original estimate for this work amounted to £6165, and it appears that the cost has been raised to the above amount by a very large increase in the weight of iron, and the insertion of a condition into the Contract that the manufacturers should erect the bridge.

As I am now for the first time made aware of these alterations which have added so largely to the cost of the Line, you will much oblige me by informing me by whose authority they were made.

With reference to your request that the Governor in Council will at once sanction the expenditure of £12,000 required for flattening certain slopes, I have to inform you that it is necessary that the Government should be put in possession of the fullest possible information as to the whole extra expenditure which may be necessary to complete the Line, and that such expenditure should be certified to by the Commissioners, as being in their opinion sufficient, before any payment on account of deviations can be sanctioned.

I have, &c.,

(Signed) RICHARD DRY.

The Secretary Launceston and Western Railway Company.

170.

Hobart Town, 12th February, 1869.

SIR,

IN the letter referred to myself and Co-Commissioners addressed to you by Mr. Dowling, and dated 6th instant, I find the following request :—

"Pending the consideration of the entire question, the Government will not, perhaps, object at once to authorise the payment of the sum of £12,000 or so much of that sum as may be required for the slopes in the cuttings."

Although desirous that the Launceston and Western Railway Company should receive all the consideration that the magnitude and difficulty of their undertaking may justly claim, I still feel that it would be an omission on my part did I fail to represent to the Executive the inexpediency of complying with the above request. "Pending the consideration of the entire question," and, as involved in that, the supply of the data requisite to enable my professional colleague, Mr. Kemp, to advise the Executive on the Estimates of the Company's Engineers, the proposition in question, I submit, should remain in abeyance, whatever decision may ultimately be adopted by Ministers on their own responsibility or by Parliament, on a view of the whole question.

I have, &c.,

(Signed) FRED. M. INNES.

The Hon. the Colonial Secretary.

171.

*Launceston and Western Railway Company, Limited,
Launceston, 15th February, 1869.*

SIR,

HAVING reason now to believe that a memorandum at the foot of the paper marked E. in my letter of the 6th may have been misunderstood, allow me to say that this memorandum, viz.—

"Say half, or £12,700
With..... 37,300

£50,000"

is my own, and not comprised in the paper furnished by the Engineers, showing an estimate of £23,000. My object, in this memorandum, being simply to show that, if we spent a little above half of this estimate, it would bring the whole total within the unsubscribed capital of the Company.

I have, &c.,

(Signed) H. DOWLING, Secretary.

The Hon. the Colonial Secretary, Hobart Town.

172.

*Launceston and Western Railway Company, Limited,
Launceston, 16th February, 1869.*

SIR,

I AM in receipt of your letter of the 12th, covering a letter from the Commissioners, and which I have submitted to the Directors. I need scarcely say that this communication will receive the earliest possible attention.

I am, however, instructed respectfully to reiterate the request of the Directors, conveyed to you in mine of the 6th instant, that in justice to the Contractors, and pending the further consideration of the whole question submitted, the Government will sanction the payment of so much of the sum of £12,000 as, in the opinion of the Commissioners and Directors, may be required for slopes found to be necessary in cuttings.

The other points raised will have to be reported on by the Engineer in Chief and others; then carefully considered by the Board of Directors, and by them be submitted to the Commissioners; and as one of the principal points cannot be dealt with until after the arrival of the steamer following the next English mail,—the Engineers' letters usually being addressed to Melbourne,—I believe you will see that great hardship would be inflicted upon the Contractors if the consideration of their payments for work executed should be made to stand over pending the consideration of remaining questions in the Commissioners' letter.

I would respectfully submit the Report of the Directors to your re-consideration.

I have, &c.,

(Signed) H. DOWLING, Secretary.

The Hon. the Colonial Secretary.

173.

*Launceston and Western Railway Company, Limited,
Launceston, 17th February, 1869.*

SIR,

REFERRING you to my letter dated yesterday, I have now the honor to inform you that the Engineers have reported to me that their final decision has been arrived at with reference to slopes requiring to be flattened, which question involved considerations in regard to certain side-cuttings to be omitted, and they have now furnished memoranda showing the extent and cost of the works, and copies of their orders given the Contractors, in pursuance of the General Conditions of the Contract between the Company and Messrs. Overend & Robb—copies of which I have the honor to forward herewith.

I have, &c.,

(Signed)

H. DOWLING, *Secretary.*

P.S.—Copies are also sent to Commissioners.

The Hon. the Colonial Secretary, Hobart Town.

(Copy.)

Launceston and Western Railway Engineers' Office, 16th February, 1869.

DEAR SIR,

REFERRING to our conversation with you respecting our estimate of the cost of flattening the slopes of the cuttings named in our Progress Report of the 26th December last, we have to say that, assuming the slopes therein named to be sufficient—which we think we may now do—the results, on final measurement, will be nearly as stated on the other side.

We enclose copies of the orders we have given to the Contractors to execute these additional works, and to take the side-cutting required for adjacent embankments out of the extra materials now at our disposal from the main cuttings. The difference between these shows the amount which will be due to the Contractors for extra works, so far as the Company is at present committed.

We have, &c.,

(Signed)

DOYNE, MAJOR, & WILLETT.

H. DOWLING, *Esq., Secretary.*

Launceston and Western Railway: Additional Excavation and Cuttings:—

	£	s.	d.	£	s.	d.
Cutting No. 13, 666 cubic yards, at 1s. 6d.	50	0	0			
Ditto No. 16, 1333 ditto, at 1s. 6d.	100	0	0			
Ditto No. 35, 5052 ditto, at 1s. 7d.	400	0	0			
Ditto No. 37, 7000 ditto, at 2s.	700	0	0			
Ditto No. 38, 71,472 ditto, at 1s. 11d.	6850	0	0			
Ditto No. 40, 4570 ditto, at 1s. 9d.	400	0	0			
Ditto No. 42, 8346 ditto, at 1s. 11d.	800	0	0			
				9300	0	0
Less amount used as side-cutting included in the Schedule:—						
Item No. 266, 1481 cubic yards, at 1s. 6d.	111	1	6			
Item No. 267, 20,439 ditto, at 1s. 6d.	1532	18	6			
Item No. 268, 3321 ditto, at 1s. 6d.	249	1	6			
Item No. 269, 10,569 ditto, at 1s. 6d.	794	13	6			
				2685	15	0
				£6614	5	0

Launceston and Western Railway, Engineers' Office, 4th December, 1868.

ORDER FOR EXTRA WORK.

GENTLEMEN,

IN accordance with Clause 5 of the General Conditions, we beg to hand you the following Order, which is extra work on the Contract.

Take out the slopes of following cuttings as specified below:—

- Cutting No. 13—1 to 1 on west side.
- Ditto No. 16—1 to 1 both sides.
- Ditto No. 35—1½ to 1, from 8 miles 10 chains to 8 miles 19 chains.
- Ditto No. 37—1½ to 1, from 8 miles 60 chains to 9 miles 3 chains.
- Ditto No. 38—1½ to 1.
- Ditto No. 40—1 to 1.

This alteration in slopes to be subject to any future modifications which in our opinion may be necessary.

We are, &c.,

(Signed)

DOYNE, MAJOR & WILLETT.

Messrs. OVEREND & ROBB, Launceston.

Launceston and Western Railway, Engineers' Office, 16th February, 1869.

GENTLEMEN,

REFERRING to our letter of the 4th December last, ordering the sides of certain cuttings to be taken off to flatten slopes, we hereby give you notice that we shall require the side-cutting, forming items Nos. 266, 267, 268, and 269 in the Schedule, to be taken from the extra material excavated from cuttings Nos. 38, 40, and 42.

We are, &c.,

(Signed)

DOYNE, MAJOR, & WILLETT.

Messrs. OVEREND & ROBB, Contractors.

Launceston and Western Railway.

ENGINEERS' MEMORANDUM concerning the Payment for Side-cutting taken from extra Earthworks.

The principle upon which we have acted is,—

1. Under the Contract we can, virtually, decide the site or position from which side cutting shall be taken.
2. In the case of items 266, 267, 268, and 269, we have ordered it to be taken from the sides of the main cuttings.
3. The Contractors have taken it from thence, and consequently are entitled to payments on account of side-cutting, which we have duly allowed in certificates Nos. 4 and 5.
4. All the items for side-cutting named in the Schedule are rated at 1s. 6d. per cubic yard, it having been intended to take it from the mouths of the cuttings; but as the lead has been extended along the whole length of the cuttings, the Contractors will be entitled, at the final settlement, to be paid for it at the price of the cuttings (1s. 9d. to 1s. 11d.), less the amount already allowed for side-cutting named in Schedule. The balance so due to them is shown in the statement accompanying our letter to the Secretary of this date.

(Signed)

DOYNE, MAJOR, & WILLETT.

Launceston, 16th February, 1869.

174.

Railway Commissioners' Office, Launceston, 22nd February, 1869.

SIR,

WITH reference to the letter and its enclosures from the Secretary of the Launceston and Western Railway Company, addressed to you on the 17th instant, asking the concurrence of the Governor in Council to the expenditure of £6614 5s. for flattening the slopes of certain cuttings mentioned in such communication, a copy of which was on the same date forwarded to us, we have the honor to state that we are of opinion that the flattening of such slopes is necessary for the safety of the Line of Railway, and beg to recommend that the Government be pleased to promptly sanction the payment, by the Company and Commissioners, out of the funds now at their disposal, of the said sum of £6614 5s., or so much thereof as, after a strict scrutiny on the part of the Commissioners, shall prove to be indispensably necessary to the carrying out of the proposed flattening of such slopes. At the same time we beg to call the attention of the Government to the necessity of their having an undertaking from the Company to recoup the amount so expended upon such flattening of slopes out of any moneys that may be hereafter sanctioned by the Legislature, or out of the moiety of the unsubscribed capital when paid up.

We beg to state that this recommendation is based solely upon the figures and information supplied by the Company's Engineers, who must be held responsible for the correctness or otherwise of such data. And as we are not aware whether the Contractors are carrying out the flattening of the slopes particularised by the Engineers at the rates quoted in their memoranda, we would remark that should any questions arise between the Contractors and the Engineers as to the rates at which such alterations are to be paid for, or on any other points which may arise upon the carrying out of such works, such questions must necessarily be determined by reference to arbitration, in accordance with the 26th Clause of the General Conditions attached to the Contract.

We have, &c.,

(Signed)

SAMUEL V. KEMP,

THEODORE BARTLEY,

} Commissioners under the Launceston
& Western Railway Acts.

The Hon. the Colonial Secretary, Hobart Town.

THE duties of the Commissioners under the Launceston and Western Railway Acts are defined by law, and they include that of reporting to the Government from time to time on all matters connected with the progress of that undertaking. In the discharge of that duty I am not aware of any fact with which it is expedient that the Executive should be made acquainted that has been withheld from its knowledge, whether as respects the additions which have already been ascertained to the cost of the Railway, or those which may be anticipated. But if the Executive desires further information, it will be my business, in conjunction with my colleagues, Messrs. Kemp and Bartley,

to endeavour to supply it. I do not, however, view it to be any part of my duty to advise the Government whether it would or would not be proper that it should accept the responsibility of sanctioning an addition to the outlay upon the Railway beyond the sum of £350,000 contemplated in the Act 30 Vict. No. 28, on the conditions recommended by Messrs. Kemp and Bartley, or on any other conditions. It appears to me sufficient that I should advise the Government not to act without the fullest information: that I should have supplied all that I could impart, and have urged that the Company and the professional Commissioner should be called on to supply what might still be wanting.

F. M. INNES.

175.

Colonial Secretary's Office, 25th February, 1869.

GENTLEMEN,

IN accordance with the recommendation contained in your letter of the 22nd instant, you are hereby authorised to sanction the payment out of the funds now at the disposal of the Launceston and Western Railway Company and Commissioners of £6614 5s. for the flattening of certain slopes stated by the Engineers to be essential to the progress of the works, and which you consider necessary for the safety of the Line.

As it is probable that other deviations will become necessary as the works proceed, I have to repeat my request that you will give me the fullest available information as to the nature and cost of such deviations as each case may arise, or may be anticipated by you.

I have, &c.,

(Signed) RICHARD DRY.

The Commissioners of the Launceston and Western Railway Company.

176.

Colonial Secretary's Office, 25th February, 1869.

SIR,

I HAVE the honor to forward herewith, for your information, copy of a letter which I have addressed to the Commissioners of the Launceston and Western Railway Company, authorising them to sanction the payment of the sum of £6614 5s. for the flattening of certain slopes stated by the Engineers to be necessary, &c.

I have, &c.,

(Signed) RICHARD DRY.

The Secretary to the Launceston and Western Railway Company, Launceston.

177.

*Launceston and Western Railway Company, Limited,
Launceston, 19th March, 1869.*

SIR,

ON the 15th ultimo I had the honor to acknowledge receipt of your letter of the 12th ultimo, covering a communication to you from Mr. Kemp, dated the 10th ultimo, and now, further in reply, I have to inform you that having been referred from this Office to the Engineers, the following report has been elicited; and which I now enclose for the information of the Government.

The points left for me to report upon, are, the additional cost of land taken, and the extra occupation gates.

The details of the lands taken have been before the Board of Directors, where the Commissioners have become acquainted with them fully. They are, at present, very incomplete, as several claims remain unsettled—in some cases having gone to reference. These amount to perhaps £2500 out of the whole sum of £13,071; and until completed, I believe you will agree with me, it is undesirable to furnish any official copy. Whenever complete, I am confident the Directors will cheerfully authorise me to furnish a copy.

With respect to the estimate for extra Occupation Gates, which is altogether outside the Engineering Department, it was inserted by me, for your information, after consultation with the Lands' Negotiator to the Company, under the impression that, whilst some landowners may claim more of this class of accommodation than is actually necessary, or consistent with the large compensation for inconvenience or severance already paid to them, it will become the duty of the Directors, as well in the interests of the undertaking as from a due regard to the danger to be

apprehended to the public, to resist all untenable claims for the multiplication of crossings of this nature; and it is under these circumstances that I trust the sum of £2000 may be sufficient; but until each owner has been treated with, it is impossible to comply with Mr. Kemp's request.

Until I again, to-day, read your letter I had been under the impression that the request it reiterates, "to be put in possession of the fullest possible information as to the whole extra expenditure which may be necessary to complete the line," had been most fully complied with in my letter and enclosures of the 6th February. I beg, however, to recapitulate my figures; namely,—

Paper (A.) Engineering—	
Extra slopes.....	£12,000
Staging for bridge	2000
Telegraph	2000
	<hr/> £16,000
(B.) Add to London contracts (say)	8000
(C.) Add lands taken (say)	6771
And costs herein (say)	1500
	<hr/> 8071
Paper (D.) Occupation Gates (say)	2000
Add for additional freight (say)	3500
Commissions in London (say)	2500
Insurance (say)	875
Carting iron to Longford (say)	1000
For Rolling Stock, less the iron already contracted for	6000
	<hr/> 47,946
Provided in contingencies estimate, July, 1868	10,600
	<hr/> 37,346
Total in addition to £350,000	
It is proposed to add to this for purchase of further rolling stock to render the working of the line more efficient, and consequently more economical..	23,000
	<hr/> £60,346

Or the sum of £10,346 only above the estimate of £400,000 made in 1862; and so in excess of the provisions of the Company's Acts, 29 Vict. No. 24; and 30 Vict. No. 28.

I can only here repeat that, in the present very depressed condition of the agricultural and pastoral interests of this Colony, this sum cannot be raised by shares, and that the only course open to the Government and Company is to borrow the moneys. This, I respectfully submit, must be done, either by the Parliament sanctioning a further loan, or by their consenting to repeal the 9th Clause of the 30th Victoria, No. 28, to enable the Company to borrow; but as the latter course, I apprehend, is not likely to be acceptable to the Parliament, the former course I regard as likely to be the only alternative.

I need, perhaps, scarcely repeat that the Government would possess in the complete works and the revenues of the Company a most improved security on that contemplated by the Act in question.

It becomes, further, my duty to notice that Mr. Kemp complains that a portion of the increased expenditure on the viaduct at Longford is to be traced to "the unusual condition of demanding from the manufacturers that they shall erect the work in Tasmania."

It is necessary, for the information of the Government, to state that this question seems to have been considered by the Directors to have been one of so serious importance that they unanimously accepted the advice of the Engineers; in whose judgment and ability you are aware a large majority of the Directors have frequently expressed confidence. The fact itself, and all the written instructions referring to it, addressed by them to the Inspecting Engineer in London, were known to the Board of Directors on the occasion of transmitting them to England; and I am in a position to state these papers were read to the Board, the Commissioners being present; and that, neither at the time of reading them, nor subsequently, as I am aware, was any exception taken to this condition.

Under these circumstances, therefore, I deem it to be my duty to annex copies of these instructions and specifications for the information of the Government; and to the great professional care by which they are characterised I respectfully beg your special attention.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

Enclosures—

1. Letter from Engineers.
2. Same to Hemans, London, 12th September, 1868, and enclosure.
3. Same to Hemans, London, 13th October, 1868.

The Hon. the Colonial Secretary, Hobart Town.

178.

(Copy.)

Colonial Secretary's Office, 31st March, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 19th instant, with enclosures, and in reply to inform you that it will be laid before the Colonial Secretary upon his return to Hobart Town.

I have, &c.,

(Signed)

B. TRAVERS SOLLY.

H. DOWLING, Esq., Secretary, Launceston and Western Railway Company.

179.

*Launceston and Western Railway Company, Limited,
Launceston, 24th March, 1869.*

SIR,

I HAVE the honor to report for the information of the Governor in Council, that the Engineers have stated to the Board of Directors, in their Progress Report to them yesterday, that they have been under the necessity of ordering the slopes Nos. 36 and 68 to be flattened.

These cuttings form part of the works estimated in the sum of £12,000 of which I first advised the Government on the 9th December last, and more particularly on the 30th December and the 6th February last,—the latter indicating the approximate estimate for this class of work along the whole line at the sum of £12,000, and in which the Government was asked to concur.

It was not then the pleasure of the Government to acquiesce in the recommendation, beyond the sum of £6614 5s. to cover the cost of Nos. 13, 16, 35, 37, 38, 40, 42. But I have now respectfully to point out that it will greatly facilitate the business of the Company if the Government will authorise the payment of so much of the further sum of £5385 15s. as in the opinion of the Directors and Commissioners may be required for the purpose named.

I have, &c.,

(Signed)

H. DOWLING, Secretary.

The Honorable the Colonial Secretary, Hobart Town.

(Copy.)

*Launceston and Western Railway Engineers' Office,
Launceston, Tasmania, 23rd March, 1869.*

DEAR SIR,

PROGRESS REPORT: to accompany Certificate No. 7. (Contract No. 1.)

SATISFACTORY progress has been made with the earthwork on the whole.

We estimate that, of the 71,472 cubic yards named in our Return of the 10th instant as the total quantity of extra work to be done in Cutting No. 38, about two-thirds have been completed: we have therefore given to the Contractors a further certificate for £2000 on account of this item.

We have found it necessary to order that Cuttings Nos. 36 and 68 shall be taken off to slopes of one to one for the whole depth, and it will be necessary to order that No. 63 be partially taken off at the top.

Brick-work.—The culverts at 9 miles 8 chains and 10 miles 14 chains have been satisfactorily completed. A large quantity of materials has been delivered on the site of Hunter's Mill Viaduct, and three of the foundations are ready for bricklaying, which will be commenced in a few days.

At the Longford Viaduct the brick-work of the central pier of the South Esk Bridge has made satisfactory progress; the concrete foundation for the western abutment has been got in most successfully, and the bricklaying has been commenced.

The culvert at 20 miles 48 chains is complete, and that at 20 miles 18 chains nearly so.

Timber Bridges.—At the third crossing of the North Esk all the piles are driven, the longitudinal timbers laid, and a portion of the underframing done.

That over Quamby Brook is finished. At the Liffey the pile-driving is progressing, but as the foundation is rather soft we shall be obliged to use longer piles in future and splice some of those that are driven.

We have, &c.,

(Signed)

DOYNE, MAJOR, & WILLETT.

HENRY DOWLING, Esq., Secretary.

63

180.

Colonial Secretary's Office, 30th March, 1869.

GENTLEMEN,

I HAVE the honor to forward for your perusal copy of a letter received by the Government from the Secretary to the Launceston and Western Railway Company, under date the 24th March, and to request that you will report upon the request therein contained.

From Mr. Dowling's letter it would appear that the flattening of Slope No. 36 is already included in the amount authorised, viz., £6614 5s., but yet it is for this Slope in conjunction with No. 68 that he now seeks an authority for a further expenditure.

I have, &c.,
(Signed) THOS. D. CHAPMAN,
For the Colonial Secretary (absent).

Messrs. KEMP, INNES, & BARTLEY, Commissioners
Launceston and Western Railway.

181.

Colonial Secretary's Office, 30th March, 1869.

SIR,

I AM directed to acquaint you that your letter of the 24th instant, received by me on the 27th, has been referred for the Report of the Commissioners of the Launceston and Western Railway Company.

I have, &c.,
(Signed) B. T. SOLLY.

H. DOWLING, Esq.

182.

Hobart Town, 30th March, 1869.

SIR,

I HAVE the honor to represent to you that one of the Commissioners under the Launceston and Western Railway Act having applied for access to Official documents relating to the business of the Railway Company, in his capacity of a Director, his *right* thereto was denied by the Secretary; whereupon he brought the question before the Board, where the position was maintained that the right which is vested in the Commissioners by the Act 30 Viet. No. 28, Sec. 6, "to sit and act in all respects as if they were Directors of the Company," related only to proceedings at meetings of the Board—does not comprehend the general powers of Directors elected by Shareholders in the Launceston and Western Railway Company, as in other Joint Stock Companies.

As the point is a material one, I beg that the opinion of the Crown Law Officers may be obtained upon it for the guidance of the Commissioners.

I have further to represent that a rule adopted by the Directory, which fixes the quorum required for the transaction of business at *five*, is so interpreted and carried out as to ignore any Commissioner or Commissioners who may be present as contributing to form such quorum. I shall be obliged by being instructed whether such rule or practice is consistent with the Law.

I have, &c.,
(Signed) FRED. M. INNES.

The Honorable the Colonial Secretary.

Referred, as requested, for the opinion of the Hon. the Attorney-General.

B. TRAVERS SOLLY.
31st March, 1869.

183.

THE language of the 6th Section of the 30 Vic., 28, that the "Commissioners shall have a seat at the Board of Directors, and shall be entitled to *sit and act in all respects* as if they were Directors," being an enabling clause must be construed liberally.

No man can act as a Director of a Company unless he is fully conversant with all its affairs; and the law holds him responsible where he fails to make himself master of its affairs, and remaining in ignorance allows the Managing Directors to alone conduct the affairs of the Company.

In *Turquand v. Marshall*, 37 L. J. Ch., p. 589, the Master of the Rolls says:—"Proof is given * * that the accounts furnished and published were grossly inaccurate. Convincing proof is also given that the *Managing Directors* were well aware of this fact. I am also of opinion that the *other Directors*, who may not have examined the books, must be taken to be liable to all the consequences, which would properly flow from the fact, as if they had been acquainted with the contents of them. It was *their duty* to be so acquainted with them, and it was a duty which they had undertaken to perform by becoming Directors; and, therefore, I am of opinion that they are also responsible for the falsity of the accounts."

Moreover Table B., Article 70, of 23 Vic. 12, is as follows:—

"The Directors shall cause a true account to be kept,—1. Of the Stock-in-trade of the Company. 2. Of the *sums of money received and expended* by the Company, and the *MATTER* in respect of which such receipt and expenditure takes place: And 3, of the *Credits and Liabilities* of the Company."

Article 72 of the same Table also shows the necessity for every person acting as a Director to make himself acquainted with the affairs of the Company.

I can arrive at no other conclusion than that a person cannot "*sit and act in all respects*" as a Director ought to act unless he is conversant with everything that is going on in the Company, and that he has a right to see every document relating to the business of the Company.

The object of the appointment of the Commissioners with such large powers was, that they should know everything, and not so much only as the Secretary or other Directors thought fit to lay before them.

Whether a single Director can demand, whenever he pleases, from the Secretary access to such papers as he thinks fit, is doubtful; but certainly, when a quorum of Directors is sitting, a Commissioner or Director is entitled to demand the production of any document the property of the Company.

With reference to Mr. Innes's second question,—as a quorum is to consist of five "*Directors*," and as the Commissioners, although empowered to sit and act as Directors, are yet not strictly "*Directors of the Company*,"—I think that the safer course is, perhaps, to require that five "*Directors*," exclusive of Commissioners, should be present to form a quorum.

W. L. DOBSON.
5th April, 1869.

I CONCUR with the Attorney-General's opinion.

ROBT. P. ADAMS.
5. 4. 69.

184.

Colonial Secretary's Office, 10th April, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 30th ultimo, in which you represent that one of the Commissioners under the Launceston and Western Railway Act had applied for access to official documents relating to the business of the Railway Company in his capacity of a Director, and that his right thereto was denied by the Secretary, whereupon he brought the question before the Board, where the position was maintained that the right which is vested in the Commissioners by the Act 30 Vict. No. 28, Sec. 6, "to sit and act in all respects as if they were Directors of the Company" related only to proceedings at Meetings of the Board, &c., and request the opinion of the Law Officers of the Crown on this point.

In reply, I have the honor to forward herewith copy of the opinion of the Law Officers of the Crown on the questions raised in your communication.

I have, &c.,

(Signed)

RICHARD DRY.

The Hon. F. M. INNES, Esq., M.L.C.

185.

*Launceston and Western Railway Company, Limited,
Launceston, 1st April, 1869.*

SIR,

My attention having been called to my letter of the 24th ultimo, I find that a mark, unintentionally on my part, occurs between the Nos. of slopes 35 and 37, indicating, as it were, that 36 had been already provided for in the sum of £6614 5s. sanctioned by the Government on the 25th February. This is not the case, as that estimate is supposed to cover only the numbers actually written, as formerly indeed reported.

The correction of the misapprehension which has been thus unwittingly occasioned by me gives me the opportunity of saying, that my application of the 24th ultimo was intended to convey the reiteration, by the Directors, of their application of the 6th February last, to the effect that the Government would at once authorise the sum of £12,000, or "so much of that sum as may be required," to be expended on the additional slopes in cuttings; and that as of this sum the amount of £6614 5s. only had been sanctioned, the balance estimate of £5385 15s., or so much of that sum as may be required, should now be placed at the disposal of the Company and Commissioners.

I find, further, that in the hurry of business I omitted to mention one other cutting (No. 63) which has to be partially taken off at the top, and that, therefore, 36, 68, and 63 are ordered to be flattened, and are so reported by the Engineers in their last Progress Report referred to in my letter of 24th ultimo.

Permit me to refer you, on the whole question of the extra slopes, to the Engineers' Report dated 16th January last, and transmitted to you on the 6th of February, and on which my application was based.

I have, &c.,

(Signed)

HENRY DOWLING.

The Hon. the Colonial Secretary.

186.

Railway Commissioners' Office, Launceston, 4th April, 1869.

SIR,

In my individual capacity as one of the Commissioners I have the honor to acknowledge the receipt of your letter of the 30th ultimo, referring for the report of the Commissioners a letter from the Secretary of the Launceston and Western Railway Company dated the 24th ultimo, requesting the sanction of the Government to the expenditure of the sum of £5385 15s., being the balance of £12,000 estimated by the Engineers of the Company to be necessary to flatten the slopes throughout the Line of Railway, and stating that the Engineers had reported to the Directors that they had found it necessary to order the flattening of the slopes Nos. 36 and 68.

The Secretary, in his letter of the 31st ultimo, has informed you that the slope of Cutting No. 63 was also mentioned in the said Progress Report with Nos. 36 and 68, as ordered to be flattened, and was inadvertently omitted in his letter of the 24th ultimo; and also that the stroke between Nos. 35 (1) and 37 was not intended to imply that No. 36 had been flattened, as was indicated by the last paragraph of your letter referred to.

Upon this application from the Company I would respectfully submit the following remarks:—

1. By the terms of the contract sanctioned by the Company and the Commissioners, and reported upon by the latter to the Government, the Engineers are empowered to order the Contractors to execute any alterations (in the slopes or otherwise) which the Engineers may think fit; and the Contractors, upon the receipt of such order in writing, are bound to make such alterations, and, as a matter of course, have a legal and equitable right to be promptly paid for the same upon the production of the Certificate from the Engineers prescribed by the Contract, and, if necessary, to enforce such payment without any reference to the Government or the Commissioners: the withholding of such payment by the Company or the Commissioners is therefore, upon every consideration, to be deprecated, and must inevitably be attended with serious results, directly to the Company, and eventually to the Government. The non-payment of such claim amounts, in fact to a breach of Contract upon the part of the Company, and would tend to absolve the Contractors from the consequences of any breach of Contract upon their part.

2. When it is remembered that the Engineers in their original estimate for the earthworks fixed the slopes of the cuttings throughout the whole Line at a quarter to one, for the reasons assigned in their letter to the Secretary of the Company of 16th January last, and forwarded by him to you on the 6th February, and that the necessity of flattening the slopes, the payment for which has already been sanctioned by the Government, has been attended with much additional trouble,

responsibility, and anxiety to the Engineers, and a large additional cost to the Company beyond the original estimate for such cuttings, it cannot, in my opinion, with any amount of reason, be for one moment supposed that the Engineers would order, or the Company apply to the Government to sanction, the flattening of any slopes which was not, in the opinion of the Engineers and the Company, absolutely necessary. Entertaining, therefore, the decided conviction that the Engineers would only order the flattening of such slopes as they may so consider absolutely necessary, and fully aware that any delay whatever in the flattening of such slopes may involve great additional expense and inconvenience by the slipping or falling in of the cuttings where such slopes are necessary, as in some instances has already taken place, I would again, as in a former communication upon the same question, respectfully but earnestly recommend that the Government should at once authorise the Commissioners to sanction the expenditure of the balance of the said estimated sum of £12,000 for the flattening of such slopes as may from time to time prove to be necessary to ensure the safety and durability of the earthworks, which are, it may be said, the foundation of the whole undertaking, and upon which its successful completion must in a very great measure depend.

3. I would further respectfully submit that the best evidence the Government can be furnished with as to the necessity of flattening the slopes, is the professional Report of the Engineers who designed the whole Railway, upon whose professional reputation and ability the Legislature and the Government relied in authorising its construction, and under whose personal directions and supervision it is now being carried out; and it is my decided opinion that the Engineers, as a matter of course, must be much more competent to form a correct opinion and to advise the Government upon the question than the Commissioners—professional or non-professional—can possibly be, who can only base their opinion or advice upon occasional and cursory inspection of the earthworks which may be in progress; and that the report of the Engineers that the flattening of the slopes of any cuttings is absolutely necessary, should be quite sufficient to induce the Government at once to sanction the same, and thereby avoid the very serious responsibility which would be incurred by withholding such sanction.

4. I much regret that my professional colleague, Mr. Kemp, while he admits that the flattening of the slopes enumerated by the Engineers is, or will be, so necessary to the safety and efficiency of the Line, declines to join me in the foregoing recommendation until he is furnished with further information as to what amount of additional capital may be required for the completion of the Railway to Deloraine, and for the efficient working of the same; but I would respectfully submit that the sanction by the Government to the payment to the Contractors of the amount due to them for extra work ordered by the Engineers and executed by them, the Contractors, in strict accordance with the terms of the Contract, should not at all depend upon any such contingency: and it appears to me that the duty of the Commissioners, and the most desirable course for the Government, clearly is to do all in their power to ensure the perfect construction of the Railway, so far as the funds placed at the disposal of the Company and the Commissioners will admit; and at present the safe and durable construction of the earthworks is of primary importance, involving, as I have before indicated, the successful completion of the whole undertaking, and therefore the interests of the Company,—of the Government,—of the Railway District,—and eventually of the whole community. Of the Government and the community more particularly, because, should it be considered desirable at any future time that the Government should take over the Railway and Works from the Company, as provided by the Railway Act, it would be of paramount importance that the Line should be thoroughly efficient in all respects.

The urgent question for the consideration of the Government now is,—not what additional capital will be eventually required for the completion of the Railway to Deloraine, but whether they shall sanction the expenditure of a sum considered and represented by the Engineers as absolutely necessary to ensure the safety and durability of the earthworks as the construction of the Line progresses,—an expenditure which the Directors of the Company, who have now expended the whole of their subscribed capital of £50,000 upon the said Railway and Works, have requested the Government to sanction—to which request I would again respectfully but earnestly recommend the Government promptly to accede.

I have, &c.,
(Signed) THEODORE BARTLEY.

The Hon. Sir RICHARD DRY, M.L.C., Colonial Secretary, Hobart Town.

187.

Railway Commissioners' Office, Launceston, 5th April, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 30th ultimo, asking me to report upon the request contained in an enclosed letter bearing date 24th ultimo, and having reference to the Company asking the Government to authorise the payment of so much of the further sum of £5385 15s. as, in the opinion of the Directors and Commissioners, may be required

for the purpose of flattening the slopes of certain cuttings named in such enclosure; and, in reply, I have the honor to state that I deem it advisable to recommend the Government to withhold their assent, for the present, to any further expenditure for extras, until it has approved of the Company's scheme of finance to raise funds necessary to meet the increased expenditure required for opening the Line, and have been fully advised of the amount that will be required beyond the sum authorised by the Legislature.

I beg to remind the Government that the Directory have already incurred liabilities beyond the sum of £350,000 authorised by Parliament, and have absorbed the amount set aside for station purposes; and I regret that I am compelled to say that such increased expenditure or excess has arisen from the departure from the plans, &c., and the unreliable nature of the data originally furnished to the Commissioners, and upon which they based their calculations that the Line could be opened for traffic for a sum of money not exceeding £350,000; and further, I beg to say that I should be guilty of a dereliction of duty were I not to mention that hitherto all such excesses have been incurred without the authority or assent of the Commissioners, and they have, in several instances, been kept in ignorance of such excesses until discovered by them.

I herewith enclose a copy of the Engineers' Progress Report, wherein they state that "We have found it necessary to order that Cuttings Nos. 36 and 68 shall be taken off to slopes of one to one for the whole depth, and it will be necessary to order that No. 63 be partially taken off at the top."

You will be pleased to observe that the Engineers have given instructions to have these extra works carried out without the assent of either the Directory or the Commissioners, and the Secretary now seeks the authority of the Governor in Council to pay for such extras. This procedure is, in my opinion, a direct infringement of the Resolution adopted by the Directory on the 13th of October last, to the following effect:—"Moved by Mr. Scott, and seconded by Mr. Kemp, That any alteration which the Engineers may think it desirable to make in connection with the Launceston and Western Railway, or in the ordering of any materials for such works, be submitted to the Board for its approval before any action is taken. Carried." This Resolution was communicated by letter to the Engineers on the 15th of October last.

The Engineers also represented in one of their former Progress Reports, in reference to the flattening of slopes, that they had ordered certain portions of earthwork to be taken down, which were rendered necessary for the "safety of life and limb;" and, after a lengthy correspondence, they admitted in one of their Reports that they had given the Contractors orders to flatten the slopes of certain cuttings, which would cost £6614 5s. Several of the slopes of certain cuttings included in this sum were actually completed, and others were in an advanced state, before the Government and Commissioners were called upon to give their assent. I saw that the Company would be greatly embarrassed if such assent was withheld from them, and I reluctantly yielded to recommend the expenditure of £6614 5s., upon the tacit understanding that such an unbusiness-like course should not be repeated.

I maintain that this further authority now asked for does not stand in the same position as the former one, as I consider that there is no immediate necessity for flattening these slopes till funds have been procured for the payment of the same. And the fact of my being made a judge of the necessity for this work, must not make me responsible for the discretion of an excess in the outlay upon the Railway beyond what Parliament provided.

Should the Government feel disposed to sanction a further outlay, and that the question referred to me is only whether the outlay proposed is necessary now, or will be sooner or later, I have no hesitation in stating that it will be necessary before the Line can be opened for traffic; but I consider the expenditure of such outlay ought to be deferred till the Company possess the means of defraying it. But as the effect of the outlay proposed, involving an excess over the sum of £350,000, has arisen from the scale of expenditure adopted by the Directory and their Engineers being more costly than was required in order to meet the requirements of the Act 30 Vict. No. 28, and as the Commissioners could not, by the powers vested in them, prevent it, I trust that I shall not be blamed for complying with the authority of the Government for signing cheques for the excess authorised beyond the sum of £350,000.

I have, &c.,

(Signed) SAML. V. KEMP, *Commissioner under the Launceston and Western Railway Acts.*

The Hon. the Colonial Secretary, Hobart Town.

188.

Railway Commissioners' Office, Launceston, 20th April, 1869.

MR. KEMP presents his respectful compliments to the Honorable the Colonial Secretary, and will be obliged by learning if a letter from the Engineers of the Launceston and Western Railway Company, of the 17th ultimo, has been forwarded to the Government.

The letter was read at the Company's Board Meeting on the 23rd ultimo, and as it contained injurious aspersions upon Mr. Kemp, he was in hope that the opportunity would not be denied him of replying thereto.

The Hon. the Colonial Secretary, Hobart Town.

189.

Colonial Secretary's Office, 22nd April, 1869.

SIR,

I HAVE the honor to forward herewith for your perusal copy of a letter received from the Engineers of the Launceston and Western Railway Company, of the 17th ultimo, as requested in your communication of the 20th instant.

I have, &c.,

(Signed) RICHARD DRY.

S. V. KEMP, Esq.

190.

Railway Commissioners' Office, Launceston, 23rd April, 1869.

SIR,

WE have the honor to transmit for the information of the Government copy of a Resolution passed by the Directory of the Launceston and Western Railway Company, at a meeting held on the 20th instant, and to offer an explanation thereon:—

RESOLVED—"That, in the opinion of this Board, the refusal of two of the Commissioners, Messrs. Innes and Kemp, to sign the Letter of Credit in favour of the London Agents for the further sum of £30,000 as fixed by a Resolution of this Board, was an undue interference with a decision of the Directors, and with the management of the Company's affairs, wholly unwarranted by any powers vested in the Commissioners by the Act under which they hold their appointments, and that such interference tends greatly to weaken the confidence which the Directors desire to repose in the Commissioners; and the mutual exercise of which is essential to the prompt and satisfactory completion of the undertaking which has for so long a time engaged the attention of the Northern Colonists. And that the Secretary communicate this Resolution to the Commissioners."

The Letter of Credit to which our signature was desired was for a sum of £30,000, to which we objected, because it was intended to cover items of expense differing from the "Schedule of Quantities," on which the Company and Engineers had led us to report to the Government that the Launceston and Western Railway could be constructed, &c. for £350,000; because the excesses had actually been incurred without our approval, and were the result of a change of plan not announced to us, or even to the Directors of the Company. As, however, it was urged at the Board by a gentleman of mercantile experience and professional knowledge, that the effect of the Commissioners refusing to honor the demands of the Company's Agent, in payment of material, &c. supplied to the order of the Company's Engineer would be, that the moneys lying to the credit of the Company and Commissioners in London would be attached by legal process—a proceeding involving both serious expense and injury to the credit of the Company—one of us (Mr. Kemp) agreed to sign for the reduced sum of £20,000. As the English Mail was closing, and the demand urgent, there was no opportunity of obtaining legal advice as to the risk referred to. The other (Mr. Innes) declined to sign, as by so doing he considered that he would be sanctioning the principle that any unwarrantable expenditure, which it might be known that the Commissioners would find it their duty steadily to resist if submitted to them as a proposition at the Board, had only to become an accomplished fact by irregular methods when their practical assent would be constrained in order to save the credit of the Company.

It is due to the Directory generally to add, that the excesses which called for so large a credit on the funds of the Company in London were incurred without their previous sanction or knowledge.

We have, &c.,

(Signed)

SAML. V. KEMP, } Commissioners under the Launceston
FRED. M. INNES, } and Western Railway Acts.

The Hon. the Colonial Secretary, Hobart Town.

Railway Commissioners' Office, Launceston, 28th April, 1869.

SIR,

I HAVE the honor herewith to return the answers which, at my instance, you were good enough to obtain through the Governments of Victoria, South Australia, and New South Wales to queries which I addressed to you some time since on the mode, &c. in which Railway Engineers superintending Contract Works in course of execution furnish Certificates for Progress Payments. With these answers before me, and the rules enforced by the Railway Department in South Australia, I have felt that I had no alternative but to concur with my professional colleague, Mr. Kemp, in declining to sign cheques for Progress Payments on the Certificate which the Company's Engineers are in the habit of giving to the Contractors to accompany their periodical accounts. As, however, I was unwilling to occasion inconvenience or annoyance to the Directory of the Launceston and Western Railway Company, or to their Contractors, I yielded to the solicitation of the former to sign the cheque for last month's account on their agreeing to adopt a Resolution referring the question at issue to the opinion of the Law Officers of the Crown. Of course, if that opinion be given to the effect that the Act under which the Commissioners are appointed does not warrant them in refusing to sign cheques for accounts which they deem insufficiently certified, they are absolved from a critical responsibility; but I have been unable to reconcile myself to the position maintained at the Board of the Company, that a condition embodied in a Contract of the Company can override the intentions of the Act of the Legislature under which the Company exists; while in the Contract between the Company and the Engineers there appears to me to be adequate provision to enable the Company to require of their Engineers to perform those duties which, according to usage and professional opinion, may be required of persons in their capacity.

I accompany this with a Memorandum from Mr. Kemp, and one from myself, which I read to the Directory yesterday, placing a copy at the same time in their hands.

I have, &c.,

(Signed)

FRED. M. INNES.

The Hon. the Colonial Secretary.

(MEM.)

THE object of the Legislature in providing for the appointment of three Commissioners under the Launceston and Western Railway Act, assigning them seats as Directors at the Board of the Company, and placing the funds applicable to the construction, &c. of the Railway at the credit of those Commissioners conjointly with the Company, was to ensure a check upon the expenditure of those funds by the latter in their distinct and separate character of Commissioners. And not only was it intended that the Commissioners should thus be made responsible for the general integrity with which the funds to be applied to the construction of the Railway should be disbursed, but also for their being disbursed in conformity with the plans, specifications, and estimates (as far as this could reasonably be enforced) on which, under the 7th Section of the 30th Vic. No. 28, they had reported to the Governor in Council that the Railway could be constructed for £350,000, and the Executive had handed over to the Company and Commissioners the proceeds of £300,000 of Government Debentures.

With a view to the Commissioners being competently advised in the performance of the duties devolved upon them, a professional gentleman was selected as one of their number, to whom a salary was accorded corresponding to his special professional and practical knowledge, and to the more arduous and responsible character of *his* functions than those of his fellow-Commissioners. On any question, therefore, on which professional knowledge or special experience is requisite in order to arrive at a sound practical conclusion, it is, in my opinion, incumbent that the unprofessional Commissioners should defer to his superior knowledge and experience; or, if they adopt a different course, be prepared individually to accept the responsibility of doing so, justifying themselves and proving him to be in error.

The question having arisen as to what form the Certificates of the Contracting Engineer accompanying the periodical accounts of Messrs. Overend and Robb should bear, the first point to be settled is, whether the matter of such Certificates is, or is not, of that professional character to which reference has been made. And in my opinion there is no room for controversy on that point. No one, I imagine, can even superficially—still less with any care—examine the “General Conditions” of the Contract between the Company and Messrs. Overend and Robb, especially those Conditions which provide for “deviations,” “additions,” or “substitutions,” and for the terms under which these are either to be allowed for on the one hand, or paid for on the other, and fail to perceive that as these are matters on which professional skill is indispensable to qualify any one to give a valid Certificate, so professional skill is indispensable to decide whether a given form of Certificate is, or is not, valid. And no dispassionate person, I would add, who adverts to the very large discretion vested in the Engineers, and to the fact also of their own position as Contractors, and to the personal interests which as such they have it in their power to serve by a perfunctory discharge of their contract engagements, will dispute, that in proportion to these risks should the guarantees insisted on by the Directory be adequate to meet them,—the guarantee, in so far as the periodical Certificates and Reports of the Engineers are involved, of minuteness, detail, and lucidity.

Notwithstanding the force of these considerations, I was still reluctant to arrive at a conclusion which might prove inconvenient to the Contractors, and which, although the Board of Directors had seemed disposed to admit, yet had been unwilling to enforce, and I therefore sought in the opinions of the Chief

Engineers of the Governments of the neighbouring Colonies a solution of the difficulty. These opinions are now in the possession of the Directory, and they appear to me of such a tenor as not to warrant my incurring the responsibility of sanctioning payments in future on the Certificate hitherto received from Messrs. Doyne and Company. The Board is aware that I have heretofore signed cheques only pending the receipt of such information as I found necessary before arriving at a final decision.

I now submit to the Board that the Certificate furnished by Messrs. Doyne and Company should be in accordance with the form which I annex; that this Certificate should be forwarded direct to the Secretary of the Railway Company, and not to the Contractors; and on the Secretary receiving such Certificate, two copies should be immediately made,—one for the use of the Directors, and the other for the use of the Contractors, and the original should then be sent to the Commissioners for their information. I submit further, that each Certificate of the Engineers should be accompanied by a Progress Report giving a full account of the state of the several works at date, and showing the basis of the calculations on which they certify to the quantity of work performed by the Contractor; and when these conditions have been complied with, the interval provided by the Contract with Messrs. Overend and Robb—Clause 27 General Conditions attached to specification—should be allowed to elapse so as to enable the professional Commissioner to satisfy his colleagues before they, or either of them, are committed to the responsibility of signing cheques.

I am aware that it has been contended that it is the duty of Mr. Kemp to elaborate for the satisfaction of the other Commissioners the information which I have now stated that Messrs. Doyne and Company should furnish in their Certificates and Reports. But this it would be impracticable for him to do, unless he employed a staff of assistants,—an expense which it would be preposterous to impose upon the Company, seeing that ample provision and allowance have been made for the objects in view under the Contract between the Company and Messrs. Doyne and Company. But *with* detailed statements before him, it will be practicable for the professional Commissioner, without employing assistants, to make such general inspections as will satisfy him, and qualify him to certify his fellow-Commissioners as to the propriety of payments to which they are required to be parties.

As some inconvenience may arise from the immediate adoption of a different practice from that which has hitherto prevailed in regard to the Certificates of the Engineers and the payment of Contractors, I beg to assure the Directory that, actuated by the same desire which has prompted me on past occasions, notwithstanding the protest of my professional colleague, pending the receipt of advices from the neighbouring Colonies to sign cheques, I shall be anxious to respond to any proposal to which I can consistently accede, so far as regards the account for the past month which now awaits settlement.

27th April, 1869.

F. M. INNES.

LAUNCESTON AND WESTERN RAILWAY.

CERTIFICATE OF WORK, No. 186

Contract, No. _____

Contractors Messrs. OVEREND & ROBB,

No. of Item.	Description of Works.	Quantity	Rate or Price.	Amount.	FURNISHED AT THIS DATE.		PAID FOR UP TO LAST CERTIFICATE.		TO BE PAID FOR.	
					Quantities.	Amount.	Quantities.	Amount.	Quantities.	Amount.

It is desirable that all matters within these limits should be printed.

192.

Colonial Secretary's Office, 29th April, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 28th instant, returning the correspondence with the other Colonies on the mode in which Railway Engineers, superintending Contract works in course of execution, furnish certificates for Contract payments.

By the same post I received a Memo. from Mr. Kemp addressed to you; and also one from yourself to the Board of Directors of the Launceston and Western Railway Company, enclosing copy of a Form of Certificate which you suggest should be furnished by Messrs. Doyne & Co.; and stating, also, the course which, in your opinion, those gentlemen should adopt when forwarding such certificate.

Entirely concurring in your exposition of the objects contemplated by the Legislature in providing for the appointment of Commissioners under the Launceston and Western Railway Acts, the position in which they stand to the Board of Directors, and the nature of their duties, it would

be obviously an interference with the legitimate exercise of their recognised functions if I offered any opinion as to the nature or extent of the certificate which the Commissioners may consider sufficient to warrant them in signing cheques for the payment of works in progress. The Government in this matter desire to assure you, that they place thorough confidence in the ability of the Commissioners to discharge the responsible duties devolving upon them in a manner that will satisfy both the Legislature and the community at large.

I have, &c.,
(Signed) RICHARD DRY.

The Hon. F. M. INNES, Esq., M.L.C., Launceston.

193.

*Office of the Commissioners of the Launceston and Western Railway Company,
Launceston, 29th April, 1869.*

SIR,

WE beg to transmit herewith copy of the "Report—Ordinary General Meeting of Shareholders of the Launceston and Western Railway Company," as read at a Meeting held on the 17th instant, and to make some remarks thereon.

1. It is unnecessary, after previous communications, that we should trouble you with our views in contradistinction to those in the "Report" as to the amount of the excess beyond estimate incurred for materials from England for the Railway. But we would avail ourselves of this occasion to acquaint you with the circumstances under which excesses, unknown to us until they were irremediable, have been incurred. At an early stage in the proceedings of the Directory, when the subject of the transmission of orders to England was considered, it appeared to us that the proper and business-like arrangement was, that such orders should emanate direct from the Board through the Secretary or Chairman, the Company's Engineers supplying professional details for approval. This view was strongly urged by one of us (Mr. Kemp); and supported by the other (Mr. Innes). To its adoption, however, objections were insisted on by the Secretary (Mr. Dowling); and, by the manifest preponderance of opinion at the Board, this important branch of the business of the Company was left in the hands of the Engineers. The Commissioners number as one to five in the Directory, and the question was one in the discretion of the Directory. The result of the arrangement decided on has been, that on two occasions the Board, surprised by finding orders in course of execution in England involving a departure from the plans, and considerable additions to the estimates to which they had given assent, have passed Resolutions enquiring of their Engineers how this came about. In one case, for rails of 65 lbs. weight they have found the Company saddled with the cost of rails of 72 lbs.; and instead of an iron bridge estimated to weigh 204 tons, and to cost £6600, that they were required to meet the expense of one which would weigh from 700 to 800 tons, and likely to amount to, or exceed, £22,000.

2. The Company's "Report" embodies the explanation of their Engineers as to the alteration in the slope of certain cuttings, which they estimate will entail an additional outlay of £12,000. Postponing the consideration of this estimate, with which the professional Commissioner will deal, we beg your attention to the following paragraph in Messrs. Doyne and Company's letter incorporated with the "Report":—"We take this opportunity of pointing out the fact that the necessity for these works has not arisen from any error or oversight on our part, as it was always understood that the unusual slope we adopted was an experiment, which we considered well worth trying, in view of the limited means at the Company's disposal; the result so far has shown it to be so, since out of some fifty cuttings which have been opened up, embracing the heaviest on the Line, only seven have hitherto required alteration, proving that if we had at the outset provided for flatter slopes much unnecessary expenditure would have been incurred."

3. As Commissioners deputed to "examine the Plans, Specifications, and Estimates" of the Railway, and to report thereon to the Governor in Council, we desire to advert to our legal and practical position in that capacity. We were not appointed to be judges of the engineering feasibility of the plans of Messrs. Doyne and Company. Two of our number must have declined any such function as one for which they were unqualified by education or experience. As respects the third, he could only have performed such a duty by a re-survey at an indefinite cost; and the Legislature had shown that no such duty was contemplated, by omitting to provide a shilling to cover its obviously necessary cost. The presumption of the law was, that the Plans, Specifications, and Estimates, which would be submitted to the Commissioners by the Company, would bear a character that would warrant the Commissioners in treating them as reliable and matured. The estimates of cost, indeed, might be open to discussion; but, with an allowance for minor deviations or oversight, it was assumed that a trustworthy basis was ready for reference to the Commissioners on which the question could be decided of whether the Railway could, or could not, be constructed for £350,000. And this presumption of the Legislature had strong grounds to rest upon. The construction of this Line of Railway had occupied the attention of Parliament for several years, and the plans and estimates of it had been investigated by Committees. Mr. Doyne, the Engineer employed, had not been hurried in his

professional labours. A period of six or seven years had elapsed since his attention had been first devoted to the proposed undertaking. In 1860-1 he had received from the Public Treasury and from private contributions a sum of £2500 in payment of a Preliminary Survey, the report of which was laid before Parliament. He had been from that time the recognised "Engineer in Chief" of the Company (in embryo); and when he was absent from the Colony, in England, his proceedings in that capacity were duly recorded in published Reports. In 1863, at the Company's Meeting in Launceston, it was announced in the Report read by the Hon. Secretary, (Mr. Dowling):—"The Engineer in Chief, Mr. Doyne, is expected to arrive from London during the month of June, and will be prepared to give evidence before a Parliamentary Committee. He has not failed during his visit to London to manifest continued interest in the progress of the work you have in hand, and he has kept the Committee fully advised on the subject. *His Plans and Reports, as might be expected, have met with the entire approval of some of the most eminent men of the engineering profession.*" (See Company's Report, *Launceston Examiner*, 30th May, 1863.)

4. Subsequently, in accordance with the above intimation, he gave elaborate evidence before a Parliamentary Committee, which affirmed resolutions favourable to the undertaking. At a later date the existing Company accepted the responsibility of paying him £3600 for a re-survey, plans, drawings, &c., by which contracts for the construction of the Line might be entered into, and the work be efficiently superintended by *any other Engineer*, such plans, &c. to be completed "in an efficient and proper manner within six calendar months from the 15th of May last" (1867); that is, by a date prior to that at which the Commissioners were called upon to consider the question of whether £350,000 would suffice to defray the cost of the work; but if the undertaking was commenced under Mr. Doyne's engineering superintendence, he was to receive £17,600 for his plans, &c. These were the plans, &c., and thus guaranteed, that were submitted for our examination. And the Company which entered into these engagements implying so firm a confidence in the trustworthiness of Mr. Doyne, professionally, was one which invested £50,000 on the faith of the mature and feasible character of his proposals, and was represented by a Directory the members of which were individually interested to the extent of £10,000 or upwards in the success of the contemplated undertaking.

5. It was not, therefore, with these facts known to the Legislature or the Executive, to be expected that the function of adjudicating upon the professional feasibility of the Engineers' plans should be assigned to the Commissioners; and, as already stated, the unprofessional character of two of them, the omission to provide the cost which the other must have incurred in such a service, to say nothing of the protracted delay it would entail, appeared to us to indicate as the intended scope of our enquiries, to determine whether, on the plans submitted, a Railway could be constructed for the sum named in the Act.

6. The professional Commissioner appends to this communication a postscript giving *his* views in respect to the alteration of the slope of certain cuttings; but we beg here to call your attention to the 6th Clause of the Contract between Mr. Doyne and the Company as bearing on that subject. Mr. Doyne therein engaged as follows:—"When trial shafts are necessary on the sites of cuttings, or borings in foundations have to be made, the said William Thomas Doyne to provide such supervision as may be necessary to enable him to advise and report on the result of such trials."

7. The Report furnished was dated 24th October, 1867, prior to the Commissioners having seats at the Board, and was of the following purport:—"I feel pleasure in being able to inform the Board that the facts brought out by the trial shafts and borings which have been made along the Line have been on the whole highly satisfactory."

8. The Engineers, it will be observed, now represent that "it was always understood that the unusual slope adopted was an experiment which it was considered well worth trying in view of the limited means at the Company's disposal."

9. In answer to this, we have to acquaint you that when the letter from which we have quoted was first read at the Company's Board, one of the Commissioners (Mr. Innes) addressed to the Engineer (Mr. Doyne), who was present, the enquiry, whether the understanding alleged by him was to be found in any written communication from him or other recorded shape? To which the answer of Mr. Doyne was in the negative; and we have not been able to ascertain that any member of the Directory at the time understood that so material a feature in the Engineers' plans was experimental, and therefore dubious; and, as certainly no such understanding was hinted to any of us when the Estimates were before us, preparatory to our Report to the Governor in Council, we arrive at the conclusion that in what the Engineers represent to have been "always understood" they must mean "always understood" by themselves. The ambiguity of this assertion requires at least our disclaimer of any complicity in the understanding alleged.

10. The "experiment" of which the Engineers speak might have been warranted by certain conditions of strata, but those disclosed by the cuttings, which it has been found necessary at a great cost to alter, excite surprise as to how the result of the borings came to be reported as "highly satisfactory" in connection with a proposed slope of a quarter horizontal to one vertical.

11. We regret that in a Report from the Directors to the Shareholders, of date 16th April, they should have been satisfied to reproduce a statement of the Engineers of date 16th January, three months previously, as to the number of cuttings in which the slopes required alteration. If, as we do not question, there were only *seven* when the Engineers' letter was addressed to the Board, there were twenty-five, completed or in progress, when it was quoted for the information of the Shareholders.

12. In concluding this communication we readily own that in so large, and in this Colony novel, an undertaking, as the construction of forty-seven miles of Railway, it was not to be expected that estimates of cost and actual outlay would correspond as nearly as in works of smaller extent and to which the Colony has been accustomed. The contingencies to which it was exposed arise from causes operating at a distance as well as from local ones,—the state of the market for iron, machinery, &c., besides the state of freight; and we should have accepted our share of the responsibility of miscalculations which could be thus explained. But we deprecate the responsibility of excesses which eluded the detection of the Directory until they were irrevocable, the result of the Engineers being entrusted with duties which we did our best to have imposed on an officer of the Company, whose communications to the Agents and Engineers in England would have passed under the previous review of the Board. We deprecate also, the responsibility of the outlay which has arisen from the rectification of works which have required such rectification in consequence of their plan having been based on conditions professionally reported as "highly satisfactory," but which have proved to be quite the reverse.

We have, &c.,
(Signed)

SAML. V. KEMP.
FRED. M. INNES.

I HAVE calculated, from the longitudinal section, the probable amount that will be required for flattening slopes throughout the Line, and I find that a sum of £20,000 will be required for this purpose. This must only be received as approximate, as I am unable to determine the actual quantities in consequence of not having the cross sections; they certainly were forwarded to me, but I declined to receive them, as the greater portion of the data required by me was in pencil.

SAML. V. KEMP.

The Hon. the Colonial Secretary, Hobart Town.

REPORT.—ORDINARY GENERAL MEETING OF SHAREHOLDERS.

16th April, 1869.

1. At the last meeting of shareholders, a quorum not being present, no business was consequently transacted; and it therefore becomes necessary to recapitulate some particulars in the proceedings of the Directors prior to that date, in order to perfect their report to the present time.

2. It has now become pretty generally known that the sale of the debentures which had been exchanged for the bonds of the Company, in pursuance of the provisions of the Act of Council 31st Victoria, No. 43, proved very satisfactory, the net proceeds being £303,137 6s. 9d.—a result which the Directors believe is to be traced, in a very great measure, to the guarantee of the interest on the loan by the districts known as the Railway District, and to the fact that the proceeds of the loan were known on the Stock Exchange to be intended for the construction of a railway.

3. It is also known that the contract for the construction of the whole line has been let to Messrs. Overend and Robb, at the sum of £200,671 8s. 8d., including the maintenance of the line in repair for 12 months after opening, and that they contract to complete the line for traffic in twenty months from the 17th July, 1868.

4. The Directors have now to state that the monthly progress reports from the Engineers give encouraging evidence of the progress made by the contractors being highly satisfactory. The rails are in course of arrival—the first 100 tons having reached Melbourne; and as soon as sufficient have been landed, it is understood the contractors will commence ballasting this end of the line.

5. The orders for the English market are all now advised to be in hand. There is an excess in the cost of these materials beyond the sum estimated of something like £8000; and the freights have been taken considerably in advance of the estimates made by the Directors. The cost of land taken has also exceeded the estimated sum. In the Engineer's report of 1862 it was assumed that the whole of the land would be given, and provision was made only for compensation to tenants in the sum of £2000; and in the Directors' estimates last year the sum of £5000 was assumed as a fair average total: the results, however, have greatly disappointed the Directors, the entire cost of land and legal costs incident thereto being now estimated at £13,071.

6. An extra expense has also been found necessary with regard to some of the larger cuttings, which require a further flattening of the slopes. This question is best explained by a quotation from a report by the Engineers, made for the information of the Government, dated the 16th January last, as follows:—

"In our Progress Report of the 26th December, 1868, we detailed for the information of the Board the alterations in the slopes of the cuttings, which have become necessary up to the present time; and we then estimated their approximate cost at £6600, after deducting the quantity of excavated materials used in place of the side cutting provided for in Messrs. Overend and Robb's contract."

"We cannot, of course, venture to say that no further alterations will become necessary as the works proceed; and therefore we would add to the estimate of the probable requirements the sum of £4500, for contingencies in cuttings not yet developed, making a total sum of £12,000 for earthworks in excess of present contract.

"We take this opportunity of pointing out the fact that the necessity for these works has not arisen from any error or oversight on our part, as it was always understood that the unusual slope we adopted was an experiment which we considered well worth trying, in view of the limited means at the Company's disposal; the result so far has shown it to be so; since out of some fifty cuttings which have been opened up, embracing the heaviest on the line, only seven have hitherto required alteration, proving that, if we had at the outset provided for flatter slopes, much unnecessary expenditure would have been incurred."

7. To meet these and other extras, necessary to give effectiveness to the working of the line, additional capital will be necessary; and the shareholders will best become informed on this point by the following excerpts from a report made to the Government thereon on the 19th February last, in reply to a request made by the Honorable the Colonial Secretary, "to be put in possession of the fullest possible information as to the whole extra expenditure which may be necessary to complete the line;" namely,—

	£
Extra slopes in cuttings	12,000
Staging for erection of bridge at Longford	2000
Telegraph	2000
Additions to London contracts	8000
Additions to land purchases and costs herein	8071
Additional crossing and gates	2000
Additional freights from London	3500
Commissions in London	2500
Insurance	875
Cartage to Longford of iron for bridge	1000
Rolling stock	6000
	<hr/>
	£47,946
Deduct amount provided as contingencies in July 1868 estimate	10,600
	<hr/>
Additional to open the line for traffic	37,346
It is proposed to add to this for purchase of further rolling stock to render the working the line more efficient, and so more economical.	23,000
	<hr/>
	£60,346

"Or the sum of £10,346 above the estimate of £400,000 made in 1862, and in excess of the proposed capital of the Company."

8. The Government have been further informed that in the present very depressed condition of the agricultural and pastoral interests of the colony it is quite impossible to raise by a further issue of shares the capital authorised by the 29th Vict., No. 24, and that the only course now open is to borrow the money by the Parliament sanctioning a loan, on security of the works and revenue of the line. The Government would possess, in the more complete works and the improved revenues of the Company, a very enlarged security compared with that provided by the Act 30th Vict., No. 28, clause 9.

9. On the assembling of Parliament it is, therefore, proposed to make the necessary application for the sum thus reported to the Government.

10. The notice of the present meeting comprises proposed alterations in the rules of the Company. It had been found by experience that the quorum required at general meetings was too large, amounting to forty Shareholders; twenty will be proposed to you as the future quorum. Having to deal with this necessary correction, it has been thought desirable to submit at once other alterations, which would have to be made hereafter, so as to render unnecessary further applications on this subject to general meetings.

The accounts of the Company have been audited by the Auditors you appointed last year, Messrs. Gladman and M. Tyson, and the statement is as follows:—

STATEMENT of the Capital and Liabilities and Property and Assets of the Launceston and Western Railway Company (Limited), 16th March, 1869.

Dr.	£	s.	d.		£	s.	d.
Capital account	52,800	0	0				
Balance due to Union Bank on Company's account	17,209	10	0				
Amount borrowed on Debentures (premium accounted for on other side) ..	300,000	0	0				
Renewals from sundry Shareholders (the original bills being included in those deposited at the Union Bank which have to be returned when renewals are paid)	573	10	0				
	<hr/>				£370,583	0	0
					<hr/>		
Cr.	£	s.	d.		£	s.	d.
Balance to Cr. of Company and Commissioners at Union Bank .....	..				31,489	11	11
<i>Construction Account. Amount paid from formation of Company to this date—</i>							
Printing and advertising	122	13	7				
Petty cash expenses	95	2	5				
Stationery and stamps	105	9	2				
Office expenses	1498	1	11				
Commissioners' salaries and expenses	1821	4	6				

	£	s.	d.	£	s.	d.
Law charges (general)	243	19	10			
Lands taken	8109	17	6			
Law charges on ditto (for both parties)	827	13	3			
Overend and Robb, contractors	45,806	18	5			
Engineering	8066	13	4			
H. M. Government expenses of poll of district	663	18	1			
Balance of sundry expenses, including stand and other items of H.R.H. the Duke of Edinburgh's visit	580	5	7			
Paid on account rails, London	2035	13	11			
	69,977	11	6			
Less premium on sale of debentures, £3137 6s. 9d.; interest accrued at Bank, and from other sources, £1033 4s. 4d. ...	4170	11	1	65,807	0	5
Interest paid on debentures				18,000	0	0
Balance at Union Bank, London				234,588	2	2
Notes on hand, and at Union Bank				13,776	18	10
Balances due from Shareholders who have not given notes				6921	6	8
				£370,583	0	0

194.

Colonial Secretary's Office, 30th April, 1869.

SIR,

I HAVE the honor to forward for your information a letter signed by two of the Commissioners, and a memo. from Mr. Kemp, with reference to the cost of flattening slopes on the Launceston and Deloraine Line of Railway.

You will oblige me by letting me have your remarks on these documents, and returning them at your earliest convenience. I would especially direct your immediate and careful consideration to Mr. Kemp's memo.

I have, &c.,

H. DOWLING, Esq.

(Signed) RICHARD DRY.

195.

Launceston and Western Railway Company, Limited,
Launceston, 5th May, 1869.

SIR,

I AM instructed by the Board of Directors to submit, for the consideration of Government, the following statement.

For a period of eight months past Mr. Kemp, the professional Commissioner, has refused to sign the cheques for the monthly progress payments, certified by the Engineers of the Company, in accordance with the 27th condition of the Contract, to be due to Messrs. Overend and Robb, the Contractors; and Mr. Innes has very reluctantly signed such cheques, in some instances after considerable delay.

The question of whether the Commissioners should or should not sign the cheques, upon the due production of such certificates, because they do not furnish quantities, or other data demanded by Mr. Kemp, has been repeatedly brought under the notice of the Government by the Company and the respective Commissioners.

I addressed you on the subject on the 21st November last; and in your reply, dated 10th December, you expressed yourself as follows:—

“With reference to no Bill of Quantities being furnished, upon which the certificate is given, it appears to me that materials for such a bill are not fully available, as the certificates are given, not from measurement, but from personal inspection and experience, and by the aid of the schedule of prices. I do not suppose the Commissioners require, or can require, the Engineers to measure the work; but all information which can be reasonably obtained should, I think, be afforded to them.”

In your reply, dated the 5th of January, to Mr. Kemp's letter to you on the same subject, dated the 2nd January,—and which has been quoted by Mr. Bartley at the Board of Directors,—you again clearly stated the opinions you entertained on the question, in the following terms:—

“Without wishing to fetter the discretion of the Commissioners, I would ask whether, under the 27th Clause of the Contract, they would not be warranted in taking the certificate of the Engineer, as *prima facie* evidence, that the money was due to the Contractors; unless they were aware, or had strong reason for supposing, that the certificate was intentionally erroneous. Even

should the payments on account be too large, the Contractors would be bound to finish the work contained in any item for which the over-payment had been made."

Notwithstanding such distinct expressions of the views so entertained by the Government on this important question, the distinct opinion of the Directors, and also of the Solicitors to the Company, that the monthly certificates, so furnished to the Contractors by the Engineers, are in strict accordance with the terms of the 27th condition of the Contract; and that, on the production of such certificates to the Directors, the Contractors are legally and equitably entitled to prompt payment by the Company and Commissioners; and that, in default of such prompt payment, the Contractors could at once—or certainly after ten days from the date of such certificates—enforce the same by summary legal process, Messrs. Kemp and Innes still entertain, and act upon, a contrary opinion; thereby causing great and continual anxiety and unpleasantness to the Directors, inconvenience and loss to the Contractors, and serious injury to the credit of the Company.

With the hope of some satisfactory arrangement being arrived at, on a subject so deeply affecting the interests of the Company and of all concerned in the successful completion of the Railway, it was agreed upon, at last meeting of the Board of Directors, by Messrs. Kemp and Innes, and Directors, to endeavour to obtain the opinion of the Law Officers of the Crown on the question at issue; and the following Resolution was unanimously adopted:—

"That the question be referred to the Law Officers of the Crown, whether it is obligatory upon the Company and Commissioners to pay the amount of monthly accounts, certified (in the form annexed) by the Company's Engineers to be payable to the Contractors."

I am instructed to forward this resolution to you, with one of the original certificates, and respectfully to request that you will favour the Directors and Commissioners by obtaining the opinion of the Law Officers of the Crown as to the legal right of the Contractors to payment by the Company and Commissioners of the amounts of the monthly certificates so furnished to the Contractors by the Engineers, upon the production of the same by the Contractors, accompanied by their demand for such payment.

As I have already said, the Directors and the Solicitors to the Company entertain the most decided opinion with regard to the legal and equitable right of the Contractors; and the Directors and one Commissioner have invariably sanctioned such payments; and that the Commissioners are equally bound to unite in making such payments, the Directors are of opinion cannot be questioned. As Commissioners, they were present in their seats at the Board—as provided by the Railway Act—when this Contract was entered into with Messrs. Overend and Robb, and neither of the Commissioners made any objection to, or suggested any alteration in, such Contract or condition; and the Contract so entered into was afterwards respectively reported upon to the Government by Mr. Kemp, and Messrs. Innes and Bartley, without any reference to such condition.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Hon. the Colonial Secretary, Hobart Town.

Referred to the Hon. the Attorney-General.

RICHARD DRY.
6th May, 1869.

GENERAL CONDITIONS to be complied with under the Contract, and to be embodied therein.

1. In the conditions the word "Company" shall mean the Board of Directors of the Launceston and Western Railway Company, Limited; "The Engineer" shall mean any Engineer who may from time to time be appointed by the Company to supervise the works or buildings; and "The Contractor" shall mean the Contractor, or body of Contractors, who shall undertake to execute the Contract.

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

3. The Drawings referred to in the Specification, and the Specification shall be taken together to explain each other; and if in the execution of the works it shall be found that anything has been omitted or mis-stated either in the Drawings or Specification which is necessary for the proper performance and completion of any part or parts of the works, the Contractor shall, at his own expense, execute the same, and provide whatever may be requisite for so doing. Any written dimensions on the Drawings shall be taken in all cases in preference to the scale attached; and anything contained either in the Drawings or Specification shall be as binding on the Contractor as if it were contained in both; and in case the written or figured dimensions on the Drawings shall disagree with the scaling, or in case there shall be any dis-

crepancy between the Drawings and Specification, or any ambiguity in them, such occurrence shall not invalidate the Contract, but such discrepancy or ambiguity shall be rectified by the Engineer, if he shall think it requisite so to do, and the Contractor shall not be entitled to any compensation or damage on account of any discrepancy or ambiguity. If neither the Drawings nor the Specification contain any notice of minor parts of the works necessary for the completion and stability of the whole of such works, all such parts are to be made and executed by the Contractor without extra charge.

4. The Contractor shall provide at his own expense copies of the Specification and of any Drawings or working Drawings.

5. The Contractor shall in like manner, and with such materials as aforesaid, make, execute, and complete any deductions from, additions to, or alterations in the works which the Engineer may from time to time, previous to the commencement of or during the progress of the works, by an order in writing, require; and the price at which the Contractor shall be paid for any of the works so altered, or for any such deviations or additions as aforesaid shall be ascertained by actual measurement of the quantities of the works so altered, or of such deviations or additions, as the case may be, and shall be at the rates mentioned in the Schedule annexed hereto. But where no alterations are made in the works, the bulk sum or amount set opposite to each item of the works, as mentioned in the said Schedule hereto, shall be the sum to which the Contractor shall be entitled for such item, notwithstanding any errors that may be discovered in the quantities of the works comprised in such item. And the Company shall not be liable for any extras, additions, deviations, or alterations whatsoever which may be executed without an order in writing signed by the Engineer authorising or requiring the same.

6. The Company shall be at liberty at any time, or from time to time, by notice in writing under the hand of the Engineer, to require the omission of any particular item or items of works mentioned in the said Schedule, or of any portion or portions of the works described in the Specification or shown on the Drawing whatsoever, constituting an item or portion of an item of works in the said Schedule, and the value of such omissions shall be deducted from the amount of the contract, estimated at the prices of such items when the omissions shall consist of entire items in the said Schedule, or at the rates mentioned in the Schedule, where the omissions shall consist of portions of the works not appearing in the Schedule as distinct items. And the Contractor shall have no claim for any loss, damage, or compensation in respect of such omissions, anything herein contained to the contrary notwithstanding.

6A. Whenever from time to time during the progress of the works it may be found desirable to make any addition or substitution to or for the works contracted for, or any item or portion thereof, and such addition or substitution shall not be provided for as an item in the said Schedule, the Engineer shall notify to the Contractor, in writing, his intention to carry out such additional or substituted work, and shall provide him with Drawings and Specification of such work, and shall by such notice request the Contractor within seven days, or such other time as the Engineer shall give, from the receipt thereof, or leaving the same at his (the Contractor's) Office, to tender for such additional or substituted work at a price to be named by him; and if the Engineer shall accept such tender, then such additional or substituted work shall be deemed an additional item in the said Schedule, and all the provisions of this contract shall apply to such new item as if the same had been originally mentioned in the said Schedule as part of the works originally contracted for. But the Engineer shall be at liberty, in the exercise of his discretion, to reject any such tender, and may thereupon let such work to be constructed by any other person or persons, or have it executed in any manner he may think fit, and the Contractor shall not offer any let or hindrance to the execution of such additional or substituted works by any person or persons who may contract to perform the same, or who may be employed by the Engineer for such purpose. And the Contractor shall have no claim for damages against the Company in consequence of the admission of such other person or persons upon the works or otherwise, in consequence of the execution of any such additional or substituted work, unless any injuries done to his works, or any damages in any way caused to him by the execution of such additional or substituted works might, in the opinion of the Engineer, by reasonable care or good management on the part of the person or persons executing the same have been avoided, in which case any sum which the Engineer shall assess as being the value of such last-named injury or damages shall be paid by the Company to the Contractor.

7. The Contractor shall, at his own cost and risk, set out accurately according to the Drawings, or figured dimensions thereon, all the works comprised in this Contract; but the Engineer shall have full liberty to check the position and dimensions of all such works, and the Contractor shall, at his own cost, provide all labour and implements necessary for that purpose.

8. If at any time previous to the commencement or during the construction of the works it shall be discovered that the "quantities" named in the Schedule and the "rate" set opposite to them do not correspond with the "cost" of any item or items, then the Engineer shall be at liberty to amend such "quantities" and "rates" so that they shall correspond with the "cost," and all past and future payments shall be made to correspond with such amended rates, and any payments that have been made in excess shall be deducted from any moneys that may be due or afterwards become due to the Contractor.

9. When measurements are made, the *net* measurement will in all cases be taken, notwithstanding any custom to the contrary.

10. The Contractor shall provide at his own costs and charges all materials, labour, tools, plant, tackle, machinery, scaffolding, cordage, cartage, stores, planking, and everything necessary for the proper execution and completion of the several works, all of which are to be approved before being used. The Contractor is also to provide at his own cost for keeping all the trenches and foundations free from water,

and for preventing all slips of ground into the trenches. All plant, prepared work, or material, brought upon the ground of the works for use therein, shall be considered the property of the Company, and shall be held by it as a portion of the security for the due fulfilment of the Contract; and the Contractor shall not take away such work or material without the written authority of the Engineer.

11. The Engineer shall be at liberty to order the removal from the works of any materials, whether fixed or not, which may appear to him to be of an inferior or improper description, and the Contractor shall remove the same within twenty-four hours after a written notice in that behalf given to him by the Engineer; and in case of neglect or refusal to remove the same according to such notice, the Engineer may until such materials are removed withhold all further certificates, and the Company may withhold payment of all sums of money that may be due or that may thereafter become due to the Contractor.

12. If the Contractor shall supply any materials, or execute any work, which in the judgment of the Engineer shall not be in accordance with the Contract; and if the Company shall elect to allow such materials to be used, or such work to remain, then and in every such case the Engineer shall have power to fix the price of any such material, or workmanship, and the Contractor shall be bound by the decision of the Engineer on the subject.

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

14. If the Contractor shall fail to make such progress with the works as the Engineer shall deem sufficient to ensure their completion within the specified time; or if the Contractor shall in the opinion of the Engineer use or employ bad or insufficient materials, or execute any work in an imperfect manner, and shall fail or neglect to rectify any such cause of complaint for seven days after being thereunto required in writing by the Engineer; or if the Contractor shall in the judgment of the Engineer commit a wilful breach of this Contract, then and in any such cases it shall be lawful for the Company, by a notice under its seal, delivered to the Contractor or his representative on the works, or left at the Contractor's usual or last known place of abode or business, absolutely to determine this Contract; and from and after the delivery of such notice, this Contract shall be absolutely determined; and in the event of such determination, any moneys which shall have been previously paid to the Contractor under this Contract shall be deemed to be the full value of the work executed, and shall be taken and accepted by the Contractor in full payment and satisfaction of all claims and demands under this Contract; and any deposit, or per centages, or retention money, in the hands of or payable by the Company, and also all materials, implements, and plant, then being in or upon the works, or being used in connection therewith, shall become the absolute property of the Company, and may be disposed of as the Company think fit.

15. If the Contractor shall commit any breach of, or fail to comply with, any of the conditions on the part of the said Contractor to be observed or performed, it shall be lawful for the Company, either to pursue the remedy, if any, provided herein for such breach, or the usual remedy, or to have assessed by arbitration in the manner herein provided the damage and loss that may have arisen or occurred, or be likely to arise or occur thereby, and to deduct the same from any money that may be due or owing, or may thereafter become due or owing, to the Contractor under this Contract.

16. If the Contractor shall become bankrupt or insolvent, or shall make an assignment of his estate for the benefit of his creditors, it shall be lawful for the Company to take the works out of the hands of the Contractor and of the assignees or trustees of his estate, and to re-contract with any other person or persons to proceed with and complete the same upon such terms, stipulations, and conditions as shall be deemed expedient, and all the materials, implements, and plant then being in or upon the works, or being used in connection therewith, may be used in and applied for the purposes of the works; and on the final completion of the works, the surplus, if any, of such materials, implements, and plant shall become the property of such assignees or trustees, but without any allowance for any loss or diminution, wear, tear, or injury they may have sustained in the meantime; and the Company shall be at liberty to deduct from any deposit or per centages or retention money in its hands, or payable by it, any moneys which shall be paid, or become payable, under any such re-contract; and on the final completion of the works the residue, if any, of such deposit or per centages or retention money, but without any interest thereon, shall belong to the said assignees or trustees.

17. The Contractor shall complete the whole of the works of this contract, including any alterations in, additions to, or deviations from, the same on or before the _____ day of _____ 18____, and for every day's delay in the completion of the works after that day, the Company shall be entitled to deduct or set off from or against the contract price as and by way of liquidated damages, and not as or in the nature of a penalty, the sum of £40 per working day. Provided always, that in the event of any alterations, deviations, additions, or extra works being required, the Engineer shall allow such an extension of time, if any, as he shall think necessary in consequence of such alterations, deviations, additions, or extra works, and at the expiration of the time so extended the Company shall be entitled to make such detentions or sets-off as aforesaid.

18. The Contractor shall maintain all the works comprised in this contract in perfect order for a period of three months after the Engineer shall have given a certificate that the works are completed to his satisfaction, and at the expiration of the time of maintenance the Contractor shall deliver over the works to the Company in perfect order. He shall be liable and responsible for all defects or failures that may appear or occur in the works during the time of maintenance, whether such defects may arise or accrue from

insufficient foundations, defective construction, bad materials, or from any cause within the Contractor's control; and it is hereby expressly declared and agreed that any certificate given at any time by the Engineer will be given by him, and shall be accepted by the Contractor, without prejudice to the operation of this clause. The Contractor shall also be liable and responsible for any accident, damage, or loss which may happen to any person or persons during the progress of the works, in consequence of the construction of such works. All reasonable claims brought against the Company for damage arising from any of the above-named causes, or from any other cause contingent upon the execution of the works, if not satisfied by the contractor within one month from presentation, shall be paid by the Company, and the amount deducted from any moneys that may be then due or may afterwards become due to the Contractor.

19. The exercise by the Company or Engineer of any of the powers reserved to them hereby, shall not relieve the Contractor from any liability to which he may be subject for any breach of the contract.

20. The Company will give the Contractor possession of the ground or work within thirty (30) days from the signature of the contract by the Contractor; but in case of any delay in giving such possession the same shall not invalidate this contract, but the Contractor shall be entitled to an equivalent extension of time for the completion thereof.

21. The Contractor, on receiving a written notice from the Engineer, shall from time to time suspend the whole or any portion of the works as may be directed; and the Contractor shall have no claim for loss or damage on this account until after and from the expiration of thirty (30) working days from the date of such suspension.

22. The Contractor shall not sub-let any portion of the works, or enter into any sub-contract for the execution thereof, or any portion thereof, or assign all or any of the moneys payable or to become payable under the contract, or all or any part of any other benefit whatsoever arising or which may arise under the contract, without the consent of the Company under its seal.

23. The workmen, tradesmen, and labourers of every class, employed on the works to which these conditions refer, shall be paid their wages in full in money current coin of the Colony, at least once in every fortnight, and not by ticket, or any other system of payment by provisions, liquors, or goods; nor shall the Contractor, or any person or persons employed by him, or in any way connected with him, establish any shop for the supply of provisions, liquors, or goods, except tools and implements used for the purposes of the works of this contract, nor shall the Contractor oblige his workmen to take provisions, liquors, or goods of any kind from any person in particular. The workmen of every class shall be paid on the works if it be possible, or in some building adjoining, and in no case shall they be paid at a public-house, or other place where liquors or refreshments are sold. In case of any breach of this or of the preceding clause, it shall be lawful for the Company to determine this Contract, and the powers conferred in clause No. 14 shall apply to such a case.

24. Before the payment of any money to the Contractor, the Company may require from him a statutory declaration that the workmen and labourers of every kind employed on the works, to which these conditions refer, have been paid their wages and claims of every kind in full in money current coin of the Colony, and to the latest date at which such wages or claims are due, and the Company may withhold the payment of any money that may be due, or may become due, to the Contractor, till such declaration has been made and delivered. If the Contractor shall fail or omit to pay the wages of any workman employed upon the works in the current coin of the Colony, it shall be lawful for the Company, as often as the same shall happen, upon complaint of such failure or omission made by any such workman, and upon production of an order from any Magistrate's Court, to pay the amount mentioned in such order to such workman, and to deduct the same amount from any money then due or owing, or thereafter to become due or owing, to the Contractor under this contract.

25. The Engineer may require the dismissal within twenty-four hours by the Contractor of any responsible agent, overseer, foreman, workman, or other person employed by him on the works contracted for, and in the event of the Contractor refusing or neglecting to comply with such requisition, the Company shall not be liable to make any further payment on account of the work until such dismissal is carried out; and the delivery of a notice from the Engineer to any such agent, overseer, foreman, workman, or other person, informing him that his dismissal has been demanded, is to be considered as an absolute dismissal, and he may be thereafter ejected from the works as a trespasser. If the agent whose dismissal is thus required should be acting in the absence of the Contractor, and is the only responsible agent present, then the Company shall be at liberty to appoint whomsoever they may think fit to act in the stead of such dismissed agent, or to suspend the works, or absolutely determine the contract; and in the event of the Company deciding to determine the contract, the provisions contained in clause 14 shall apply to this case.

26. If any difference or dispute shall arise between the Engineer and the Contractor on the subject of quantities or prices, or any other matter or thing in connection with the execution of the works not hereby left to the sole determination of the Engineer, such difference or dispute shall be referred to arbitration in the manner herein provided. But in all cases the Engineer is to be the sole judge of the quality of materials and workmanship, and his decision shall be final as between the Company and the Contractor.

27. Payments will be made to the Contractor every month of the amount which the Engineer may certify, by estimate from the Schedule of Prices, as the price or value of the work performed during the preceding month, together with the value the Engineer shall place on any suitable materials that shall have been delivered on the works, less ten (10) per cent. upon each such certified amount, until the sum so

retained shall amount to seven and a half ($7\frac{1}{2}$) per cent. of the total price of the works, and that sum, together with a deposit of two and a half ($2\frac{1}{2}$) per cent. on the total amount of the contract, deposited at or before the execution of these presents, will be retained by the Company until the final completion of the entire works to the satisfaction of the Engineer; one-half of the balance, less the amount specified in the said Schedule for maintenance, will be paid to the Contractor within twenty-one (21) days after a certificate shall have been given by the Engineer that the entire works have been completed to his satisfaction; the remaining half will be paid to the Contractor within twenty-one (21) days after a certificate shall have been given by the Engineer that all the works have been maintained to his satisfaction for the aforesaid period of twelve (12) months after their completion: Provided always that no money shall be considered due or owing to the Contractor, nor shall the Contractor be entitled to payments for or on account of any work executed or maintained by him, unless the said Engineer shall certify the amount thereof, and that the Contractor is reasonably entitled to such payment, whether the same shall be a monthly payment on account or in respect of such balance as aforesaid, nor shall any such sum so certified be considered to be payable to the Contractor until the expiration of ten (10) days after such certificate shall have been presented to the Company or its Secretary; nor shall any omission to pay the amount of such certificate at the time the same shall be payable be held or deemed to vitiate or avoid this contract; but in case of such omission the Contractor shall be entitled to interest on the amount certified for at the rate of ten pounds per centum per annum for such time as such omission shall continue.

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

29. When any dispute shall arise which by this contract is left to arbitration, the same shall be settled under the provisions of the Arbitration Clauses, contained in an Act passed by the Parliament of Tasmania in the 29th Victoria, No. 24, entitled *The Launceston and Western Railway Act*.

THIS CONTRACT made the _____ day of _____
in the year of our Lord one thousand eight hundred and sixty- _____ between _____

hereinafter and in the Documents forming the Schedule hereto called "The Contractor" of the first part, and the Launceston and Western Railway Company (Limited), Tasmania, hereinafter and in the said Documents called "The Company," of the second part:

WITNESSETH that the said Contractor, for himself, his heirs, executors, and administrators, hereby covenants with the said Company, and the said Company hereby covenants with the said Contractor to perform, observe, and fulfil all and singular the conditions, stipulations, and requisitions expressed and contained in or reasonably to be inferred from the Specification and General Conditions hereunto annexed, and by and on the part of the said Contractor and Company respectively to be performed, observed, and fulfilled, which Specification and Conditions, with the tender of the Contractor and the Schedule of Quantities and Prices upon which such tender was based or calculated, are the documents forming the Schedule hereto. And it is also mutually covenanted that if the party hereto of the first part shall consist of two or more persons the term Contractor herein, and in the Documents forming the Schedule hereto shall bind such persons jointly and severally, and their respective heirs, executors, and administrators, and such persons shall jointly be entitled to the benefit of this Contract and these presents, and the said Documents shall be read and construed accordingly.

Signed, sealed, and delivered
by the above-named

(L. S.)

In presence of

(L.S.)

The Seal of the Company was affixed hereto
in the presence of the undersigned, two
of the Members of the Board, on the
day of _____ 186

(L.S.)

The Schedule to which the above Contract refers annexed.

196.

I CONFINE my opinion simply to the question put; viz.—“Whether it is obligatory upon the Company and Commissioners to pay the amount of monthly accounts certified (in the form annexed to Mr. Dowling's letter) by the Company's Engineers to be payable to the Contractors?”

So far as as the Company is concerned, I entertain no doubt that it is obligatory upon them to pay the amount of monthly accounts, when so certified, to the Contractors, and an action would lie by the Contractors against the Company in case of non-payment.

So far as the Commissioners are concerned, I do not think that there is any legal obligation upon them to do so. They are not parties to the Contract, nor are they bound by it, and no action can be brought against them so long as they honestly exercise the discretionary powers vested in them by the 30 Vict. 28, Sect. 4.

The object of their appointment was, that they should operate as a check upon the expenditure of the £300,000, which is required to be expended with their “*approval and not otherwise*,” and I do not think that they exceed their duty if they require to be satisfied as to the quantity of work executed before they join in expending any part of the £300,000 in paying for the performance of such work.

I do not think that the Certificate of the Company's Engineers is absolutely conclusive upon the Commissioners as to the amount of work done.

W. L. DOBSON.
11th May, 1869.

I may add that the Solicitor-General (who is absent from Chambers to-day) verbally expressed his concurrence in the above opinion.

197.

Colonial Secretary's Office, 11th May, 1869.

SIR,

IN reply to your letter of the 5th instant, I have the honor to inform you that the point at issue has been referred to the Attorney-General, and I now forward you herewith copy of that gentleman's opinion thereon.

The enclosures to your letter, which you requested to be returned, are now forwarded.

I have, &c.,

(Signed) RICHARD DRY.

The Secretary Launceston and Western Railway Company.

198.

Railway Commissioners' Office, Launceston, 5th May, 1869.

SIR,

I SHALL feel obliged by your informing me if I am authorised under the Railway Acts in incurring travelling expenses when visiting the Railway Works for personal inspection.

I have hitherto used my own horse, but I find the works are extending beyond such limits that I am compelled occasionally to hire a horse and buggy. I have no desire to make a profit out of any travelling expenses, but only require to be reimbursed for any outlay that I am put to in the discharge of my duties as a Commissioner.

I have, &c.,

(Signed) SAML. V. KEMP.

The Hon. the Colonial Secretary, Hobart Town.

199.

Colonial Secretary's Office, 8th May, 1869.

SIR,

In forwarding for the information of the Directors of the Launceston and Western Railway Company, and for their consideration, the enclosed copy of a letter received from Mr. Kemp, respecting his travelling expenses when visiting the Railway Works for personal inspection, I think it right to state, that a Government Officer of the First Class would, under similar circumstances, be entitled to an allowance of 18s. per diem and coach fare ; or where no public conveyance can be made available, the hire of a vehicle, the claim being accompanied by a certificate "upon honor" that the amount stated in the account had been actually expended.

It appears to the Government that such an allowance might very fairly be made to Mr. Kemp when travelling.

I have, &c.,

(Signed)

RICHARD DRY.

The Secretary Launceston and Western Railway Company, Launceston.

200.

*Launceston and Western Railway Company, Limited,
Launceston, 12th May, 1869.*

SIR,

Your letter of the 8th instant, covering copy of one from Mr. Kemp, dated 5th instant, I submitted to the Directors yesterday.

Referring to the correspondence on this subject, published by order of Parliament, it appears that when £750 was apportioned as the salary of Mr. Kemp, and £200 as the salary of Mr. Innes and of Mr. Bartley, the exception as to allowances was made in favour of Mr. Innes solely with reference to his residing in Hobart Town ; and the inference was clear that the sums of £750 and £200 in the other cases were deemed amply sufficient, in view of the duties prescribed by the 7th clause of the Act, No. 2, and the necessity for personal inspection these clearly involved, on the part at least of the professional Commissioner.

If, therefore, the Government are now of opinion that it is necessary to review their former decision, with a view to allowing travelling expenses, in addition to the large salary inflicted on the funds of the Company, I am respectfully to say that the whole question is taken out of the control of the Directors by the Legislature, in the 6th clause of the said Act No. 2, which enacts that the salary and allowances to the Commissioners shall be as the Governor in Council sees fit ; and in the 17th clause which provides that all costs and charges arising from carrying out the provisions of this Act shall be borne and paid by the Company.

I have, &c.,

(Signed)

H. DOWLING, *Secretary.*

The Hon. the Colonial Secretary, Hobart Town.

201.

MINUTE PAPER FOR THE EXECUTIVE COUNCIL.

Colonial Secretary's Office, Hobart Town, 15th June, 1869.

SUBMITTED—That, in order to overcome the existing impediment to the signature by the Commissioners under "The Launceston and Western Railway Act," authorising the payment monthly of the moneys stated to be due to the Contractors for work performed, arising from the alleged insufficiency of the Certificates furnished by the Engineers, the Commissioners be authorised to employ such means as may to them appear necessary for obtaining such information relative to the amount of work executed as will enable them to give their sanction to the disbursement of the funds placed at the joint disposal of themselves and the Company ; and further, that the Professional Commissioner be allowed such reasonable travelling expenses as may be necessary to enable him to visit the more distant portions of the works.

(Signed)

RICHARD DRY.

The Governor in Council approves,

E. C. NOWELL,
21st June, 1869.

The Hon. the Colonial Secretary.

202.

Colonial Secretary's Office, 22nd June, 1869.

SIR,

I HAVE the honor to acquaint you, that in order to overcome any impediment to the signature by the Commissioners to the cheques for the payment, monthly, of the moneys stated to be due to the Contractors for work performed; arising from the alleged insufficiency of the Certificates furnished by the Engineers, the Governor in Council has been pleased to approve of their employing such means as may to them appear necessary for obtaining the information relative to the amount of work executed as will enable the Commissioners to give their sanction to the disbursement of the funds placed at the joint disposal of themselves and the Company.

His Excellency has further been pleased to approve of your receiving such reasonable travelling expenses as may be necessary to enable you to visit the more distant portions of the works.

I have, &c.,

(Signed) RICHARD DRY.

S. V. KEMP, Esq., Launceston and
Western Railway Commissioner.

203.

Colonial Secretary's Office, 22nd June, 1869.

SIR,

I HAVE the honor to forward to you copy of a communication which has been addressed to Mr. Kemp by the Colonial Secretary, of this day's date.

I have, &c.

(Signed) B. T. SOLLY.

H. DOWLING, Esq., Launceston.

204.

Railway Commissioners' Office, Launceston, 5th May, 1869.

SIR,

I HAVE the honor to thank you for referring to me, in answer to my request, a copy of the letter of the Engineers to the Secretary of the Launceston and Western Railway Company of the 17th March, which I received on the 24th ultimo.

After previous correspondence I will not occupy your attention with the differences between myself and Messrs. Doyne and Company as to the increased cost of the Longford viaduct, consequent on their change of plans. The extent of the increase will shortly be known, and until then I can wait. But the Directors of the Company have shown, by Resolution, that THEY were taken unawares by change of plans, and I can confidently repeat, that so was I. I relied that the orders which they would transmit to England would not be different from the schedule of quantities furnished to the Commissioners in October, 1867, and the estimates of the 16th July, 1868, printed by order of Parliament, otherwise I should not have failed to advise my fellow Commissioners.

I decline to enter into personal comparisons or recriminations with Mr. Doyne and his partners. Their qualifications and distinctions may be all that they boast: my testimonials were, at least, such as to satisfy the Government that I was competent to supervise the execution of the Contracts for the Railway and the Contract for its Engineering, and their respective engagements. This duty, if faithfully performed, was sure to produce misunderstandings; but I have not been deterred by that consideration in advising the Government and the Company as respects Messrs. Doyne and Company's Contract, either in regard to the Main Line Survey or that between Launceston and Deloraine, and I trust I shall receive the support of the Executive.

I have, &c.,

(Signed) SAML. V. KEMP.

The Honorable the Colonial Secretary, Hobart Town.

Railway Commissioners' Office, Launceston, 7th May, 1869.

SIR,

HAVING perused a letter addressed to you by my fellow-Commissioners, Messrs. Innes and Kemp, on the 29th, forwarded by you on the 30th ultimo to the Secretary of the Launceston and Western Railway Company for his remarks thereon, and read at the last meeting of the Board of Directors, I deem it my duty also to submit some observations on the same.

1. Mr. Innes read a draft of a considerable portion of the letter referred to, to Mr. Kemp and myself, in order that if we approved of it we might attach our signatures thereto.

2. As I could not concur in some of the statements made, nor agree with some of the conclusions arrived at by Messrs. Innes and Kemp, I declined to join them in signing the said letter.

3. The object Messrs. Innes and Kemp appear to have had in view in so addressing you is to disclaim any responsibility on the part of the Commissioners for certain excesses of expenditure "beyond estimate" incurred, or likely to be incurred, for the construction of the Railway.

4. These "excesses" they enumerate as occasioned,—

1st. By the substitution of rails of 72lbs. for rails of 65lbs. weight.

2nd. By the alterations in the designs and consequent cost of the Longford viaduct or bridge.

3rd. By the additional outlay for the alterations in the slopes of "the cuttings" throughout the line, lately estimated by the Company's Engineers at £12,000, and by Mr. Kemp, in his postscript to the said letter, at £20,000.

5. I entirely concur with Messrs. Innes and Kemp in stating that the alterations in the weight of rails, and in the designs and cost of the Longford bridge, were not brought under the notice of the Commissioners until after the orders for such alterations had been forwarded by the Engineers to the Company's Agents in London, and that therefore it was altogether out of the power of the Commissioners to prevent the additional cost occasioned by such alterations, whatever may be the amount, and that they are not in any way responsible for the same. I would here desire to call your attention to the fact that Mr. Innes and myself especially guarded ourselves against such a responsibility in our letter to you, dated 30th January, 1868, forwarded with our Report of that date, that the line could be opened for traffic for a sum not exceeding £350,000. (*Vide Parliamentary Paper, No. 16, page 12, No. 33.*)

6. With reference to the additional outlay for the slopes of the cuttings throughout the line, I would remark,—

That in the estimates for "the earthworks" originally submitted to the Commissioners on which they founded their Reports to the Government, that the Railway could be opened for traffic for a sum not exceeding £350,000, the slopes of all the cuttings were stated "at a quarter to one."

That on the 24th October, 1867,—three months previous to the Commissioners making such reports,—Mr. Doyne forwarded a Report to the Board of Directors, stating, in the paragraph quoted by Messrs. Innes and Kemp, "that the facts brought out by the trial shafts and borings which had been made along the line had been, upon the whole, highly satisfactory."

That early in the next month the estimates of the Engineers were submitted to the Commissioners, and Mr. Kemp went over and explained them to Mr. Innes and myself, as stated in our Report, and did not express any doubt of the cuttings standing at such slope, nor make any remark whatever which would lead Mr. Innes and myself, who were altogether unacquainted with such professional questions, to infer that such slope was an unusual one, or likely to occasion any additional cost beyond that estimated. We did not, therefore, in any way take the questions into our consideration when we so reported to the Government that the Railway could be opened for traffic for a sum not exceeding £350,000, nor did Mr. Kemp, in his Report to the Government to the same effect, in any way allude to the slopes.

7. I would therefore respectfully submit that, whilst Mr. Innes and myself can, with all confidence, disclaim any responsibility for any amount of additional expenditure occasioned by the cuttings having been estimated at a slope of only $\frac{1}{4}$ to 1, Mr. Kemp, by stating no objection to such slope to Mr. Innes and myself, or to the Government, may be said to have affirmed the opinion of the Company's Engineers that the cuttings *would* stand at such a slope, and, as I have frequently personally stated to Mr. Kemp and Mr. Innes, should, as an Engineer appointed by the Government specially to examine and report upon the estimates supplied by the Company, in all fairness participate with the Company's Engineers in the responsibilities consequent upon making an

estimate which has proved to be so erroneous, instead of endeavouring to fix the whole of such responsibilities upon the Company's Engineers, as he has done in the letter referred to; and in previous communications to the Government.

8. With reference to Mr. Kemp's present estimate, as stated in his postscript to such letter, that the sum required for flattening the slopes throughout the line "will amount to £20,000," I distinctly affirm that had Mr. Kemp formed such an opinion and stated it to Mr. Innes and myself when we went over the estimates with him, or at any time previous to our making a Report that the line could be opened for traffic for a sum not exceeding £350,000, such Report would not have been made.

9. Messrs. Kemp and Innes allege that the Commissioners "were not appointed to be judges of the engineering feasibility of the plans (specifications and estimates) of Messrs. Doyme and Company—that Mr. Kemp could only have performed such a duty by a re-survey of the line, and the Legislature had shown that no such duty was contemplated by omitting to provide a shilling to cover the cost."

10. Upon this statement I would remark, that I entertain, and have always entertained, the decided opinion that a professional Commissioner was appointed by the Government at an adequate salary for the special purpose of judging of the engineering feasibility of the plans, specifications, and estimates to be submitted to him by the Company's Engineers, and of calculating the cost of constructing the Railway upon such estimates, and to communicate such professional judgment to his non-professional colleagues for their information and guidance upon the very important question submitted to the Commissioners by the Legislature.

11. That Mr. Kemp entertained such an opinion and distinctly accepted such a responsibility is, I submit, clearly indicated in his first Report to the Government, dated 23rd January, 1868, which Report is couched in the following terms:—"I have the honor to present to Your Excellency my Report upon the cost of constructing the Launceston and Western Railway, and to inform you that I have inspected the country to be traversed by the proposed line of Railway. I have also examined the plans, specifications, and schedules of quantities furnished by the Company's Engineers, and I have made a careful and sufficient estimate of the cost of constructing the said Railway and works; and I find that the line can be opened for public traffic for a sum not exceeding £350,000."

12. If Mr. Kemp was *not* appointed by the Government "to judge of the engineering feasibility of the plans, specifications, and estimates furnished to him by the Company's Engineers," I would ask, why did he "inspect the country to be traversed by the proposed line of Railway," "examine the plans, specifications, and estimates" so furnished to him, and make a distinct Report to the Government to that effect, apart from the Report of the non-professional Commissioners? If not appointed for such purpose, what *were* the professional duties which, as an Engineer, he was expected by the Government to discharge, in connection with the Reports required by the Legislature to be made by the Commissioners to the Government, upon the cost of the construction of the Railway? What *was* the nature and extent of the duties actually discharged by him in connection with his own Report; and that of Mr. Innes and myself?

13. I would further remark upon the statement of Messrs. Innes and Kemp,—that Mr. Kemp could only have performed the duty of judging upon the engineering feasibility of the plans of Messrs. Doyme and Company by a re-survey of the line,—that neither during the examination of the said plans, specifications, and estimates with Mr. Innes and myself, nor at any other time before such Reports were respectively made to the Government, did Mr. Kemp even hint as to the necessity or desirableness of such re-survey.

That no question up to this period has arisen upon the estimates so furnished by the Engineers to the Commissioners which would involve the necessity of such re-survey. The "excess beyond estimate" upon the rails and Longford bridge would not have been prevented, nor in any way affected by a re-survey, nor would it have enabled Mr. Kemp to determine whether the cuttings would stand at $\frac{1}{2}$ to 1.

The Company's Engineers reported that they formed such an opinion upon the satisfactory results of trial shafts and borings three months before the Commissioners made their said Reports. Mr. Kemp had therefore ample time and opportunities of personally enquiring into and examining such results, and thereby of "judging of the engineering feasibility" of such an opinion.

14. I entertain the decided conviction that upon Mr. Kemp ascertaining from the estimates so furnished to him that the cost of the cuttings throughout the line was calculated upon a slope of $\frac{1}{2}$ to 1, it was within his especial province, as an Engineer who might be presumed to be well versed in such questions, to form a *general* opinion upon the abstract question whether the cuttings of *any* line of railway of 47 miles in extent *could* be safely calculated to stand at a slope of $\frac{1}{2}$ to 1; and his especial duty, as the professional Commissioner, to endeavour to arrive at a decided and *particular* opinion upon the all-important question whether the cuttings upon *this* line of Railway *would*, or

would not, stand at such a slope by a careful, personal, and searching examination of the strata or "material" so developed by the said trial shafts and borings, and to have plainly communicated such opinion to the non-professional Commissioners.

10. That Mr. Kemp *had* taken into consideration the slopes of the cuttings, and was of opinion that they *would* stand at $\frac{1}{4}$ to 1, when he and Mr. Innes and myself made our respective (first) Reports to the Government, may, I submit, be fairly assumed from the fact that when he made his second Report and estimate that the line could be opened for public traffic for £350,000, which Report is dated the 18th of July last, six months after his first Report; in such estimate a balance was left by Mr. Kemp for contingencies of £12,091 10s. 8d., which was thus appropriated:—

	£	s.	d.	£	s.	d.
Balance for contingencies .....	..	..	..	12,091	10	8
To meet law costs and alterations (first set down by Mr. Kemp in another column, and afterwards transferred to contingencies)	2000	0	0			
Maintenance of line for twelve months.....	6453	5	4			
				8453	5	4
To meet extra earthworks in cuttings the slopes of which are specified to be only $\frac{1}{4}$ to 1, and it is a question if they will stand at that batter, and a number of other unforeseen incidentals	..	..	..	£3638	5	4

It clearly follows that the amount estimated by Mr. Kemp in the above Report of July, 1868, to cover the extra cost of flattening the slopes of the cuttings throughout the line must have been a mere fractional part of the £20,000 estimated by him as required for such extra work in his postscript to the letter from Mr. Innes and himself of the 29th ultimo.

Having thus referred to and remarked upon the three several items of "excesses above estimate" dwelt upon by Messrs. Innes and Kemp in their said letter, and having stated that in my opinion the whole of the Commissioners are altogether absolved from any responsibility for the extra cost of rails and of the Longford bridge; that, whilst Mr. Innes and myself were altogether absolved from any responsibility for the extra cost of flattening the slopes of the cuttings, Mr. Kemp is equally responsible with the Company's Engineers for such extra cost,—I would now advert to a fourth large item of "excess above estimate," stated in "The Report to the last Ordinary General Meeting of Shareholders," but not referred to by Messrs. Innes and Kemp in their remarks upon such Report. I allude to—

Additions to land purchases and law costs	£8071
As the law costs and arbitrations, covered by Mr. Kemp's balance for contingencies, were estimated as before stated at	2000
The estimated extra cost for land is.....	£6071

From any responsibility for this "excess above estimate" Mr. Kemp and Mr. Innes are in no way responsible. The Company's estimate for about 400 acres of land required for the whole line was £5000, or £12 10s. per acre; Mr. Kemp's estimate was £10,000, or £25 per acre; but upon my stating that I was persuaded that £5000 would be sufficient for land and compensation, Mr. Kemp deferred to my supposed better local knowledge, and reduced his estimate to that sum, Mr. Innes assenting,—for which erroneous estimate I alone must be responsible. I formed it from my personal knowledge that £5000 was more than double the average value of the land traversed by the line, and I had, as it has since appeared, most erroneously believed that it would amply cover all demands for compensation, having no conception that such enormous sums would be claimed on that item, and in many instances awarded: or, in other words, that the landholders throughout the line, with some honorable exceptions, instead of exhibiting that liberal spirit which had been too confidently calculated upon by the promoters of the Railway, would exact the largest obtainable amount from the Company,—claiming in some instances from three to six times the amount eventually awarded to, or accepted by them.

Having thus remarked upon the four principal items of "excess above estimate," stated in the said "Report to the Ordinary Meeting of Shareholders," I would revert to the assertion of Messrs. Innes and Kemp, "that the professional Commissioner was not appointed to judge of the engineering feasibility of the plans, specifications, and estimates furnished by the Company's Engineers," and would,—in my official capacity as one of the Commissioners appointed by the Government, in compliance with the Railway Act, No. 2, to report to the Governor in Council whether the Railway could be opened for traffic for a sum not exceeding £350,000, on which Report the carrying out the Railway altogether depended,—avail myself of this opportunity distinctly to assert that, in uniting with Mr. Innes in the Report of 30th January, 1868, that the line could be so opened, I was principally, if not altogether, influenced by the fact that Mr. Kemp, having, in his professional capacity, first carefully examined with Mr. Innes and myself the whole of the plans, specifications, and estimates furnished to the Commissioners by the Engineers, did, in my estimation, distinctly and unreservedly affirm "their engineering feasibility" by expressing his professional approval of the

same, with the full knowledge that the Report of Mr. Innes and myself would be based on such approval. That it was so based is, I submit, clearly shown by the terms in which the whole Report is couched, but more particularly from the following extract from the same:—"We, the said two Commissioners, having (in conjunction with our professional fellow-Commissioner, Mr. Kemp) so carefully examined the plans, specifications, and estimates of the said Railway and works, and having so availed ourselves of the best professional information obtainable by us, do hereby certify and report that, relying upon such professional information, and upon the accuracy of the said plans, specifications, and estimates so submitted to and examined by us, we do hereby coincide with our said professional coadjutor, Mr. Kemp, that the said Railway can be opened for traffic for a sum not exceeding £350,000." With such Report we forwarded a copy of Mr. Kemp's to the same effect, before quoted in full. (*Vide* Parliamentary Paper, No. 16, page 13, No. 34.)

Mr. Innes and myself did not report *absolutely* that the Railway could be opened for £350,000, but, "that having availed ourselves of the best professional information obtainable by us" (from Mr. Kemp), "and relying upon the accuracy of the plans and specifications so submitted to and examined by us," we coincided with Mr. Kemp that the Railway could be so opened. The Government were pleased to accept our Report, so distinctly based upon the professional information afforded to us by Mr. Kemp, and upon such Report to sanction the commencement of the Railway.

Mr. Kemp therefore, having, in his professional capacity as an Engineer appointed by the Government, as I submit, so affirmed "the engineering feasibility," and so expressed his approval of the plans, specifications, and estimates specially submitted to him by the Company's Engineers for such affirmation and approval, is primarily and principally responsible for the sanction obtained from the Government for the Company "to commence and proceed with the Launceston and Western Railway" upon an estimate in which the slopes of the cuttings throughout the line were stated at $\frac{1}{4}$ to 1,—the additional outlay required to flatten such slopes in excess of such estimate so submitted to Mr. Kemp and so affirmed by him being now calculated by him at £20,000. This responsibility, in all its relations as respects the non-professional Commissioners, the Government, and the various interests involved in the carrying out the Railway, Mr. Kemp, as I submit, accepted by the terms of his first Report, and should be prepared to sustain.

I have, &c.,

(Signed) THEODORE BARTLEY.

The Hon. the Colonial Secretary, Hobart Town.

206.

*Launceston and Western Railway Company, Limited,
Launceston, 15th May, 1869.*

SIR,

I BEG to acknowledge receipt of your letter of the 11th instant, covering the "opinion" of the Attorney-General asked for by the Directors on the 5th instant.

Allow me to say that the Board of Directors have never asserted or suggested that an action could be brought by the Contractors, under any circumstances, against the Company and Commissioners jointly; but it does appear to me clear that if an action can be successfully brought against the Company, the liabilities of whose Shareholders are limited by law,—whose subscribed funds (of £50,000) have been spent by the joint action of the Company and Commissioners,—in whose names they were deposited with the bankers on the precise form of account and certificate now in dispute;—then, that the funds of the Company, borrowed on legalised security from the Government, and on the Company's Bonds, must be liable to attachment at the suit of the Contractors, notwithstanding that these funds have been deposited in the bank jointly with the Commissioners, who have spent those other moneys of the Company deposited in like manner, in joint names: and I believe I am right in saying that it has been in view of these facts, and of the utter ruin which must follow to all interests concerned—those of the whole people of Tasmania, as far as the public credit of the Colony is concerned, as well as the Shareholders—should the Contractors be forced to this last resource, that has made this question one of so deep anxiety to the Directors.

I desire to point out, with all respect, that if it be so, that no obligation whatever lies on the Commissioners to countersign the cheques of the Company given to Messrs. Overend and Robb on their lawful demand, as prescribed by the 27th Condition of their Contract with the Company, there can be no obligation on the part of the Commissioners to do any other act of a like kind with reference to any other pecuniary engagements to which they have (as in this case) equitably been parties.

I beg here to remind you that the Commissioners were as much "parties" to the Contract in question as it was possible for them to be, under the powers vested in them by the Act.

Under the provisions of this Act they have seats at the Board, and can act and vote as Directors. They were all present at the Board when the Contract was deliberated upon, accepted, and sealed. They reported to the Government the Contract so entered into, (see Parliamentary Correspondence, 1868, p. 41. 43.) and did not, in either case, state or report any objection to the 27th Condition. Relying on this Condition as to the payments by the Company and Commissioners, Messrs. Overend and Robb entered on their work, in the very fair expectation that they would be regularly paid, as prescribed by this Condition. So that, although perhaps not to be considered as "parties" in law to the said Contract, they must be held in equity, I most respectfully submit, to be "parties" to the engagement, so far as the Contractors are concerned.

I further respectfully submit whether, so far as the Contractors are concerned, and for the amount of the said Contract so entered into by the Directors and with the consent of the Commissioners, the "approval" of the said Commissioners was not complete in terms of the 4th Section of the Act: first, by their sitting at the Board whilst the Contract was deliberated upon and accepted,—and secondly, by their reporting it to the Government; in both these instances, without stating any objection to this Condition (27). And further, whether, so long as payments on account are fair and reasonable, and the Certificate (to use your own words) "not intentionally erroneous," Messrs. Overend and Robb are to be utterly ruined, without recourse, because of a difference arising, subsequently to their Contract, between the professional advisers of the Company and Mr. Kemp? or because the moneys of the Company, against whom the Attorney-General holds that an action will lie, are deposited, for special reasons defined in the Act No. 2, in the joint names of the Company and Commissioners?

Overend and Robb are clearly innocent parties. They entered upon their work, and have continued to fulfil their obligations faithfully, on the supposed good faith of the parties to the Contract; and in equity the Commissioners have been clearly "parties" so far as the Contractors are concerned, both by their conduct at the Board of Directors, and by their official reports to the Government: and surely there must be a provision in law or equity to protect these gentlemen against the wrong which delay in their claims would inflict?

Admitting, therefore, as the Directors have ever admitted, that the Commissioners may not be successfully proceeded against by an action at common law, I have to submit for the consideration of the Government whether the "expenditure" provided for by the terms of the Contract with Overend and Robb,—a Contract, as I have endeavoured to show, entered into by the Directors with the clear assent of the Commissioners,—has not practically had the "approval" prescribed by the 4th Section referred to? and whether the Contractors, having not only entered on their work, but been paid several sums on account thereof, in terms of the 27th Condition of such Contract, are not still entitled to be paid, unless the certificates for progress payments are shown to be "intentionally erroneous" on the value of their work?

Their Contract, so accepted by the Company, and approved and reported on by the Commissioners, is not based on "quantities," but on the "value" attached to the various items of the Schedule; and their final payments must be made on the "value" so fixed against each item, whatever the "quantity" of work done by them for the sum of money thus stated may turn out to be.

And this view of the case seems to have been accepted by the Government, as indicated in your letter of the 10th of December last, where you say:—"With reference to no bill of quantities being furnished upon which the certificate is given, it appears to me that materials for such a bill are not fully available, as the certificates are given, not from measurement, but from personal inspection and experience, and by the aid of the Schedule of prices."

I beg to add, that had the professional Commissioner at any time objected to any sum certified to be thus on account of such Contract value, then I feel assured the Directors would have respectfully attended to such an objection, and have given to it due consideration; but no such objection has ever been made.

Trusting that the Government will give to this highly important question their earliest consideration,

I have, &c.,

(Signed)

H. DOWLING, *Secretary.*

The Hon. the Colonial Secretary, Hobart Town.

207.

Attorney-General's Chambers, 18th May, 1869.

I HAVE read Mr. Dowling's letter of the 15th instant, commenting on my opinion asked for by the Directors on the 5th instant.

I answered a simple question as to whether there was any "*obligation*" upon the Company and Commissioners to pay all moneys certified to by the Company's Engineers; and, that my opinion may not be misunderstood, I would state that I construed the word "*obligation*" as meaning a duty, the performance of which could be enforced by one of the Tribunals of this Colony.

The Legislature, when allowing the money to be raised by Debentures, did not entrust its sole custody to the Company, but required it to be deposited in the joint names of the Company and the Commissioners, and required it to be expended on the works with the approval of the Commissioners and not otherwise. I cannot, therefore, regard the money as "*the moneys of the Company*." Every penny that is expended requires the approval of the Commissioners, and the Company cannot in any way deal with the money without such approval.

The Commissioners have an absolute discretionary control over the expenditure of money, and no act of the Company can avoid the check thus imposed.

The Company's cheque cannot be honored unless the Commissioners join in it; and if the Company confessed a Judgment in the Supreme Court, the Judgment Creditor would be in no better position than the Company is in itself.

Mr. Dowling's letter refers to the "utter ruin" that might occur in case the Commissioners refused to join in giving a cheque to the Contractor. Such a result would be one to be deplored, but the cause would appear to arise from the fact that the Commissioners require a certificate of the quantity of work done in a form used by the Engineers on Government Railways in the neighbouring Colonies, where there was no such need for a check as in the present case, but the Company and its Engineers refuse to comply with the requirements of the Commissioners in this respect.

I believe that the Government has no right to interfere with the Commissioners in the exercise of the discretion conferred upon them by Parliament.

The Government could only remove them upon a case being made out that would warrant such a step, and I do not think that a little extra precaution on their part would merit such a result.

The case seems to reduce itself to one of very narrow compass: if the Commissioners insist on the fuller certificate, the Company must either give it, or accept the alternative pointed out by Mr. Dowling.

W. L. DOBSON.

208.

Colonial Secretary's Office, 19th May, 1869.

SIR,

HAVING submitted your letter of the 15th instant to the Honorable the Attorney-General, I have the honor to forward, for your information, the enclosed copy of a Memorandum thereon just received from that gentleman.

I shall be glad, at your earliest convenience, to be favoured with your remarks on Mr. Kemp's statement, contained in the postscript to a letter from that gentleman and Mr. Innes of the 29th ultimo, that, in his opinion, the cost of flattening the slopes throughout the Line of Railway will amount to Twenty thousand Pounds instead of Twelve thousand, as estimated by the Company's Engineers.

I have, &c.,

(Signed) RICHARD DRY.

The Secretary Launceston and Western Railway Company.

209.

*Launceston and Western Railway Company, Limited,
Launceston, 20th May, 1869.*

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 19th, covering a Memo. by the Attorney-General upon my semi-official letter of the 15th.

I beg to observe that the responsibility of this letter rests wholly on myself, but I am now in a position to say that I am aware a majority of the Directors concur in it.

It is clear to me that the whole question at issue is misunderstood. The *nature* of the Contract entered into with Messrs. Overend and Robb, with the full assent and "approval" of the Commissioners; the subsequent demands of the professional Commissioner; and, particularly, the *ex parte* reference to Mr. Mais and Mr. Whitton, all are thoroughly misrepresented, or else misunderstood; and, under these circumstances, it is fruitless to discuss the main question involved.

Time must develope where, or with whom, the wrong really lies; but when, perhaps, the results to the Government of this country have been very disastrous,—and the more so because they might have been early averted.

I have been anxious to reply to your letter enclosing, for my remark, the letter from Messrs. Innes and Kemp of the 29th ultimo, but I am waiting the Engineers' report, which I trust shortly to forward to you.

I have, &c.,

(Signed)

H. DOWLING, *Secretary.*

The Honorable the Colonial Secretary, Hobart Town.

210.

*Launceston and Western Railway Company, Limited,
Launceston, 26th May, 1869.*

SIR,

MR. INNES, some time ago, sent in to this office a series of papers, being queries addressed, at his instance, by yourself to the Engineers in Chief of the neighbouring Colonies, and their replies thereto, having reference to certain professional practice therein referred to; and these papers having been, amongst others, referred to the Engineers to this Company, they have reported as follows:—

"We can only say that, while we have the greatest respect for the opinions of Mr. Whitton and Mr. Mais on such subjects *generally*, we attach no value to them in this particular case, because they were not supplied with the means of forming a correct opinion. The manner in which the matter was put to them can only by the most strained construction be said to represent the actual questions at issue. To comprehend the case in all its bearings, the gentlemen consulted should have been supplied with copies of our Contract, General Conditions, Schedule of Works, and Form of Certificate, as it must be evident how importantly these documents would affect the opinions of professional men. Had the case been thus fairly laid before them, we believe that *all* our views would have been supported by the gentlemen referred to, as we notice *most* of them *are*, although so improperly stated.

(Signed)

"DOYNE, MAJOR, & WILLETT.
"22nd May, 1869."

I have respectfully to beg the attention of the Government to this extract.

I have, &c.,

(Signed)

H. DOWLING, *Secretary.*

The Hon. the Colonial Secretary, Hobart Town.

211.

Colonial Secretary's Office, 27th May, 1869.

SIR,

I HAVE the honor to forward to you, for the information of the Commissioners, the accompanying copy of a communication received from the Secretary to the Launceston and Western Railway Company, bearing date the 26th instant.

I have, &c.,

(Signed)

RICHARD DRY.

The Hon. F. M. INNES, Esq., M.L.C.

212.

Colonial Secretary's Office, 27th May, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letters of the 20th and 26th instant, respectively, and to acquaint you that a copy of the letter has been transmitted to the Hon. Mr. Innes for the information of the Commissioners of the Launceston and Western Railway Company.

With reference to the last paragraph in your letter of the 20th instant, I trust that I may, at an early date, be in possession of the Engineers' Report on the cost of flattening slopes.

I have, &c.,

(Signed)

RICHARD DRY.

The Secretary to the Launceston and Western Railway.

213.

By ELECTRIC TELEGRAPH.

29th May, 1869.

I AM instructed by the Chairman of the Launceston and Western Railway Company, Limited, to inform you, for the information of the Governor in Council, that a Summons has been served on me at the suit of Messrs. Overend and Robb, Contractors, out of the Supreme Court of the Colony for the sum of £8009 18s. 7d., (and interest at ten per cent. with costs) due to them under the conditions of their Contract, in consequence of the Commissioners' refusal to sign the Cheque given them by the Company for the said amount in pursuance of their Contract.

(Signed) H. DOWLING, *Secretary.**The Hon. the Colonial Secretary, Hobart Town.*

214.

Colonial Secretary's Office, 30th May, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your telegram of yesterday in which you inform me, that a Summons has been served on you at the suit of Messrs. Overend and Robb for the sum of £8009 18s. 7d. due under their Contract with the Launceston and Western Railway Company, and that this course has been taken in consequence of the Commissioners having refused to sign the Cheque for the said amount.

From previous correspondence between the Commissioners, the Company, and myself, I infer that the signatures of the Commissioners have been withheld in consequence of the refusal of the Engineers to furnish Certificates in the form required. If so, it seems to me that the remedy is entirely in the hands of the Directors and Engineers; and whilst I deeply regret the position in which the Company is placed, I do not feel justified in interfering with the Commissioners in the discharge of the onerous and delicate duties which they have to perform. The form of Certificate demanded has been adopted in some of the other Colonies, and must, therefore, be practicable here; and I leave it to the Directors and Engineers to say, whether the maintenance of a disputed point of professional etiquette shall be set against the disasters which appear inevitable should the present course be persisted in.

I have, &c.,

(Signed) RICHARD DRY.

*The Secretary to the Launceston and Western
Railway Company, Launceston.*

215.

Hobart Town, 31st May, 1869.

SIR,

As you are aware, the affairs of the Launceston and Western Railway Company are at present in this position:—The Commissioners having demanded from the Directors that the Monthly Accounts of the Contractors for the construction of the Line should be rendered in a prescribed form, and be so certified to by the Company's Engineer, the Directory, after some resistance, called upon the Engineer to comply with that demand; which, however, he refused to do, suggesting the alternative of arbitration,—but not arbitration based on the provisions of the Acts under which the Company exists, and which define the powers and duties of the Commissioners,—but on a Contract or Contracts of the Company. In these circumstances the Commissioners deemed it their duty to refuse to sign the cheque for the last monthly instalment claimed as due to Messrs. Overend & Robb; and also to decline to recognise the arbitration proposed, and the Contractors have issued a summons against the Company.

I need scarcely say that I have contemplated, for some time, the possible occurrence of the present crisis with a very anxious desire to avert it; and it has been postponed solely by my having temporarily accepted the responsibility of setting aside the opinions of my professional colleague until they were fortified by disinterested and competent testimony obtained from the neighbouring Colonies. By the time, however, that such testimony reached me, I do not hesitate to add, that my own experience satisfied me that the facilities under the form of account contended for by the Company's Engineer,—for collusive arrangements prejudicial to the public interests involved in the Railway,—for disguising the detail of operations during the construction of the Line from the knowledge of the Directory or the professional Commissioner, and generally for a perfunctory and irresponsible discharge of the Engineer's Contract engagements, would be materially diminished under the form of account, &c., on which the Commissioners insist, as compared to that which the Engineers think

proper to concede. I could, therefore, no longer hesitate in taking the steps necessary to enforce the demand which the Directory (though reluctantly) had endorsed, by declining to become a party to payments until it was complied with.

At the same time, I am not unconcerned that the only course left open to me is one, of which the immediate penalty falls not on the Engineer, who is responsible in the matter, but on the Contractors, who are not responsible; and upon the Directory, who, latterly at least, have endeavoured to induce the Engineer to do his duty. With this feeling, it has occurred to me that possibly the Executive may have it in their power to extricate the Company from present embarrassments and secure the objects which the Commissioners have had in view,—objects, the importance of which (to the Government and the Colony) are magnified by past and impending additions to the cost of the undertaking, and by the prospective risk of outlay after the Line has been completed, if an irresponsible and negligent supervision is tolerated at the present time, and also fix to some extent the cost entailed by their intervention on the proper shoulders. I propose—though with diffidence, for I have not consulted my colleagues or either of them on the suggestion—that, under the powers vested in the Governor in Council, the professional Commissioner be granted such allowances as will enable him to employ the staff of assistants required to measure, with approximate accuracy, the work executed from month to month by the Contractors, so as to regulate payments; and also to supply that detailed information by which the true value of remissions in the terms or conditions of Contract, or substitutions, or additions may be ascertained, so that an efficient check upon transactions between the contracting Engineer and the Contractors for the construction of the Line may be maintained both by the Commissioners and Directors.

In so far as this proposal would, if carried out, entail an addition to the cost of the Railway, it would be the duty of the Commissioners (holding that it was occasioned by the default of the Contracting Engineer) to deduct the amount from the payments otherwise due to him—leaving him, if he should think proper, to appeal to a legal tribunal. I do not enter into more detail at present, and only throw out the suggestion, offered tentatively, from a sincere wish to reconcile the enforcement of what is due under the law with the interests of the Company and of the Contractors, Messrs. Overend & Robb.

You will fully understand when I refer to the demands of “The Commissioners” in different parts of this letter, I do so in the sense of the law which makes the act of any two Commissioners the act of the Commissioners. Mr. Bartley, as you are aware, dissents from the views of Mr. Kemp and myself.

I have, &c.,

(Signed) FRED. M. INNES.

The Hon. the Colonial Secretary.

216.

Colonial Secretary's Office, 31st May, 1869.

SIR,

I HAVE the honor to forward for your information and observations the accompanying letter just received from Mr. Innes. I shall be glad to have your reply by return post.

I have, &c.,

(Signed) RICHARD DRY.

H. DOWLING, Esq., Secretary, Launceston and Western
Railway Company, Launceston.

217.

*Launceston and Western Railway Company, Limited,
Launceston, 1st June, 1869.*

SIR,

I HAVE the honor to acknowledge yours of the 31st May, but am not able to do more than refer it to the Chairman, as I have no Meeting of the Directors to-day.

I regret to say that I am of opinion you have been misinformed respecting the form of certificate demanded by Mr. Kemp and Mr. Innes. I am in possession, I believe, of most of the forms in use by the Government of Victoria; and the one in question is essentially different.

I most respectfully but emphatically deny that the remedy for the present embarrassment is in the hands of the Directors and Engineers, who have been most anxious to avoid the difficulty.

If the professional Commissioner is satisfied that his demands are just and practical, and not made to embarrass, why, I respectfully ask on behalf of the Company, does he seem to avoid a reference to superior professional persons? The position of the Company with reference to the Contractor has been brought about by the statement that the certificate on which progress payments have hitherto been made does not afford the necessary information to enable Mr. Kemp to check those payments.

Only a few days ago I appealed to Mr. Kemp, in the presence of some of the Directors, to show me the points in which he considered the certificate defective; and his replies left the impression that he had never studied the certificate, and was ignorant of its first principles; whilst I became confirmed in the opinion that if Mr. Kemp, who cannot complain of the amount of salary paid him, nor of the amount of labour imposed upon him, will take the trouble, month by month, to go over the works with the certificate so supplied in his hand, he possesses the most perfect and simplest form of check on the said progress payments.

If, however, these impressions are erroneous, there remains a very simple alternative of reference, which the Directors are so anxious the Commissioners should accept.

The Government will surely see that in a matter of this nature the Directors have as great a claim to challenge the professional experience of Mr. Kemp as the Commissioners have that of the Engineering adviser to the Company, Mr. Doyne; and that a reference would finally settle the question of what may be claimed from Mr. Kemp, and what from Mr. Doyne, in their relative positions,—the one as professional Commissioner, and the other as Engineer to the Company.

Mr. Innes, on this subject of reference, wrote to the Directors on the 26th May as follows; and why such reference is not still acceptable to the Commissioners I cannot understand. I believe, with some modification, it would be so to the Directors:—

“The only question for arbitration which I can in any way recognise is this: The Launceston and Western Railway Acts having provided for the appointment of Commissioners, and that the moneys raised under these Acts ‘shall be expended upon the said Railway and works with the approval of the said Commissioners and not otherwise,’ and no Contract entered into by the Company containing provisions inconsistent with the powers vested in the Commissioners being legally binding upon them, they have demanded, before payment of the periodical accounts of the Contractors for the construction of the Railway, that the Company furnish such accounts, duly certified by their Engineers in accordance with form annexed; which demand having been refused, the question referred to arbitration is, whether the demand in question, made under the powers vested by law in the Commissioners, is impracticable, or such as it would be repugnant to professional usage to comply with?”

“I am quite willing to be bound by the opinion of any approved arbitrator on the question as thus stated. Perhaps the statement might be verbally amended, but the substance to remain precisely as I have been able to put it after a sleepless night in the coach.”

A reference based upon this proposal, it appears to me, could have been arranged if, as in all such cases, the Commissioners would have accepted the present certificates for a few weeks longer.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Hon. Colonial Secretary.

218.

*Launceston and Western Railway Company, Limited,
Launceston, 1st June, 1869.*

SIR,

I HAVE the honor to inform you that the enclosed Memorial to His Excellency the Governor in Council, adopted by the Board of Directors at a Special Meeting held on Monday, May 31, to consider the peculiar difficulties in the way of the progress of the Launceston and Western Railway Works, arising out of the issue of a Summons from the Supreme Court at suit of the Contractors, and at which Meeting there were present—Messrs. W. S. Button (Chairman), William Gibson, the Hon. Joseph Archer, James Robertson, John Crookes, Richard Green, Alex. Webster, W. Dodery, John Scott, W. D. Grubb, T. Bartley, S. V. Kemp.

And I am instructed to request that the said Memorial may be brought under the early consideration of His Excellency the Governor in Council.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Hon. Colonial Secretary.

To His Excellency CHARLES DU CANE, Esquire, Governor in Chief of the Colony of Tasmania, &c.

The Memorial of the Directors of the Launceston and Western Railway Company, Limited.

RESPECTFULLY SHOWETH :

1. THAT the 27th and 28th Clauses of the General Conditions of the Contract existing between Messrs. Overend & Robb and the said Company for the construction of the said Railway are as follows:—

27. Payments will be made to the Contractor every month of the amount which the Engineer may certify by estimate from the Schedule of Prices as the price or value of the work performed during the preceding month, together with the value the Engineer shall place on any suitable materials that shall have been delivered on the works, less ten (10) per cent. upon each such certified amount, until the sum so retained shall amount to seven and a half (7½) per cent. of the total price of the works, and that sum, together with a deposit of two and a half (2½) per cent. on the total amount of the Contract—deposited at or before the execution of these presents—will be retained by the Company until the final completion of the entire works to the satisfaction of the Engineer; one half of the balance, less the amount specified in the said Schedule for maintenance, will be paid to the Contractor within twenty-one days (21) after a Certificate shall have been given by the Engineer that the entire works have been completed to his satisfaction; and the remaining half will be paid to the Contractor within twenty-one (21) days after a Certificate shall have been given by the Engineer that all the works have been maintained to his satisfaction for the aforesaid period of twelve (12) months after their completion. Provided always, that no money shall be considered due or owing to the Contractor, nor shall the Contractor be entitled to payments for or on account of any work executed or maintained by him, unless the said Engineer shall certify the amount thereof, and that the Contractor is reasonably entitled to such payment, whether the same shall be a monthly payment on account or in respect of such balance as aforesaid, nor shall any such sum so certified be considered to be payable to the Contractor until the expiration of ten (10) days after such Certificate shall have been presented to the Company, or its Secretary; nor shall any omission to pay the amount of such Certificate at the time the same shall be payable be held or deemed to vitiate or avoid this Contract; but in case of such omission the Contractor shall be entitled to interest on the amount certified for at the rate of ten (10) pounds *per centum* per annum for such time as such omission shall continue.

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

2. That in prosecuting the said work it is the practice of the Company's Engineers to furnish, for the information of the Directors and Commissioners, a monthly Progress Report, and to give to the Contractors a Certificate (in conformity with the before-named Conditions) of the value of the work done, and the amount to which they are entitled on account thereof at the date of such Certificate, and payment has heretofore been made accordingly from the funds deposited in the name of the Company and Commissioners, by cheques bearing the signature of the Chairman, Secretary, and one Director of the Company, and of two Commissioners, Messrs. Bartley and Innes.

3. That Mr. Kemp, the gentleman appointed by the Government as the professional coadjutor of Messrs. Bartley and Innes, has, since the first payment, persistently refused to sign any cheque so given on account of the value of the work so certified by the Company's Engineers, giving as a reason that the Certificate furnished by the Engineers does not possess the necessary information to check it, and demands that the Certificate shall be given in a form which he has supplied.

4. That the Engineers to the Company insist that beyond a few items of information required by Mr Kemp,—which may be more appropriately given in their monthly Progress Report,—they can do no more than they have done; and further assert that, looking to the peculiar form of the Contract, no well-informed person in the profession of Civil Engineering would claim to be supplied with the form of Certificate demanded by Mr. Kemp, the information conveyed by which would be of the roughest approximate kind only; and that thus no reliable information would be supplied, not now derivable from the simple form of Certificate in use; and, further, that it would be deception to represent the contrary to the Directors.

5. That the form of Certificate as prepared by the Engineers of the Company appears to Your Excellency's Memorialists more in accordance with the General Conditions of the Contract than the form insisted upon by Mr. Kemp; because the final payment for the entire work is not to be made by measurement, but in a specific total sum, made up of many items, numbered consecutively; the Contractors' monthly payments "on account" arising from the proportionate value of the work done on each item: such value not being at all derivable from any statement of cubic yards of earthwork, rods of brickwork, or other measurements.

6. That the Government seem to have accepted this view of the case in the following extracts:—

1st. In a letter to the Company, dated December 10th, 1868, as follows:—"With reference to no bill of quantities being furnished upon which the Certificate is given, it appears to me that materials for such a bill are not fully available, as the Certificates are given not from measurement but from personal inspection and experience, and by the aid of the Schedule of Prices. I do not suppose the Commissioners require, or can require, the Engineers to measure the work, but all information which can reasonably be obtained should, I think, be afforded to them."

2nd. In an answer dated 5th January, 1869, to a letter of Mr. Bartley, reporting to the Government his reasons for signing cheques of the Company to the Contractors, and that he should continue to do so, as follows:—"I am in receipt of your communication of the 15th December last, in which you state your reasons for 'promptly signing the cheques for the two last monthly Certificates furnished to the Contractors by the Engineers of the Company.' As by law the control of the funds for the construction of the Railway is placed

in the hands of the Commissioners, I am unwilling in any way to interfere with their discretion, or to express an opinion on the course they may deem it right to take, so long as no payments are made *in excess of the Contract price for any item*, or on account of works not included in the Contract, and which have not been approved by the Governor in Council."

3rd. In a reply of the same date, 5th January last, to a letter of Mr. Kemp, in which he has reported for the information of the Government *his* reasons for NOT SINGING the cheques of the Company, as follows:—
"Without wishing to fetter the discretion of the Commissioners, I would ask, whether under the 27th Clause of the Contract they would not be warranted in taking the Certificate of the Engineers as *prima facie* evidence that the money was due to the Contractors, unless they were aware, or had strong reasons for supposing, that the Certificate was intentionally erroneous. Even should the payments on account be too large, the Contractors would be bound to finish the work contained in any item for which the over-payment had been made."

7. That no allegation whatever has been made that the Certificate is erroneous in any particular, or that the amount so certified "*on account*" is not due to the Contractors; whilst on the other hand the Directors have passed the account, and the Chairman and Secretary and one Director, and one of the Commissioners (Mr. Bartley), have shown their entire satisfaction with it by signing the usual cheque for payment after a careful scrutiny of the same.

8. That under the said Certificates of the Engineers so given as aforesaid, in conformity with the said 27th condition of the Contract, and for cost of land and other claims incident to carry on the work, the sum of £50,000 (the subscribed moneys of the Company) have been wholly expended on the cheques of the Directors and Commissioners, and also the sum of £62,894 9s. 6d.—which includes £18,000 interest on Debentures—of the proceeds of Debentures exchanged for the Bonds of the Company; but that for the ninth monthly payment to the Contractors, now overdue, Mr. Innes refuses to unite with Mr. Bartley in signing the necessary cheque, not on the ground of any alleged incorrectness, but the sole ground that Mr. Kemp's demand for a new form of Certificate has not been complied with.

9. That under these circumstances Mr. Bartley suggested that the whole question at issue should be referred to Mr. Higinbotham, the Engineer in Chief of the Victorian Railways,—a gentleman of acknowledged high professional attainments and of known personal integrity,—or some other Engineer of equal attainments as may be hereafter agreed on.

10. That this proposal having at first been agreed to, but afterwards rejected by Mr. Innes, Mr. Kemp on the 18th instant, after consulting with Mr. Innes, submitted to the Board a proposal which resulted in the adoption of the following resolution:—

"Two of the Commissioners having absolutely declined to sign the cheque on the last monthly certificate to the Contractors, unless the Directors will agree to demand from the Engineers that the data set forth in the annexed memorandum of this date (May 25) marked A. be supplied to the Board within ten days from this date, in accordance with the form marked B. also hereunto annexed, and continue to furnish the same with each certificate;

"Resolved—That the Secretary forward to the Engineers the said demand; viz.—That the data set forth in the annexed memorandum of this date (May 25) marked A. be supplied to the Board within ten days from this date, in accordance with the form B. also hereunto annexed, and continue to furnish the same with each certificate."

11. That on the proposal on which this resolution was based being submitted to Mr. Innes by a deputation of Directors, it was understood that, if it were adopted as a resolution of the Board, it was probable Mr. Innes might sign the required cheque, or that this act of the Directors would at least have weight on his mind in that direction.

12. That this resolution was, therefore, under such pressure, adopted; and the demand forthwith on the Engineers of the Company in the letter copy of which is annexed. Copy of their reply is also annexed, in which they decline to comply with this demand.

13. That the alternative of reference provided in the agreement between Mr. Doyne and the Company is the only course open to the Directors; and a telegram communicating the above facts was transmitted to Mr. Innes, a copy of which, with his reply, is annexed.

14. That Mr. Innes still refuses to sign a cheque for Messrs. Overend & Robb's claim; and the Company have been served with a summons in the Supreme Court of this Colony at their suit for the amount of the Certificate now due, with *ten per cent.* interest thereon from the 24th May instant; and further, they assert their intention of suspending the works, and of discharging on this community the large number of workmen who, with their families, are now dependent on them for support.

15. That the calamity of this suspension of the works, and of the claims for damage which the Contractors will have, must ere long be followed by the non-payment by the Company of interest on Debentures: and Your Excellency will see that this must result in consequences the effect of which on the people and Government would be altogether unparalleled in the financial disasters of this country.

16. That such terrible consequences might have been averted by the reference proposed, as the Government and Company would then have learned with certainty whether the Nominee of the Government or the Engineers to the Company are in fault as to the form of the Certificate, and the party in fault could be dealt with accordingly.

17. That the Directors have now exhausted all the means in their power for the bringing about a solution of the difficulty thus explained to Your Excellency.

Memorialists, therefore, pray that Your Excellency, in view of the terrible financial results to this Colony, as well as to the interests of all concerned in this great work, which must assuredly follow from the suspension of the work, will be pleased to take the allegations of this memorial into your most grave consideration, and adopt such immediate measures as to the wisdom of Your Excellency in Council may seem meet, to enable the Company to redeem their engagement with the Contractors and to prosecute the works.

And your Memorialists, as in duty bound, &c., &c., &c.

Launceston, 31st May, 1869.

W. S. BUTTON, *Chairman.*

(Copy.)

"26th May, 1869.

"DEAR SIRS,

"THE Directors, at their meeting yesterday, having under their consideration the present inconvenience to the Contractors by the non-payment of their claim on the 9th Certificate, given by you in accordance with their Contract with this Company, and having in view the serious and, indeed, ruinous results to the Contractors, to the Company, and to the financial credit of this Colony, which must result from such non-payment of a claim accepted by the Directors in pursuance of the terms of the said Contract, and desirous to bring the question to some tangible issue, adopted the following Resolution, to which I ask your immediate consideration; namely,—

"Resolved, That the Secretary forward to the Engineers the demand that the data set forth in the annexed Memorandum of this date (May 25) marked A. be supplied to the Board within ten days from this date, in accordance with the form (B.), also hereunto annexed, and continue to furnish the same with each Certificate.

"Again begging your attention,

"I am, &c.,

(Signed)

"H. DOWLING, *Secretary*.

"Messrs. DOYNE, MAJOR, & WILLETT."

(Reply—Copy.)

"28th May, 1869.

"DEAR SIR,

"WE have to acknowledge the receipt of your letter of the 26th instant, enclosing two Forms, respectively A. and B., and furnishing us with a copy of a Resolution passed by the Board on the previous day (May 25), which contains a demand that we shall, within ten days from the date thereof, furnish to the Board the data required under Form A., in accordance with Form B.

"In reply, we have to observe that the points now raised have already been fully met by the explanation given in our letter of October 26th, 1868, and our memorandum of November 20th, 1868, to which we respectfully call the attention of the Directors.

"We need now only repeat, that any pretence on our part to furnish detailed 'quantities' of cuttings, and many other works, while in a state of progress, and importantly altering in amount every hour, would be to practise a deception which we are sure the Directors would not desire.

"Mr. Kemp's persistent demand that we shall provide these details proves one of two facts: that he is incompetent to judge in such matters; or that he wilfully determines to misrepresent facts, and to place captious difficulties in the way of the undertaking.

"In our Progress Report of the 15th instant, we stated that we were preparing to measure up all cuttings as they were completed, and would furnish the results to the Board as quickly as we could do so with accuracy. This promise we shall strictly perform as circumstances will permit.

"Much of the information demanded under form A. we shall be able to furnish to the Board shortly, and it is our anxious desire to do so as quickly as possible; but we respectfully submit that such mere "forms" are of less moment than the close supervision of the works in progress, which make such urgent demands upon our time and thought; and which, if neglected, or handed over to others, may not be carried out in such an efficient manner as to secure to the Company and the Colony those permanent benefits they have a right to expect at our hands; and which we are confident we can secure to them if we are met with reasonable confidence, and are relieved from the systematic persecution and waste of our time to which we are subjected.

"We further respectfully submit that, pending our final reports on the question referred to, the Colony and the Company are—under the form of certificate that we furnish monthly, in conformity with the 27th condition of the Contract with Messrs. Overend & Robb—*perfectly secured* against the possibility of an over-payment, either by fraud or accident; and this fact must be patent to any business man who will take the trouble to study the principle of our Contract, and to comprehend the form of certificate,—two conditions which Mr. Kemp appears to have neglected.

"Under these circumstances, whilst recognizing the difficulties of the position, we regret that any course of mere policy on the part of the Directors should have induced them to have made a demand upon us, which prior knowledge of our opinions ought to have prevented; and thus force us to a refusal of compliance. This we respectfully now do; and beg, if the Directors are dissatisfied with the course we have taken, to refer them to the clauses of our Contract, which provides for any such difference of opinion as those now indicated.

"We have, &c.,
(Signed)

"DOYNE, MAJOR, & WILLETT, *Engineers*.

"H. DOWLING, *Esq.*, *Secretary*."

(Copy Letter from Mr. Innes, referred to.)

"25th May, 1869.

"MY DEAR MR. GRUBB,

"WHILE the understanding on which you and Mr. Gibson left me is fresh on my mind, I desire to put it on paper. I distinctly decline to enter into any engagement, or bargain, or consideration of any resolution the Directory may adopt, calling upon their Engineer to comply with the demands of the Commissioners as to the form of Monthly Certificates to be furnished with the accounts of Messrs. Overend & Robb. But if, irrespective of any understanding with me, the Company require their Engineer to give the certificates demanded by the Commissioners, the Company having taken that step would be a very strong inducement to me to take upon myself the responsibility of signing the cheque for the last month; but I reserved my decision on that matter till after my return to Hobart Town by to-night's mail.

(Signed)

"F. M. INNES."

(Copy.)

"THE Directors have demanded from the Engineers the information required by the Commissioners in Forms A. and B. annexed to your memorandum. This has been refused by the Engineers, and the alternative of reference accepted by them under the agreement between Mr. Doyne and the Company.

"The Directors will seek this reference without delay, and they pledge themselves to further it in all its stages; meantime, Mr. Innes still uniting with Mr. Bartley and the Board in paying the claims upon the Company during such reference.

“By order of the Board,

(Signed)

"H. DOWLING, *Secretary.*

"The Hon. F. M. INNES, Esq., Hobart Town."

(Reply—Copy.)

“THE responsibility of any consequences that may ensue from the Company’s Engineers refusing to comply with the legitimate demands of the Commissioners must rest with them. I have made every endeavour to accommodate differences ; and the concession now asked, were it made by me, would be tantamount to admitting (which I do not) that there can be any question as to the obligation upon the Engineers to obey the instructions of the Company.

(Signed)

“F. M. INNES.
Hobarton.”

(Reply—Copy.)

"THE Board of Directors, at a Special Meeting, have had under consideration your telegram of yesterday ; and I am to remind you that the terms adopted by you,— "the legitimate demands of the Commissioners,"—involve the very points which the Directors have been anxious to refer to a professional decision—namely, whether these demands are really legitimate or not.

(Signed)

“W. S. BUTTON, *Chairman.*

"Hon. F. M. INNES, Esq.

"28 May, 1869."

(Mr. INNES's reply.)

“ 29th May, 1869.

"YOUR telegram received last night. The terms of any question to be referred to arbitration cannot be precisely given in a telegram ; but the *law*, not any Contract inconsistent with it, must be the ground of any reference to which I can become a party.

(Signed)

"F. M. INNES.
Hobarton.

"W. S. BUTTON, *Esq.*, *Launceston and Western Railway.*"

FORM A.

ALL those cuttings that are completed or nearly so to be returned in cubic yards.

All other cuttings that are in progress to be returned in proper proportions, say, $\frac{1}{3}$, $\frac{1}{2}$, $\frac{1}{4}$, &c.

Sleepers to be returned in quantities and localities where delivered.

Culverts to be returned separately and in quantities as scheduled.

All bridge work to be returned in quantities.

All pipes to be returned showing the distribution, and the different banks in which they have been inserted.

All fencing to be returned in chains, and all the other information contained in all the items of No. 9 Certificate.

25 May, 1869.

FORM B.

LAUNCESTON AND WESTERN RAILWAY.

CERTIFICATE OF WORKS, No. 186

Contract, No. _____

Contractors Messrs. OVEREND & ROBB.

[illegible]

It is desirable that within these limits the description, quantity, price, and total should be printed in.

MEMORANDUM.

"Mr. KEMP complains that our Certificates for progress payments show 'only the money amount' of work executed; that is, that they do not state the actual measurements or 'quantities' of work done: he desires to be supplied with the data upon which we base our monthly Estimates; and he states that extra and 'unauthorised' works are being executed, and that he has no means of knowing whether or not these are included in our Certificates.

"We think the latter statement may afford some explanation of the others, as it seems clear to us that Mr. Kemp has failed to comprehend our system of Contract.

"On one side we have a Schedule of the works to be performed. These are separated into so many distinct items, and a *fixed* price is set against each item. On the other side we have a Certificate showing the *value* of each item at a particular date, the number of the item being given; and it is easy for Mr. Kemp as it is for the Board to see at once by comparing the Schedule and the Certificate that no item is overpaid.

"How, then, can extra and 'unauthorised' works be included in our present Certificates?

"Our monthly Certificates are framed in all respects according to English practice, and in a manner that affords ample protection to the funds of the Company.

"Prior to giving a Certificate we make a careful inspection of the works from end to end; and then simply by the aid of the Schedule and our professional judgment and experience we estimate the value of the work executed (see Clause 27, General Conditions of Contract). We do not recollect having asserted that it would be a 'gross fraud' upon the Company for us 'to attempt to give any quantities,' but we have said—and we repeat—that in the present condition of the earthworks it would be impossible to give such detailed quantities as would, even approximately, represent the true quantity of work done at any particular time; and therefore to state definitely that so many cubic yards have been excavated would be simply to state what we could not prove, or, in other words, to mislead the Board by supplying unreliable figures.

"The Board has fully approved the form and manner of our Certificates, and is, we believe, equally satisfied of their integrity and fairness to both the Company and the Contractors. If Mr. Kemp is not, we submit that the onus of showing them to be incorrect or dishonest lies with him; and we fail to see that more elaborate returns on our part would afford any further guarantee on either point.

"We have only to add that we have not made, nor do we intend to make, any deviations from the terms of the Contract without the consent of the Governor in Council."

"Engineers' Office, 20th November, 1868."

(Signed) "DOYNE, MAJOR, & WILLETT.

CERTIFICATES OF WORKS.

"We shall take care to furnish Progress Reports with each Certificate, in compliance with the instructions of the Board; and we understand that, after consideration of Mr. Doyme's explanation of the difficulties and uselessness of furnishing quantities with each Certificate, the Directors will not require us to go through the form of doing so.

"Engineers' Office, 26th October, 1868."

(Signed) "DOYNE, MAJOR, & WILLETT.

219.

TELEGRAM FOR H. DOWLING, ESQ., LAUNCESTON.

Colonial Secretary's Office, 2nd June, 1869.

THE 9th and 10th paragraphs of the Memorial having been referred for the observations of Mr. Innes, the following memorandum has been received from that gentleman:—

"I have no other observations to make than that the representation in these paragraphs is refuted by the terms of the communication from me annexed to the Memorial. I am not only willing but anxious that the inconveniences which the Company is sustaining should be removed by competent arbitration; but I do not feel that I am warranted in accepting any reference which is not based on the *law* under which the Launceston and Western Railway Company exists, and by which I am empowered to act as a Commissioner.

"No Contract of the Company can be paramount to the law.

(Signed) "F. M. INNES."

Is the Company prepared to submit a case to arbitration in accordance with the views of Mr. Innes?

(Signed) RICHARD DRY.

220.

*Launceston and Western Railway Company, Limited,
Launceston, June 2nd, 1869.*

SIR,

I HAVE the honor to acknowledge receipt of your letter of the 31st, enclosing a further letter from Mr. Innes, which I will lay before the Directors at their next meeting.

I feel assured that the Directors will be surprised to find that, after the very distinct proposal of reference made by Mr. Innes in his letter of the 26th May, a letter of the nature of that I am now acknowledging should have been penned by that gentleman, with any expectation of its being acceptable to the Directors. It will be my duty, however, to bring it under their attention, at your request.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Honorable the Colonial Secretary.

221.

*Launceston and Western Railway Company, Limited,
Launceston, 3rd June, 1869.*

SIR,

AGAIN referring to your letter of the 30th April, and 27th May, on the subject of Mr. Kemp's statement that £20,000 will be required for the flattening of the slopes of cuttings, I beg to report that, in pursuance of your request in the last-named letter, I have asked the attention of the Engineers to the memorandum of Mr. Kemp aforesaid, and I have received the following reply. So soon as I have their answer to the whole paper, I shall submit to you the answer of the Directors to the statements made respecting their management of the Company's affairs, in the same communication from Messrs. Kemp and Innes.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Hon. the Colonial Secretary, Hobart Town.

(Copy.)

" June 1st, 1869.

" DEAR SIR,

" The pressure upon our time has been so great that up to the present we have been unable to reply to your letter of the 7th ultimo, enclosing one from the Hon. the Colonial Secretary, dated April 30, and which accompanied a letter from Messrs. Kemp and Innes, containing a series of allegations concerning our engineering management of the Company's affairs.

" The greater part of these have already been fully answered by our former communications; but we shall, as soon as time will permit, recapitulate these replies, and show clearly that the allegations referred to are simple misrepresentations, exaggeration of facts, and in some cases pure fiction.

" As, however, the Honorable the Colonial Secretary calls especial and early attention to Mr. Kemp's memorandum at the end of the letter referred to, we no longer delay to reply to it, as follows:—

" Mr. Kemp asserts that the cost of flattening of cuttings will amount to £20,000. We have, in several communications, informed you that until we have made the final measurements which these alterations entail, we shall not be in a position to give more definite information than we have already supplied to you, but we do not think that the cost will amount to nearly Mr. Kemp's estimate.

" The measurements of all cuttings that are sufficiently far advanced are now being commenced, and we shall send you the results as quickly as possible.

" Mr. Kemp insinuates that the cross sections which were placed at his disposal are so far incomplete that he cannot ascertain the quantities correctly from them. To this we need only reply, that when they were sent to him they were in exactly the same condition as when we calculated the quantities from them, as also when they were used by the Surveyors appointed by the Contractors to take out the quantities in their behalf; and neither we, nor they, found them deficient in any respect.

" We have, &c.,

" (Signed)

DOYNE, MAJOR, & WILLETT.

H. DOWLING, *Esq., Secretary.*

MINUTE PAPER FOR THE EXECUTIVE COUNCIL.

Colonial Secretary's Office, Hobart Town, 3rd June, 1869.

SUBMITTED.

That, in reply to the Memorial from the Directors of the Launceston and Western Railway Company, praying that immediate measures may be taken to enable the Company to redeem their engagements with the Contractors and to prosecute the works, the Memorialists be informed, that the Governor in Council, whilst earnestly desiring to avert the great evils which may arise from the present complication, cannot in any way restrict the discretion of the Commissioners as to the conditions on which their sanction shall be given to the disbursement of the funds which have been placed at the joint disposal of themselves and the Company.

RICHARD DRY.

The Governor in Council approves,

E. C. NOWELL.

*The Hon. the Colonial Secretary.**Colonial Secretary's Office, 3rd June, 1869.*

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 1st instant, together with the Memorial of the Launceston and Western Railway Company, praying that immediate measures may be taken "to enable the Company to redeem their engagements with the Contractors, and to prosecute the works."

The latter document has been laid before the Governor in Council; and I am instructed to inform you that, whilst earnestly desiring to avert the great evils which may arise from the present complications, His Excellency cannot in any way restrict the discretion of the Commissioners as to the conditions on which their sanction shall be given to the disbursement of the funds which have been placed at the joint disposal of themselves and the Company.

Whilst declining to give an opinion on the question at issue between the Engineers of the Company and the Commissioners, I venture to express a hope that an accommodation, if only of a temporary nature, may be come to; and should the suggestion of a reference to a third party—which seems to be favourably entertained both by the Commissioners and the Engineers—be carried out, it may be hoped that future difficulties on the points at issue will be avoided.

But should no accommodation of existing difficulties be arrived at, His Excellency will be advised, in view of the disastrous consequences which must inevitably result from a persistence in the present struggle, and a consequent stoppage of the works, to sanction—as suggested by Mr. Innes in his letter of the 31st ultimo, a copy of which I had the honor to forward to you—the issue of instructions to the professional Commissioner to employ such assistance as he may require to obtain the information he desires.

I have, &c.,

(Signed)

RICHARD DRY.

*The Secretary Launceston and Western Railway Company.**Railway Commissioners' Office, Launceston, 9th June, 1869.*

SIR,

I HAVE the honor to forward herewith a copy of a letter of yesterday's date, addressed by me to my fellow Commissioners, Messrs. Kemp and Innes, assigning my reasons for refusing to sign their letter to the Secretary of the Launceston and Western Railway Company having reference to a proposal for arbitration between the Company and Commissioners of the questions at issue between them, and recording my protest against the course of conduct pursued by Messrs. Innes and Kemp with respect to such proposal for reference, and then withholding their signatures to the cheques given for the monthly sums certified to be due to the Contractors.

I have, &c.,

(Signed)

THEODORE BARTLEY.

The Hon. the Colonial Secretary, Hobart Town.

(Copy.)

Launceston, June 8, 1869.

GENTLEMEN,

I DESIRE hereby to place upon record my reasons for refusing to sign the letter of this morning, which you have addressed as from the Commissioners to the Secretary of the Launceston and Western Railway Company, in reply to his letter of yesterday, containing a proposal for reference of the questions at issue between the Company and the Commissioners, "based," as stated in such letter, "upon and nearly as may be in the terms of the proposal of Mr. Innes," contained in his letter to the Secretary of the 26th ultimo, which distinct and definite proposal, so accepted by the Directors, your letter of this morning repudiates.

My reason for declining to sign your letter is, that after all the personal negotiations that have taken place between the Directors and the Commissioners, in which the Directors have in every way in their power endeavoured to meet the requirements of the Commissioners,—as is so clearly evinced by the correspondence on the question of reference,—I consider that the refusal to abide by such proposal so made by Mr. Innes, and so accepted by the Directors, involves a distinct breach of good faith with the Directors on the part of Mr. Innes, to which I should become a party if I united with you in signing the said letter.

I also desire, officially, to bring under your special notice and serious consideration the issues involved by your refusal now to consent to a reference so proposed by Mr. Innes, and so earnestly desired by the Directors; and by withholding your signatures to the cheque for the last month's certificate, now overdue, to the Contractors, for which amount, as you are aware, a writ has been issued at their suit in the Supreme Court against the Company.

1. If you sign the said cheque for the amount so duly certified to be due to the Contractors, in strict accordance with the 27th Condition of their Contract with the Company,—to which, as I have hitherto contended, and do now contend, the whole of the Commissioners were approving, and as far as was in their power consenting parties,—the utmost harm that could under any circumstances arise from your so signing the said cheque, or any others for amounts so duly certified, pending any reference, could only be that you might *possibly* unite with the Directors in making some comparatively small overpayment to the Contractors, which in such case can be rectified before the final settlement for the item or items upon which such overpayment might have been so made, which in the meantime is amply covered by the Contractors' deposit of £5017—by the 10 per cent. retained every month from the amount so certified to be due to them—and by the large amount of their plant, which together constitute a security against any such overpayment of at least £25,000.

2. Your refusal to proceed to the reference so proposed by Mr. Innes, and to sign the cheques for the amounts so due to the Contractors, pending that or other procedure which may be necessary for the settlement of the questions at issue between the Company and the Commissioners, involves the most disastrous results—directly to the Contractors and the Company, and eventually to the interests of the Government, the Railway District, and the whole community,—results which are so thoroughly understood by you, who, with myself, were appointed specially to promote and conserve such interests, that I need not endeavour to particularize them.

I now, on behalf of all such interests so committed to my guardianship, hereby record my protest against the course of conduct you are now pursuing in declining to accede to an amicable reference, and to unite with the Directors and myself in signing the cheques for the amounts so duly certified to be due to the Contractors, which alone can avert such disastrous results, and distinctly declare that the whole responsibility of the same must rest upon yourselves.

I have to inform you that I shall forward a copy of this communication to the Colonial Secretary, and also to the Board of Directors.

I have, &c.,

(Signed)

THEODORE BARTLEY.

MESSRS. KEMP & INNES, Commissioners Launceston
and Western Railway Company.

225.

BY ELECTRIC TELEGRAPH.

Launceston, 10th June, 1869.

THE Board of Directors have arranged to send a Deputation to the Executive, to meet on Tuesday at Hobart Town, consisting of Button (Chairman), Green, Grubb, and the Solicitor to the Company. The Engineer, and perhaps myself, will accompany the Deputation. The papers I referred to yesterday will be ready this evening. Meantime the Contractors stay proceedings. Please say by return if any actual impediment exists to the Executive meeting this Deputation at 11 on Tuesday.

H. DOWLING.

The Hon. the Colonial Secretary.

226.

BY ELECTRIC TELEGRAPH.

10th June, 1869.

THE Ministry will be prepared to receive the Deputation at 10 o'clock on Tuesday.

(Signed) RICHARD DRY.

H. DOWLING, *Esq.*, *Launceston*.

227.

Launceston and Western Railway Company, Limited,
Launceston, 10th June, 1869.

SIR,

As intimated by telegram, I have now the honor to forward, for the information of the Government, the correspondence between the Directors and Commissioners, which has transpired during the ineffectual efforts of the Directors to carry out your recommendation of the 3rd instant. I also forward copy of Mr. Innes's letter of the 26th May, which is frequently referred to therein.

The Deputation will leave for Hobart Town as most convenient to themselves—the Chairman and Engineer to-morrow morning, and the other gentlemen on Monday night,—so as to be at your command on Tuesday morning.

I have, &c.,

(Signed) H. DOWLING, *Secretary*.

The Hon. the Colonial Secretary, Hobart Town.

Hobart Town, 26th May, 1869.

DEAR SIR,

HAVING most fully and anxiously considered the resolution adopted by the Board of Directors of the Launceston and Western Railway Company at their meeting yesterday, as communicated to me in your letter of that date, I beg now to reply thereto.

The first question which that resolution suggests is this: Does it provide any solution, or carry the parties at issue one step towards a solution of present misunderstandings?

To which the answer appears to me to be indubitably in the negative. The Engineers may treat the demand of the Board, as they have treated previous intimations of its wishes, with indifference, if not defiance.

The resolution does not convey that in such case the Board will resort to arbitration as between the Company and their contracting Engineer.

But even if it is to be implied that ulterior proceeding is contemplated, the question to be referred is not defined, and delay upon delay may arise in coming to an agreement upon that point.

The only question for arbitration which I can in any way recognise is this:—The Launceston and Western Railway Acts having provided for the appointment of Commissioners, and that the moneys raised under these Acts “shall be expended upon the said Railway and works with the approval of such Commissioners and not otherwise;” and no Contract entered into by the Company containing provisions inconsistent with the powers vested in the Commissioners being legally binding upon them, they have demanded, before payment of the periodical accounts of the Contractors for the construction of the Railway, that the Company furnish such accounts, duly certified by their Engineers, in accordance with form annexed; which demand having been refused, the question referred to arbitration is, whether the demand in question, made under the powers vested by law in the Commissioners, is impracticable, or such as it would be repugnant to professional usage to comply with.

I am quite willing to be bound by the opinion of any approved arbitrator on the question as thus stated. Perhaps the statement might be verbally amended, but the substance to remain precisely as I have been able to put it, after a sleepless night spent in the coach.

In the meantime, however, pending the decision of the arbitrator, it must be understood that the Company shall comply with the demand of the Commissioners; while, on the other hand, the Commissioners, anxious to meet the Company in a spirit of concession, will yield to the proposal that the necessary signature shall be given without delay to the cheque for last month's account, on the understanding intimated in your letter that within ten days the data of that account shall be furnished to them in the form they have required.

I have, &c.,

(Signed) FRED. M. INNES.

H. DOWLING, *Esq.*

*Launceston and Western Railway Engineers' Office,
Launceston, Tasmania, 28th May, 1869.*

DEAR SIR,

WE have to acknowledge the receipt of your letter of the 26th instant, enclosing two "forms" marked respectively A. & B., and furnishing us with a copy of a resolution passed by the Board on the previous day (May 25), which contains a demand that we shall, within ten days from the date thereof, furnish to the Board the data required under form A. in accordance with form B.

In reply, we have to observe that the points now raised have already been fully met by the explanation given in our letter of October 26th, and our memo. of November 20th, to which we respectfully call the attention of the Directors.

We need now only repeat that any pretence on our part to furnish detailed *quantities* of cuttings and many other works, while in a state of progress, and importantly altering in amount every hour, would be to practise a deception which we are sure the Directors would not desire.

Mr. Kemp's persistent demand that we shall provide these details proves one of two facts, that he is incompetent to judge in such matters, or that he wilfully determines to misrepresent facts, and to place captious difficulties in the way of the undertaking.

In our Progress Report of the 15th instant we stated that we were preparing to measure up all cuttings as they were completed, and would furnish the results to the Board as quickly as we could do so with accuracy; this promise we shall strictly perform as circumstances will permit.

Much of the information demanded under form A. we shall be able to furnish to the Board shortly, and it is our anxious desire to do so as quickly as possible; but we respectfully submit that such mere "forms" are of less moment than the close supervision of the work in progress, which make such urgent demands upon our time and thoughts, and which if neglected or handed over to others, may not be carried out in such an efficient manner as to secure to the Company and the Colony those permanent benefits they have a right to expect at our hands, and which we are confident we can secure to them if we are met with reasonable confidence, and are relieved from the systematic persecution and waste of our time to which we are subjected.

We further respectfully submit that, pending our final reports on the question referred to, the Colony and Company are—under the form of certificate that we furnish monthly, in conformity with the 27th Condition of the Contract with Messrs. Overend & Robb,—perfectly secured against the possibility of an over-payment to the Contractors, either by fraud or accident; and this fact must be patent to any business man who will take the trouble to study the principle of our Contract, and to comprehend the form of certificate,—two conditions which Mr. Kemp appears to have neglected.

Under these circumstances, whilst recognising the difficulties of the position, we regret that any course of mere policy on the part of the Directors should have induced them to have made a demand upon us which prior knowledge of our opinions ought to have prevented, and thus force us to a refusal of compliance. This we respectfully now do; and beg, if the Directors are dissatisfied with the course we have taken, to refer them to the clauses of our Contract, which provide for any such differences of opinion as those now indicated.

We have, &c.,

(Signed) DOYNE, MAJOR, & WILLETT, *Engineers.*

H. DOWLING, *Esq., Secretary.*

Launceston and Western Railway Company, Limited, 5th June, 1869.

GENTLEMEN,

THE Hon. the Colonial Secretary, in forwarding a reply under date of 3rd instant to a memorial addressed by the Board of Directors to His Excellency the Governor in Council, says as follows:—

"I venture to express a hope that an accommodation, if only of a temporary nature, may be come to; and should the suggestion of a reference to a third party—which seems to be favourably entertained both by the Commissioners and the Engineers—be carried out, it may be hoped that future difficulties on the points at issue will be avoided."

As you are aware, the Directors have been most anxious to proceed to reference since such a procedure was first suggested; and would at once, I have reason to know, have acceded to the proposal for such reference contained in Mr. Innes's letter of the 26th May, had it not been fettered with a condition, which that gentleman will have since learned was, and now is, altogether impracticable on the part of the Directors to comply with.

I have taken the advice of such of the Directors as I could get together at the moment, and acting under their advice and instruction have the honor to forward for your consideration a proposal for reference, based upon and as nearly as may be in the terms of the said proposal by Mr. Innes; and including an addition which seems to the Directors to be absolutely necessary to make the reference complete.

I am to say that it will be the most anxious desire of the Directors to bring any reference agreed upon between themselves and the Commissioners to the most speedy practicable issue; and pending such issue the Directors trust that the Commissioners will unite with them in making such payments as may be necessary to ensure the due and uninterrupted progress of the Railway and works.

I have, &c.,
(Signed) H. DOWLING, *Secretary.*

*The Commissioners of the Launceston and
Western Railway, Launceston.*

Railway Commissioners' Office, Launceston, 7th June, 1869.

MEMO.

THE Commissioners, in acknowledging the communication of the Secretary of the Launceston and Western Railway Company, received on Saturday afternoon, desire—before considering the proposition therein submitted, or any other proposition which may be submitted,—to understand whether the Directors of the Company engage to require their Engineers to comply with the decision of the Arbitrator, who may be mutually agreed upon; and in the event of the Engineers persisting in refusing so to do—by which present embarrassments would remain as they are—what steps the Company will be prepared to adopt? For the Commissioners feel that it would be fruitless to proceed to arbitration without having a satisfactory assurance that practical results would be thereby obtained.

The Commissioners desire at the same time to say, that there are two questions for adjustment between them and the Company; namely (1), the question as to the data to be supplied in the periodical accounts (including the form in which such data shall be supplied in the certificates); also, in the Reports of the Company's Engineers, which the Commissioners in virtue of the powers vested in them by law may require from the Company; and (2), the question as to the course to be adopted pending arbitration so as to relieve the Company and the Contractors (Messrs. Overend & Robb) of immediate embarrassments without unduly compromising the Commissioners.

(Signed) FRED. M. INNES.
SAML. V. KEMP.
THEODORE BARTLEY.

*Launceston and Western Railway Company, Limited,
Launceston, 7th June, 1869.*

GENTLEMEN,

In reply to your memorandum of this morning—in which you say that “before considering the proposition therein submitted” you must understand what steps the Company will be prepared to adopt in the event of any refusal on the part of the Engineers to accept the results of such reference,—I am authorised to say that the Engineers, whilst they cannot, of course, be parties directly to such a reference, are prepared to aid the settlement of the question at issue by giving the Directors an undertaking to abide by such instructions as they may frame, in accordance with the decision of such reference, on the question proposed in my letter and memorandum of Saturday.

I presume that the Directors would expect that Mr. Kemp should also bind himself to his coadjutors in similar terms.

With regard to interim payments to the Contractors, of course the Directors have assumed that these will be paid by the Commissioners pending the reference, which really, in my opinion, need occupy but a few days.

I have, &c.,
(Signed) H. DOWLING, *Secretary.*

*The Commissioners of the Launceston and
Western Railway Company.*

Railway Commissioners' Office, Launceston, 8th June, 1869.

MEMO.

THE Commissioners under the Launceston and Western Railway Act beg to acknowledge Mr. Dowling's communication to them of the 7th instant, which they regret to find does not furnish, in connection with the memorandum attached to his letter of the 5th instant, any basis for the solution of present embarrassments to the Company and Contractors which they can consistently with their duty accept.

As very much seems to be made of the form of certificate which the Commissioners have required, they desire to state, that it is not about a mere form they contend or wish to contend. But they require the *quantities* in each item as set forth in the Engineers' certificate; and that in all those cases in which additions, alterations, substitutions, concessions, or any minor departure from the Schedule or Contract takes place, that the next Progress Report thereafter shall state *fully* the terms on which such additions, alterations, substitutions, or concessions have been made—either distinctively under the head of cost or that of saving; also whether the deviations, &c., &c., reported involve the condition of extension of time to the Contractors beyond the period for the completion of the Line, as definitely provided in the Contract with Messrs. Overend & Robb and the Company; and if so, what extension of time.

(Signed) FRED. M. INNES, } *Commissioners under the Launceston*
SAML. V. KEMP, } *and Western Railway Acts.*

Launceston and Western Railway Company, Limited,
8th June, 1869.

GENTLEMEN,

I AM instructed to acknowledge your communication of to-day.

I desire to remind you that the proposed reference made by Mr. Innes on the 26th May, as modified by my letters of the 5th and 7th instant, is acceptable to the Directors, and that they still desire to be governed by it.

The Board, however, from the nature of your present communication, direct me to ask whether they are really to understand that you wholly decline such reference, or that you merely plead for some alterations in the basis of such reference; and if so, whether you will state these distinctly for consideration of the Board by 2 o'clock, when they will meet again.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Commissioners of the Launceston and Western Railway.

MESSAGE for Secretary of the Launceston and Western Railway Company (per MR. KEMP),
Launceston.

9th June, 1869.

MR. INNES has nothing to add to his verbal explanation to the Board yesterday, and declines acrimonious controversy, which cannot further business.

I CONCUR with Mr. Innes.

SAML. V. KEMP.
9. 6. 69.

228.

Hobart Town, 11th June, 1869.

SIR,

REFERRING to previous correspondence on the present position of the Launceston and Western Railway Company, I beg to acquaint you that the general terms of reference to a third party suggested by me a fortnight since not having been accepted, I endeavoured on the day before yesterday to open negotiations on a new basis. Suspecting that probably professional jealousies had operated to prevent a satisfactory accommodation between the Directory and Commissioners, I proposed, as affording a plausible pretext for concession on the part of either or both Engineers, without compromising the ends which the Commissioners had uniformly had in view, that the mere *form* of account, &c. should be left for adjustment to mutual satisfaction, but that the *objects* contemplated by Mr. Kemp and myself should be distinctly recognised and provided for. These objects,—starting with that of the Directory and Commissioners being furnished, along with the periodical accounts of the Contractors, with the *data* of such accounts (by which, as frequently explained by Mr. Kemp, is intended, in respect to items in progress, the *approximate* quantities),—extended to this: that all transactions affecting the cost, &c. of the line should, from month to month, come under the review of the Board. And here explanation is required to make my meaning clear to you. In the Contract between the Company and Messrs. Overend and Robb, a provision—the expediency of which no one questions—is made in respect to deviations from, additions to, or alterations in the works which the Engineers may from time to time previous to the commencement or during the progress of the works by an order in writing require, and the terms on which these shall either be allowed for as deductions by the Contractors, or paid for by the Company as additions, where they consist of entire items in the Schedule, or where the omissions consist of *portions of the work not appearing in the Schedule* as distinct items. And it is further provided that in the event of any alterations, deviations, additions, or extra works being required, the Engineer shall allow such an extension of time, if any, as he shall think necessary.

Now, it has appeared to myself, as also to my professional colleague, that the deviations, omissions, substitutions, or additions contemplated should be distinctly reported in the first Progress Report after they have been severally made, with the amount of addition to, or deduction from, cost which they represent; also, whether such additions, deviations, or substitutions entail an extension or time for the execution of the Contract, with the attendant consequence of addition to interest payable out of capital. Such information should not, so to speak, be "bottled up," but, both for the purposes of salutary check, and that the Directors and Commissioners may have, as far as may be, before them from month to month the facts of the financial position of the undertaking with the prosecution of which they are entrusted, it should be given as promptly as it can be. Six or twelve months hence they should not find out for the first time that, in consideration of such and such additions or substitutions, so much extra money has to be paid; so much longer time must be allowed to the Contractors, and a new arrangement entered into with the contracting Engineer, his original period of engagement having expired.

I do not, in what I have now said, refer to those larger deviations to which the consent of the Governor in Council is required, but to minor ones which are left to the discretion of the contracting Engineer acting in concert with the Contractors for the Line. But, since I have referred to major deviations,—the only description which have yet come under the cognizance of the Board, although many minor ones have been effected, of which the Engineers have omitted all notice in their Reports,—I am reminded that the former have already illustrated that it is not so simple a matter of account as it may appear at first sight, that of the terms on which deviations, &c. are executed, even when it is provided that scheduled rates shall be observed. Other elements than quantity—the period, for instance, at which a deviation is effected—may enter into the question, as the Directory of the Launceston and Western Railway Company have already learned from a communication from the Contractors, of date 15th March, 1869, the remonstrance in which awaits future adjudication. Again, the circumstance of whether a deviation or substitution has been effected to suit the convenience of the Contractor or the interests of the Company is another element of account, and one which points to the expediency of prompt adjustments in such cases. And the pecuniary amount involved, even in minor deviations only, may be no inconsiderable sum in an outlay of Three or Four hundred thousand Pounds.

I regret having to state that the majority in the Directory viewed with disfavour the claim to be supplied with the information referred to, and that one of my fellow-Commissioners went so far as to denounce the claim as involving a breach of faith! He so denounced it, on a view which, no doubt, was convincing to himself, that it was an *addition* to previous requirements from the Directory respecting which propositions had been entertained of a reference to arbitration. It did not appear to have struck him that if it really were an *addition*, then it could not by the very term have been *included* in any arbitration to the matters of which it was an *addition*; from which it would follow that it was not precluded from subsequent proposal, acceptance, or reference. I must avow for my own part, however, that I did imagine that, by getting from the Engineers full data, I would have secured, inferentially at least, the information in question, or the basis of questions from time to time which would have elicited it; and had I found myself mistaken in that opinion after the data previously sought had been conceded, I should not have been restrained from asking for such additional information as I discovered to be necessary in the discharge of the duty I have undertaken. I can conceive no greater "breach of faith" on the part of a Commissioner bound to satisfy himself and the country as to the proper disbursement of public funds, than his engaging *not* to ask for any information bearing on such disbursement beyond a certain *quantum*, which only his ignorance and inexperience, or want of reflection, can have led him to suppose was all-sufficient.

Compelled to abandon the hope I had indulged of arriving at an amicable and satisfactory adjustment of misunderstandings between the Commissioners, the Company, and the Contracting Engineer, I beg now to renew, but with more confidence than I recently submitted it to you, the suggestion that Mr. Kemp be authorised to engage the requisite field assistance to enable him to measure the works as they proceed, to satisfy himself and colleague as to the payments due from time to time, and more effectively than he can do single-handed, supervise the construction of the Railway. And I do so both on general and special grounds, to which I invite the consideration of the Executive.

So long since as the 4th December last, when my experience was limited in connection with the proceedings of the Launceston and Western Railway Company, I ventured in a letter to you to intimate my misgivings as to the soundness of the Company's arrangement, under which a contractor for one description of work in the Railway, the engineering and supervision, was to act as a check upon the contractor for the other, the construction of the Line. The profit in either case arises by the same kind of adjustment; but whereas the work of the one is measureable, ponderable, susceptible of being tested, this cannot be alleged to anything like the same degree, or in the same sense, in respect to the general services of an Engineer who contracts for a lump sum without defining the number of hands he will employ. It follows from this, that the services of a contracting Engineer may be loose and inefficient without it being practicable to reach him by legal process, and his practical irresponsibility is all the greater where he has a Board to deal with than where his

ERRATUM.

Page 107, line 31 from top, *for* "expires" *read* "exposes."

proceedings are under the check of a competent functionary appointed for that purpose. This might have been foreseen, but it has at any rate been evinced very conclusively by experience, and the views propounded by authorities the most competent to advise under the circumstances are the result of that experience. Mr. Higinbotham, C.E., the well-known Engineer in Chief of Railways in Victoria, was examined before a Committee of the Legislative Council of Queensland in 1866, from the evidence appended to whose Report I extract the following :—

28. I should like to ask you a question in reference to the mode of engineering superintendence we have adopted. I suppose you are aware that our Engineer in Chief can hardly be called a Government Officer, as he is a contractor for the superintendence of the Railway Works? Yes, I am aware of that.

29. Do you think that it is a desirable course to adopt? It would be more desirable, I think, to have an Officer paid at an annual salary.

30. In fact, to have some competent Engineer upon whom the Minister for Lands and Works could rely for advice? Yes * * * I think for the interests of the Government, and the convenience and good working of the Department, it would be better to have a paid Officer as the professional head of it.

Mr. Higinbotham, in giving this evidence, was careful to guard himself against being understood to reflect upon Mr. Fitzgibbon, the Contracting Engineer-in-Chief in Queensland; but it appears that the Executive lost no time in applying a corrective to the vicious system they had pursued, not waiting for the expiration of Mr. Fitzgibbon's contract engagements to do so.

In compliance with a request from the Government of Queensland, a Report was furnished, under date May 10th, 1868, by W. Mason, Esq., C.E., Member of the Institute of Civil Engineers, Acting Engineer-in-Chief for Railways, New South Wales, on the Southern and Western Railways in the first named of these Colonies, which he concludes with "Recommendations" of which the following is one :—

"I recommend that no lines of Railway be made in any direction, or contracts be entered into for their construction, without first ascertaining by proper Surveys and levels the best line to be adopted; and that all work of this description be done by a salaried Officer, under the direction of the Chief Engineer, and not by contract; and that the supervision of the construction of all works be done in like manner, and under the immediate direction of the Chief Engineer."

Either form of service, that by contract or that by a permanent Officer, has its special recommendations or disadvantages no doubt; but I submit that the temptations to a perfunctory and merely plausible discharge of an accepted duty—that performance of duty which the lapse of time expires—are infinitely greater from an employee who is here to-day enlisting support to schemes from which he is to derive a profit, and having carried them out, is gone to-morrow, than from one whose position is permanent and opinions not warped by the motives of hope, fear, or gain which actuate a mere Contractor.

In turning over the valuable body of evidence on Railway questions to be found in the Parliamentary Journals of the neighbouring Colonies, I was struck by finding that in Queensland, as here, the blunder had been committed of adopting the slope of a quarter to one in certain cuttings. This course had been taken on the suggestion of the Contracting Engineer there. Its expediency, however, having become questionable, the evidence of professional *experts* was taken on the point; and from that of one of their number I quote as follows :—

"I believe you have conducted engineering operations in a great many parts of the world? I have.

"And in the Australian Colonies? Yes.

"Have you superintended the execution of any Railway works in any of the Australian Colonies, or are you now engaged in doing so? I am carrying out a Railway in New Zealand.

"Have you any knowledge of geology? Yes; it has been a portion of my professional study and practice.

"Have you examined the cuttings on No. 5 Section of the Southern and Western Railway in this Colony? I have examined twenty-four of them, commencing at the upper part of the Section and going down. I have examined twenty-four of them.

"Do you think they will stand at the slopes at which they have been taken out by the Contractors? No.

"Of what kind of materials are these cuttings composed? I think I may, perhaps, save time by reading over my diary of observations made at the time :—'Many of the cuttings are in a most dangerous state; nearly all of them must be flattened, walled, or underpinned before it would be safe to open for traffic. They pass through metamorphic rocks, shales, marls, &c., and are much broken up by hard trap dykes. These materials are full of fissures and loss of cleavage, which admit the rain, and as the action of air and water causes each of them to swell and break up, slips must take place. In many of the cuttings the rock is under-stratified with thick patches of marl, which almost turns to mud in the action of the weather. This will, doubtless, in time be washed away by the rains, the rock will be undermined and heavy falls will take place, unless all soft material is reduced to slopes that will retain soil and grass; for unless it is walled and the rock underpinned, all the soft material on the slopes, with the exception of the dykes, will waste much on exposure, and consequently, if they are not cured in some way, there will be a constant expense in clearing the drains, and it will be impossible to keep the ballast from being filled with mud. In other places no stratification exists, the materials being upheaved into confused heterogeneous masses, from which large fragments are certain to work away and fall into the cuttings, unless some measures are taken to prevent them from doing so. Each of these cuttings requires, in my opinion, special treatment, each being an engineering study in itself.'"

This evidence, so clear, conclusive, graphic, the fruit both of geological and engineering knowledge, was given by Mr. Doyne, a witness on the general subject of Railway construction in the month of August, 1866. Within a year or little more afterwards, Mr. Doyne, in the character of a Contracting Engineer, having to frame plans the acceptability of which, and his own professional employment, depending on the terms at which it can be made to appear that these plans can be carried out, proposes the very slope against which he had given such condemning testimony, and this too in connection with geological and other conditions not a whit less unfavourable than those described by him in Queensland. I quote this instance both as a general illustration of the inexpediency of contract professional services; and also as a special reason in support of the appeal which I now make to the Government not to leave the Launceston and Western Railway almost entirely to the mercy of Contractors. My object being to expose a system, not personal accusation, I might pass without further allusion to it the grave and expensive blunder, likely in its rectification to absorb one-third or more of the subscribed capital of the Company, in respect to the slopes of certain cuttings. But, as Mr. Doyne has ventured to offer excuses for that feature in his plans, and as they are of such a nature as to enforce my argument, I advert to them for an instant. The slope, he has alleged, was suggested as an "experiment." A professional man I submit, whose proposals were not influenced by the strong inducement of getting a contract, but governed by merely professional considerations,—particularly one so competent, as Mr. Doyne's evidence before the Committee of the Queensland Legislature shows him to be, to appreciate adverse geological conditions,—would never have propounded the disastrous "experiment" of cuttings at a quarter to one, the quick and inevitable failure of which now fills with dismay and misgiving, as to the future of the Deloraine Railway, numbers who had previously reposed implicit faith in Mr. Doyne. He has also alleged that the "experiment" was recommended by considerations of "economy." Again, a professional man whose advice was paid for according to its worth and not by the profits of a job, his getting which depended on the tenor of that advice, would not have been warped by these considerations. And how illusory such "economy" is,—signifying in fact nothing more than a temporary make-believe, to be paid for afterwards with interest when retreat is cut off from those who have embarked in an undertaking which must be completed,—must be patent to any one.

It is not, however, so much in the services of Mr. Doyne, previous to the construction of the Railway having begun, as in those miscellaneous services which he is bound by his Contract to render during construction, that occasions for remonstrance and for interposition have been forced upon my attention. Whether the facts which I proceed to adduce do or do not evince a persistent design on the part of the Contracting Engineer to escape the labour and the cost of fulfilling his contract engagements, I leave these facts to show. In itself, it may be a trifle, the preparation of the plans of railway carriages for the Line; it was, however, an item in the duties undertaken by Mr. Doyne, and in consideration of which he has to receive from seventeen to eighteen thousand pounds. I myself was of the opinion that, all things considered, including that of the time which was left to get the work locally executed, it was better that the carriages should be obtained from home according to plans approved there. But, nevertheless, it did not escape observation, that the recommendation of that course by Mr. Doyne relieved him of so much of the work he was in course of being paid for, and that the final acceptance of it, after delay upon delay, was to a great extent constrained by these delays, for which he was principally responsible. But that instance sinks out of sight in comparison with the next:—Entrusted by a most unbusiness-like arrangement with authority to order from England, through the Company's Engineer there, the materials of the Longford Bridge, when the answer to his instructions reached the Board the discovery was made that these instructions went to relieve him of a most critical part of his duty—the ordinary duty—of a Contracting or other Railway Engineer, at the price of a large additional outlay from the funds supplied by the Company and the Legislature. On this head I beg to quote the following passage from a Letter to Messrs. Doyne & Company, of date November 23rd, 1868, from Mr. Hemans:—

"Ten of the first firms in this country were invited to tender. Four of them refused, as they would not undertake the erection in Tasmania.

"The Tenders for this bridge would have been considerably lower had not the erection in Tasmania been insisted on; but after the communication of your strong views on this point I would not give up the requirement, though much pressed to do so."

It will be acknowledged that it is of the very utmost importance that thorough and minute supervision of the Railway Works during the progress of their construction should be enforced. Provident conditions in a contract for construction are of uncertain value unless it is seen that they are faithfully complied with. Repeated visits, however, having disclosed to me the fact of works proceeding in which there was no supervision of the kind which Mr. Doyne's Contract bound him to provide, after waiting for the effect of a verbal reference to the subject which I made to the Company's Secretary, and finding none, I formally brought the matter before the Board by a notice that the names of the persons employed by the contract Engineer should be furnished to the Board, with the localities in which they were severally engaged, on a given date. The reply given was a categorical refusal in which the right of any one to demand such information was denied. More anxious for information than to maintain a controversy with the Engineers, I next submitted a notice, which was seconded by a Director (Mr. Robertson), and carried, in these studiously

ERRATUM.

Page 109, line 25 from top, *for* "Contractors" *read* "Constructors."

conciliatory terms :—"That, without designing to prefer any charge whatever against the Engineers, it would be satisfactory to know what staff was employed under them for the purposes of supervision of the works." Some weeks elapsed and no notice whatever was paid to this resolution by the Engineers, when their attention was called to it, of which the effect was a letter from them personally offensive to Mr. Kemp, but without the information sought. Thus much, however, was vouchsafed, that, beside the services of Mr. Doyne and his assistants,—indefinite in number, duties, &c.,—the services of Mr. Tidy, the Overseer of Messrs. Overend and Robb the Contractors, had been engaged to supervise his employers in the execution of their contract as respected the earthworks: in other words, Mr. Tidy in one capacity was to supervise Mr. Tidy in another. The services in like manner of Mr. Conway, Overseer of Brickwork to Messrs. Overend and Robb, had been engaged to supervise that branch of their Contract,—Mr. Conway being their paid servant. I annex the correspondence which took place on this subject as illustrating better than any words of mine could convey the notions which the Engineers entertain of their position and responsibility.

It will be considered remarkable that a motion was actually submitted at the Board that the rejoinder which I have quoted was satisfactory. This, however, was negatived; a resolution being passed instead, affirming the opinion of a majority as to the amount of engineering service which might reasonably be required in stated portions of the works. But to that resolution as little regard was shown by Mr. Doyne and his partners as to previous intimations of the opinions of the Directory. The next step taken was the nomination by the Board of a Committee of Inquiry of its members; to which the answer given was, that the Committee would not be recognised by the Engineers unless the Directory first rescinded a resolution which they deemed to imply a pre-judgment on the matters in dispute. The Engineers argue that their supervision has hitherto obtained the most satisfactory results, and that by results only can any fair conclusion be arrived at: as if it were not obvious that the results of a sham supervision may escape detection till after Contract Engineers and Contract Railway Contractors have been long paid and done with. I find in the evidence before the Queensland Committee the following in reference to the abutment of a bridge which had shown indubitable symptoms of unsoundness :—

"Do you know why Mr. Wilcox was not called upon to repair the bridge? Because he was not called upon to do so until after his time for the maintenance of the bridge had expired."

In the next page of the same evidence the defect in the abutment is accounted for in the following terms by the Engineer in charge of the bridge :—

"Directly our backs were turned the Contractors would do this. We should have had to stand over them all the time to get them to do it. They would not do it."

I have no ground whatever for reflection upon the Contractors, Messrs. Overend and Robb; but let their character be as much above all impeachment as it is possible for it to be, Mr. Doyne was not redeeming those contract engagements for which he is receiving at the rate of £7000 a year when he left the works proceeding at the Longford Bridge, and those works too in their most critical stages, as I found them on three different occasions when I visited them, that is, without anyone to represent him on the spot.

Flimsy as the argument about results is, the proposal of the Engineers that they should be met on the works that they might have an opportunity of showing how scrupulously they were fulfilling their engagements is not less so. Reduced to a practical shape, the acceptance of such a test signifies this: a day appointed for the meeting, by which it is arranged that vigorous workmen are on a fixed spot, where as vigilant overseers of one kind and another are to be seen also, and a courteous Chief Engineer presides over the scene, blandly or triumphantly pointing a deputation cheered by country air to the conclusive evidence of facts! The deputation returns from the excursion, if not refreshed into good-humoured satisfaction, silenced by a test to which they have credulously assented, but which any man of common sense must reject as absurd. To find whether men are discharging a stated duty in which they are unavoidably left much to themselves they must be taken unawares, not seen by appointment. I need scarcely acquaint you that the Directors did not entertain the proposal of Mr. Doyne, and matters remain just where they stood—that is, as far as regards any satisfaction conceded to the Board—when the subject was first mooted in March, and now we are in June. Let me, however, correct myself. Mr. Doyne has told the Directory that arbitration is an alternative under his Contract: arbitration in a case in which from the undefinable elements of the question it may be impossible to *prove* neglect of duty, though it may be ever so manifest that the cordiality and earnestness which are indispensable to its efficient discharge are wanting, and that the service given is niggard and plausible and not what the nature of the case requires. The relations between the Company as represented by the Board and their Contract Engineer at the present moment are of this inconsistent and, as regards the former, derogatory character. The Directory have asked Mr. Doyne what staff he employs, where and what they are doing; and he tells them that that is his affair, not theirs. The Directory have renewed the inquiry in terms deprecating displeasure, and he is inexorable, and personally offensive to one of their number, albeit a Commissioner. The Directory, not prostrated yet, affirm an opinion as to the engineering service the works require, and their opinion is set at naught. The Directory then

propose to give the Engineers an opportunity of satisfying a sub-committee, and its office is repudiated unless the way be cleared by a preliminary admission on the part of the Directors that they have been guilty of a rash prejudice. And thus time is tided over, and duty evaded by delay.

Such is Contract Engineering service, irresponsible and unsatisfactory. I might accumulate illustrations, but this I do not conceive can be necessary. I cannot conclude, however, without one or two further instances being given. The Government, acting on the opinion of the Law Officers, has required the assent of the Governor in Council to deviations from the original plan of the Railway of a considerable nature—such as the alterations of slope at the cuttings on the White Hills, &c.—to be first obtained, on the report of the Commissioners; and this course has been followed in a part of this work which has been effected. But, from no other conceivable motive than to escape this reference to the Commissioners, the law is now set aside, and alterations, &c. are being carried out at a cost of thousands for which the required sanction has not been given.

The Commissioners in the discharge of their duty having found it necessary to refer to the Plans which were submitted to them at the time they were called upon to make their first Report to the Government, ask for them through the Board; and they are met by the evasion that they were partly destroyed, but the remnants, if any, would be obtained from Melbourne. Of course, after the lapse of several weeks they find they have got nothing. They desire to examine the Estimates of the Contracting Engineer, which, under the first part of his Contract became the property of the Company on his being paid £3600, and these are refused.

That which will naturally excite surprise is, how it happens that a body of gentlemen, deeply interested on their own account as well as that of the Shareholders whom they represent, should succumb in the ignominious manner I have described. Before attempting to explain that circumstance, it is right that I should state that, taught by experience, the number of those Members of the Board who feel the necessity of making the Engineer truly responsible,—insisting on transparency in the transactions of the Engineers with the Company or with the Contractors, and discountenancing an ear-wiggling mode of conducting business in which some are made acquainted with matters not known to others,—has increased and is increasing. But even as regards those who, as it has appeared to me, have been too willing to leave everything to the pleasure of the Engineer and Secretary, I should be sorry to be understood to say one word reflecting upon their motives or intentions; and I am alive to the difficulties of their position. It is not easy for a number of individuals embarked in a speculative undertaking in which they had previously been enlisted as a political cause, and where their zeal, faith, and earnestness had induced others to follow them and accept the same pecuniary risks;—it is difficult, I say, for individuals so situated to act at once as if their confidence was gone, and thus extinguish the hopes they had lighted up in others. It is not only excusable, but it is creditable in some respects, that they should fortify, even should it be with undue leaning, the authority in which they had been induced to confide.

Again, the Board of the Launceston and Western Railway is not exempt from those faults which in a greater or a less degree are inherent in all Boards, but more especially inherent in those composed of a large number of individuals. It usually happens in such bodies that A. B. and C. are present at one Meeting with G. E. and F., while on the next occasion any four of these may be replaced by any other four; of which the inevitable consequence is, that questions are taken up capriciously, rashly, inconsistently, and are allowed to drop into oblivion in the same manner, and so as to deprive proceedings of all authoritative effect on those who should be governed by them. Or the tenor of all that is done, and of all correspondence that takes place, is determined by two or three individuals, or it may even be by one only, to whom the Board is no more than a name.

I have addressed you at so much length, and introduced so much general matter into my communication, because I am more strongly impressed each day with the necessity of a decisive course being taken by the Executive, and in the direction pointed out by the facts I have adduced. I do not hesitate to say that I am more convinced this week than I was the last, or when I last addressed you, of the occasion which exists for some one free from the interests of a Contractor being actively employed and adequately assisted in visiting the Railway and noting minutely the works as they proceed, supplying the lack of contract supervision, and guarding against those contingencies by which the prejudice that others can sustain is as nothing compared to that which would fall upon the General Government and the community at large. Something more than amended forms of account and detailed instead of meagre Reports is necessary, even if any reliance could be placed on such accounts, &c. when they had been unwillingly wrung from the Contracting Engineer. Already £300,000 of public money are embarked in the Launceston and Western Railway, and the Directors have told the Government that Sixty or Seventy thousand more will be necessary—the professional Commissioner says a considerably larger sum even,—and it is avowed by the Directory that it would be futile to look for the requisite amount from local sources, especially from investors in the speculation. The risks of the undertaking not yielding the periodical returns at one time estimated from it, admit of no disguise; and no practical person would rely upon any source but the Government, under the authority of Parliament, in the event of an extraordinary

outlay becoming necessary to rectify the disastrous consequences of defective plans or negligent supervision during construction. In these circumstances, the Government will scarcely hesitate, especially as the speedy approach of the Session of Parliament will make the Executive interposition I have advised only a temporary measure, unless it is then affirmed and continued.

I have, &c.,

(Signed) **FRED. M. INNES.**

The Hon. the Colonial Secretary, Hobart Town.

(Copy.)

*Launceston and Western Railway Company, Limited,
Launceston, 18th March, 1869.*

DEAR SIR,

THE following Notice, has been given at the Board Meeting of the 16th instant, and the Chairman has advised me that it may be desirable I should transmit a copy to you, so that, if practicable, the information thus to be moved for may be laid on the table at the next meeting of Directors.

I have, &c.,

(Signed) **H. DOWLING, Secretary.**

Messrs. DOYNE, MAJOR, & WILLETT, Engineers.

A Return of the Number of persons employed by the Company's Engineer on the Line on the 10th instant, the localities in which they were severally engaged, and their respective duties.

*Launceston and Western Railway Engineers' Office,
Launceston, Tasmania, 23rd March, 1869.*

DEAR SIR,

IN reply to your letter of the 18th instant we desire to say, that the course pursued seems a departure from the usual practice, but as you think an early reply from us will facilitate business we hasten to afford it.

1. *Return of persons in our employ.*—We cannot admit the right of any person to demand such Returns from us, and we must therefore decline to establish a precedent which might be construed into such an admission. If, however, the Board of Directors has any charge of neglect against us, as the motion would seem to imply, we shall be quite prepared to meet it when it is made.

2. *Sub-Contracts.*—We have no official knowledge of any Sub-Contracts having been let, and none have been reported by us. We look upon all persons we find on the Works as the Agents of the Contractors, and deal with them under Clause 25. of the general conditions.

3. *Extension of time.*—As a matter of course, we should not take so important a step without first consulting the Board.

4. *Culverts.*—In most instances we require that the earthwork shall be carried over the Culverts immediately on their completion. We introduced the clause referred to into the specification to give us power to use our discretion. It is merely intended to enable us to prevent the embankment being unduly tipped upon the Culverts while they are green, and to empower us to have the earth carried over them in such a manner as to prevent them being injured by the blows received from earth thrown upon them from a great height. By laying gently upon them several feet in depth of earth, by means of barrows and carts, they are materially supported and protected from the action of the weather, as well as being relieved from the impact of the tip. We may add, the course we have pursued has been, in every instance, eminently successful, since none of the Culverts have sustained the slightest injury but are all perfectly sound and good.

We have, &c.,

(Signed) **DOYNE, MAJOR, & WILLETT.**

HENRY DOWLING, Esq., Secretary.

(Copy.)

*Launceston and Western Railway Company, Limited,
Launceston, 24th March, 1869.*

DEAR SIRS,

REFERRING to your letter of yesterday, more particularly to the first enquiry which I submitted to you, I am instructed to say, by a Resolution of the Board, "that without desiring to prefer any charge whatever against the Engineers, it will be satisfactory to the Board to know what staff is employed under them for the purpose of the supervision of the works."

I have, &c.,

(Signed)

H. DOWLING, *Secretary.**Messrs. DOYNE, MAJOR, & WILLETT.*

(Copy.)

*Launceston and Western Railway Company, Limited,
Launceston, 15th April, 1869.*

DEAR SIRS,

I AM instructed to remind you that no answer has been received at this Office to my letter of the 24th ultimo, and I am to ask an immediate answer.

I am also to inform you that it has been brought under the notice of the Board, and minuted at his request, "that on visiting the works at Hunter's Mill Viaduct, on Wednesday last, 7th instant, he found no one that represented the Contractor or the Engineers upon the works;" to which I beg your attention.

I have, &c.,

(Signed)

H. DOWLING, *Secretary.**Messrs. DOYNE, MAJOR, & WILLETT.**Launceston and Western Railway Engineers' Office,
Launceston, 17th April, 1869.*

DEAR SIRS,

WE regret the Directors should have had to call attention to your letter to us of 24th ultimo being yet unanswered.

We note your letter of 15th instant, and the new matter it introduces, at the instance of Mr. Kemp.

We wish to observe, and particularly remind the Board of Directors, that we have always shown a desire and endeavoured to meet their wishes on every point submitted to us by them; and even when not submitted to us, to advance the interests of the Company by every means in our power, when this could be done consistently with the relations subsisting between us. It was impossible, however, to conceal from ourselves the fact that the notice of motion stated in your letter of 24th ultimo was made at the instigation of Mr. Kemp, and your letter of 15th instant proves the correctness of that opinion.

We most respectfully ask the attention of the Board to our answer of the 23rd ultimo, which we now repeat, viz.—"We cannot admit the right of any person to such returns from us; and we must therefore decline to establish a precedent which might be construed into such admission."

While we re-assert this determination, we wish it to be clearly understood that it has been arrived at solely in view of the attitude towards us adopted by Mr. Kemp, whose right of interference with our proceedings we absolutely repudiate, and deny his ability to become our censor in the professional questions into which he so recklessly plunges; we protest against his pretensions to superior knowledge in professional matters, and deny that his antecedents give him any claim to such pretensions.

In the Railway Act the duties of the Commissioners are very clearly set forth, and there is no doubt whatever of the meaning of the law in this respect: they have simply to see that the money placed at the disposal of the Company by the Government is not misappropriated; and any attempt on their part to interfere with the details of the Board's management amounts to an impertinence and an unlawful proceeding.

We are always prepared, and are most desirous, to show to the gentlemen representing the Shareholders in the capacity of Directors that our supervision of the works has been thoroughly efficient in every respect, and that the agreement with the Contractors is being honestly carried out by them under our directions; and for this purpose we are prepared to meet the whole of the

gentlemen referred to, or any committee of that body they may appoint, either on the principal works or elsewhere, as may be most convenient to them, when we are confident that we can fully prove to them that our Contract with the Company to superintend the construction of the Railway in a thoroughly efficient manner is being most scrupulously fulfilled.

We take this opportunity of placing on record our opinion that Mr. Kemp constantly travels outside his legitimate duties as Commissioner; and that his whole course of action appears to indicate a desire on his part to grasp powers he has no right to, and to take the management of the Company's affairs out of the hands of the Company's Directors; and that, not having been permitted to do so, he endeavours to avenge himself on their Officers and Contractors by a systematic course of obstruction, annoyance, and traducing of character;—in fact, for reasons best known to himself, he appears to wish to make himself an element of discord and danger in the management of the Railway affairs.

In conclusion, we respectfully remind the Directors that our labours in superintending such important works are by no means light; and that it is absolutely necessary our time and thoughts should be kept as free as possible for close personal inspection, and not have them wasted by the necessity of constantly writing long reports in our own defence against the frivolous and groundless insinuations and accusations brought by Mr. Kemp.

It must be evident to the Directors that the course pursued can only prove to be seriously detrimental to the interests of the Company; and we respectfully express a hope that they will support us in our desire to fully discharge our duties, and endeavour by a determined course of action to relieve us from the incubus we now labour under.

With these remarks we now express our determination to decline all further communications with Mr. Kemp, directly or indirectly. We consider that under the Railway Act he has no right to correspond with us through the medium of the Secretary: that, if he has anything to complain of, it is clearly his duty to report, in conjunction with his colleagues, to the Government, and ours to reply to such reports when they are referred to us.

We are, &c.,
(Signed)

DOYNE, MAJOR, & WILLETT.

H. DOWLING, Esq., *Launceston.*

(Copy.)

*Launceston and Western Railway Company, Limited,
Launceston, 22nd April, 1869.*

DEAR SIR,

I DULY received your letter of the 17th, and read it to the Board of Directors on the 20th.

I am to assure you that the information requested in my letters of the 24th March and the 15th April was required by the unanimous vote of the Directors; that on their part due consideration of your position of the professional advisers of the Company has always been kept in view; and that, in this particular case, they were moved by a sense of the responsibility which attaches to them in the management of the Company's affairs,—one of the most important features in that responsibility being that the supervision of the works during construction shall be perfect. Statements having been made to the contrary, it was not less in your professional interest than in the interest of the Company that the Directors should be possessed of information on this very important question.

You will find that the resolution of the Directors of the 23rd, transmitted to you on the 24th, was in reply to your memorandum of the 23rd, which assumed that a notice of motion of the prior week—which was never submitted to the Board at all—implied a charge of neglect on your parts; and I am to say that the intention of the resolution of the 23rd was the disabusing your mind of this impression.

Under these circumstances I have to ask your careful consideration of that resolution; and to request that the information therein desired by the Board may be now supplied.

I have, &c.,

(Signed)

H. DOWLING, Secretary.

Messrs. DOYNE, MAJOR, & WILLETT.

*Launceston and Western Railway, Engineers' Office,
24th April, 1869.*

DEAR SIR,

In reply to your letter of the 22nd instant we have to state, that we think we perfectly understood your letters to us of the 24th ultimo and 15th instant, and we thought we had made ourselves understood by our reply of the 23rd ultimo, and reiterated on the 17th instant.

Our contract with the Company is most explicit: it provides that Mr. Doyne "shall superintend the construction of the said Railway and works in a thoroughly efficient manner, either by himself or by properly qualified and competent assistants." This contract we are in course of most scrupulously fulfilling.

The Directors must see how impossible it would be for us to meet the statements you refer to,—statements wholly untruthful for the most part, circulated in all kinds of forms, and emanating from one unscrupulous and vindictive source of opposition.

But, as before said, if any of these could be put in a tangible form before the Government or the Directors, we should then be afforded an opportunity to reply thereon, and we are willing and anxious to have such opportunity afforded to us.

We can now say generally, for the satisfaction of the Directors, that the principal works at Longford and the viaduct at Hunter's Mill have never been committed to the charge of an assistant Engineer, much less to an ordinary Clerk of Works: they have had the almost undivided attention of Mr. Doyne or Mr. Major, either jointly or separately. The excavations, once opened out to their satisfaction, have never been left until the foundations have been securely got in, and the brickwork well advanced under their strict personal supervision; and then each work has been visited and closely inspected by one or other of these members of our firm—and frequently by both on the same days—with a closeness of attendance not usually given to works of even greater magnitude by the principal Engineers of Railways in England.

We are also in a position to prove that these works, as well as the culverts, timber bridges, &c., erected in the earlier portion of the construction of the line have been most closely inspected by ourselves, and have been on the whole carried out by the Contractors with a degree of faithfulness most creditable to them and to their workmen.

We may mention that, in addition to the inspection by ourselves and our assistants, Mr. H. Conway as inspector of brickwork, and Mr. Tidy as inspector of earthworks and excavations for foundations, on the part of the Contractors, have been directly placed by the Contractors under our own personal control and direction in every respect; and have been instructed by them, in Mr. Doyne's presence, to obey in every respect every order given by the Engineers without reference to Messrs. Overend & Robb: and we feel bound to say that they have given a prompt and willing attention to all our orders, which has claimed from us the fullest confidence in their integrity, and desire to obtain credit by the result of their exertions.

In the same way every timber bridge has had similar though not equal attention from ourselves, besides being under the close inspection of assistants who remain constantly on the works, and report progress to us weekly, and refer to us at any time that our personal direction is needed. The fencing and all other works have been similarly treated: indeed, we are in a position to challenge the closest scrutiny of the works, and of our course of procedure and direction.

We respectfully take our stand on this fact,—that, in the manner we have described, we are thoroughly, we are thoroughly and efficiently superintending the construction of the Launceston and Western Railway works in strict accordance with the terms of our agreement, and that we have construed that agreement in a liberal manner.

We here wish to remark, that having found it impossible to supply a high class of assistants to superintend the principal works, and in view of the necessity for our honorably complying with the conditions of our agreement with the Company, we have had no alternative but practically to abandon our business prospects in the other Colonies and for the present reside here. We have further to remind the Directors that, without any assumption of egotism, our own personal services may be considered of more value than those of ordinary Inspectors: that to place ordinary Inspectors over the persons employed by the Contractors—whom they would not recognize as having a right to exercise authority over them, whose qualifications they would possibly question—would probably produce serious dissensions and references to that Board and to us which must prove dangerous to the undertaking.

We beg most respectfully to repeat that we are prepared and anxious to meet the wishes of the Directors in every way consistent with the business relations existing between us; and we point to the whole course of Mr. Doyne's services to the Company, and to his and our own deep personal and professional interest in the success of the undertaking, as forming no ordinary claims upon the fullest confidence and protection of the Directors in the prosecution of our arduous duties.

We have, &c.,

(Signed) DOYNE, MAJOR, & WILLETT.

H. DOWLING, Esq., Secretary.

Hobart Town, 3rd May, 1869.

DEAR SIR,

HAVING referred to the letter of the Company's Engineers on the supervision of the Railway Works since it was read at the Board meeting last Tuesday, it appears to me so unsatisfactory as to make it incumbent that I should draw the attention of the Directory again to the subject to which it relates.

I need not remind the Board of what I stated when I first brought this matter under their notice,—that I did not do so until after three inspections in different parts of the line had disclosed that the supervision given by the Engineers was of the most meagre description. I then, on the 17th March, gave notice of motion for a return of the names of the persons employed, and the localities in which they were engaged, at a given date. But this information was refused by the Engineers. Again, a motion was submitted and adopted asking for explanations, to which the letter read on Tuesday was a reply. The information it gave was elicited after five weeks delay.

And to what does it amount? Definitely, to little more than this: that Mr. H. Conway officiates as inspector of brickwork, and Mr. Tidy as Inspector of earthworks,—*both being servants of the Contractors for the construction of the Railway and paid by them*, but in some sort of way, it is alleged, placed by the Contractors under the personal control and direction of the Engineers.

It seems to me unnecessary to do more than state this arrangement to condemn it.

The Contractors for the execution of works costing upwards of £200,000 are placed under the supervising check of their own paid subordinates in two principal branches of their Contract!

The Contracting Engineer, bound by his articles of agreement with the Company (see article 2) "to employ the necessary staff; superintend the construction of the said Railway and Works in a thoroughly efficient manner, either by himself or by properly qualified and competent assistants, to extend over the whole period of construction of the said Railway," &c., and (article 3) "to employ and pay all engineers, surveyors, draughtsmen, clerks, labourers, and all other persons necessary to be employed by him to carry out his part of this Contract," is relieved of the payment of an inspector of earthworks, and another of brickworks, by the Contractors whose work has to be supervised, and between whom and the Company the Engineer is invested with the power of "sole judge" in numerous particulars affecting their profits and the due execution of their Contract!

These incompatible accommodations between the Contractors, Messrs. Overend and Robb, and the Engineer Contractors, Messrs. Doyne and Company, ought not to last another day. At least, I record my protest against their doing so.

As regards the excuse of the Engineers that they have found it "impossible to supply a high class of assistants," I am credibly informed that no such difficulty exists if current remuneration is offered; but, at any rate, surely the supervision of brickwork and earthwork does not require the services of "high-class" assistants.

And I would add, in respect to the statement of Messrs. Doyne and Company that in order to attend to the Launceston and Western Railway they have been obliged to abandon their prospects in the other Colonies, &c., that the Board has nothing to do with such considerations when suggested as they are. The sacrifices which their present Contract would involve were matters for their consideration, or rather of Mr. Doyne's, before making it, and constitute no excuse for failure to redeem it, or attempting to do so in an unsatisfactory manner and one that provokes suspicion.

I have, &c.,

(Signed)

FRED. M. INNES.

H. DOWLING, Esq., Secretary Launceston and Western Railway Company.

(Copy.)

Launceston and Western Railway Company, Limited,
Launceston, 12th May, 1869.

DEAR SIRS,

THE Board of Directors at the meeting yesterday were engaged in a careful consideration of your letter of the 24th ultimo on the subject of supervision, in pursuance of notice on the subject at the prior sitting of the Board; and I am directed to ask your prompt and careful consideration of the following resolution; viz.—

"That it is the conviction of this Directory that no supervision can be satisfactory, with reference to such important works as the water culverts, viaducts, bridges, &c., which falls short of a resident inspector stationed on the spot at all hours when the workmen are employed."

I have, &c.,

(Signed)

H. DOWLING, Secretary.

Messrs. DOYNE, MAJOR, & WILLETT.

*Launceston and Western Railway, Engineers' Office,
Launceston, Tasmania, 17th May, 1869.*

DEAR SIR,

IN reply to your letter of the 12th instant enclosing a minute of the Board passed at their meeting on the previous day, expressing a conviction that our system of supervision is unsatisfactory, we beg leave to remark,—

1. That such a mode of proceeding on the part of the Board is most unjust and unreasonable : unjust because we are practically declared at fault without any fair investigation, notwithstanding our repeated requests that there should be one : unreasonable because it is the decision of laymen on a professional question of which professional men of large experience alone can rightly judge.

2. That to bring these general accusations couched in innuendo drawn from rumours which have really no foundation in fact, is a most unusual and improper tampering with the characters of professional men.

3. On reference to our letter of the 17th April, the Directors will be reminded that we have sought enquiry by them into our mode of managing the works ; and we now think that we have a right to complain that such a resolution should have been placed on record without any such enquiry having been made.

4. We reiterate that our inspection of the works is complete and efficient in all respects, and fully up to the letter and spirit of Mr. Doyne's Contract with the Company. If the Directors think otherwise, we beg respectfully to remind them that the Contract provides the machinery by which such differences must be settled.

A prompt determination of the vexed question will confer a benefit upon the Company, by allowing that portion of our time which is now absorbed in fruitless correspondence to be devoted to the real interests of the undertaking.

We have, &c.,
(Signed) DOYNE, MAJOR, & WILLETT, *Engineers.*

HENRY DOWLING, *Esq.*, *Secretary.*

(Copy.)

*Launceston and Western Railway Company, Limited,
Launceston, 21st May, 1869.*

DEAR SIR,

ON reading of your letter of the 17th instant, at the usual weekly meeting of the Directors, it was resolved that a Committee be appointed to consider the whole question of supervision, and report to the Board, with a view of avoiding the expense and delay of reference as provided by the Contract between Mr. Doyne and this Company ; and such Committee was thereupon appointed. You will perhaps name an early time to meet such Committee.

I have, &c.,
(Signed) H. DOWLING, *Secretary.*

Messrs. DOYNE, MAJOR, & WILLETT.

(Copy.)

*Launceston and Western Railway Engineers' Office,
Launceston, Tasmania, 22nd May, 1869.*

DEAR SIR,

WHILE acknowledging the receipt of your letter of the 21st instant, accompanying a Resolution of the Board passed on the 18th instant to the effect that a Committee be appointed to consider the whole question of supervision, we feel bound to make the following remarks in our own defence as professional men.

1. When it was first intimated by your letter of 18th March that it was thought we were in some manner neglecting the interests of the Company, we stated that if the matter were put in the shape of a distinct and definite charge we should be prepared to meet it. In reply we received an assurance that no charge of neglect was intended.

2. We then respectfully requested that the Board would meet us "either on the principal works or elsewhere as may be most convenient to them, when we are confident we can fully prove to them that our Contract with the Company to superintend the construction of the Railway in a thoroughly efficient manner is being most scrupulously fulfilled." (7th April, 1869.)

3. To this fair and reasonable request we received no reply, but were instead informed of an arbitrary Minute passed on the 11th May :—"That it is the conviction of this Directory that no supervision can be satisfactory with reference to such important works as the water culverts, viaducts, bridges, &c. which falls short of a resident Inspector stationed on the spot at all hours when the workmen are employed."

4. As we were quite prepared to show that our supervision had hitherto obtained the most satisfactory results (and we contend that by the results alone can any fair conclusion be arrived at), we felt it our duty to protest against this action on the part of the Board; and the Directors then resolved to appoint a Committee.

5. We contend, with the greatest respect, that while the Minute of the Board of the 11th instant remains on record we are debarred from entering into the question at issue before that body, inasmuch as it states, in general terms, that our supervision is unsatisfactory; and it is scarcely reasonable to suppose that we can accept an enquiry made by those who have already committed themselves to an opinion.

6. The Resolution of the 11th instant asserts an opinion on the part of the Board which we cannot accept. The alternatives are, therefore, that the Directors withdraw that opinion, and refer the question to a Committee of their own body for report, or fall back upon those Clauses of the Contract with Mr. Doyne which provide for the settlement of such differences of opinion.

We have, &c.,

(Signed) DOYNE, MAJOR, & WILLETT, *Engineers.*

HENRY DOWLING, *Esq., Secretary.*

229.

Hobart Town, 14th June, 1869.

SIR,

As it relates to a question which I believe awaits the consideration of His Excellency in Council to-morrow, I beg to call your attention to a letter which the Secretary of the Launceston and Western Railway Company has addressed to the press (*Evening Mail*, 14th instant), and more particularly to the following passage in it :—

"The payments of the works, however, have to be authorised by two Commissioners, and Mr. Innes, after having authorised payments for eight months—thus paying away every shilling of the subscribing colonists' money—suddenly refuses his signature to any other cheque unless the 'professional Commissioner' be supplied with accounts in a form of his own devising."

I beg that you will place my unqualified contradiction to the statement that I "suddenly," &c., before His Excellency the Governor in Council.

It must have escaped the recollection of the Secretary of the Company that I originally consented to sign cheques only "provisionally," until information could be obtained as to the course of proceeding open to the Commissioners under circumstances new to them and to the Colony,—and that from month to month, pending the receipt of such information, he was reminded of that understanding whenever cheques were signed by me; and that when at length the replies to queries addressed to them were received from the Chief Engineers of the neighbouring Colonies, they were placed in the Secretary's hands and read at the Board; and that the course of action which they indicated as legitimate (but which otherwise had been indicated as necessary) was not taken at once—"suddenly"—but for the convenience of the Board delayed to admit of an opinion being obtained from the Crown Law Officers in the first instance.

I forbear to trouble you with any notice of the insinuation contained in the reference to "the subscribing colonists' money," and regret that it should be necessary for me to correct inaccuracies on the part of Mr. Dowling which I had not supposed it possible for him to have fallen into.

I have, &c.,

(Signed) FRED. M. INNES.

The Honorable the Colonial Secretary.

I HAVE before me a letter of Mr. Dowling in December last, acknowledging the understanding on which I signed the cheque for the third as for other progress payments.

MEMORANDUM.

[*Read by the Secretary on the occasion of the Deputation to the Government.*]

1. THE Government are so fully advised upon all points in difference between the Commissioners and the Engineers of the Launceston and Western Railway, that the Deputation propose to go at once to the question recently raised by Mr. Innes and Mr. Kemp, that the latter gentleman shall be allowed assistance to enable him, it is asserted, to satisfy himself respecting monthly payments on account from time to time to be made by the Company under the Contract to Messrs. Overend and Robb.

2. If anything could have been added to the reasons why the proposal for "reference," recently made by Mr. Innes, should have been insisted on, this application was only necessary to render absolutely imperative the interposition of some thoroughly independent judge of the whole question.

3. When Mr. Kemp has in hand the monthly certificate and progress report of the Engineers, he has all that is necessary to enable any professional man fully to check the proposed payments if he would attempt to do so; but this Mr. Kemp has hitherto persistently refused to do.

4. The Directors have already pointed out to the Government, in their recent correspondence, the difference in the demand heretofore made upon the Company's Engineers and the proposed information Mr. Kemp is expected to supply.

In the latter case a mere approximate is to be deemed sufficient; in the other, the quantities were to be absolutely *certified* by the Engineers; and this to be applied to every item in the Schedule.

5. To enable Mr. Kemp to obtain this information—he having in his possession, as the Directors allege, the most complete means of checking the payments on account,—this proposal of a Staff of Assistants has taken the Directors by surprise; and they have regarded it with feelings akin to indignation. Already burdened by a payment on account of this Commission of about £1200 per annum,—a sum equal to six per cent. on a capital of £20,000,—they naturally ask what interests demand that such an additional burden shall be placed on the limited funds at their disposal, whilst they are not only economising in every department of expenditure, but render this economy more complete by giving their services weekly at the Board (frequently to the extent of five or six hours) without any charge whatever. The Directors feel it would be an injustice for the Government to have such an expense imposed upon the Company before it has been ascertained, by independent professional evidence, whether the proposal is either necessary or desirable.

6. Nor can we see how, should such a proposal be accepted, it is to prove any solution of the difficulty. The Attorney-General has advised, that the Company are legally bound to pay the Contractors promptly, on their producing the Certificate of the Engineers. Should Mr. Kemp still differ with these gentlemen respecting the monthly progress payments, certified to be due to the Contractors in terms of the 27th Condition, the liability of the Company will remain. It is certain that the opinions of the large experience and professional standing of the Engineers to the Company cannot be set aside by the Directors—and certainly would not by any Court of Law or Equity—in favour of any other professional opinion. The terms of the Contract, indeed, entirely exclude the interference of a third party. Then, there remains to be considered the fact, as regards the Contractors, that the Commissioners, so far as their legal status at the Board of Directors allowed them to be, were to all intents and purposes, in law or equity, parties to this Contract. They were present, all of them, at the opening of the Tenders and during the deliberations that followed; they were present, all of them, the next day on the common seal of the Company being affixed, and the signatures of Messrs. Overend & Robb attached to the Contract; and not a word of objection was stated to the Conditions, which the Attorney-General advises are binding upon the Company. We therefore hold, and shall continue to hold until decided to the contrary by legal authority, that this was to all intents the "approval" of the expenditure of the moneys vested in the Company and Commissioners contemplated by the Railway Act; and no payment on account of this "approved" expenditure can legally be suspended, as we believe, unless, to use the words of the Government, (Letter January 5th, 1869), the Commissioners "were aware, or had strong reasons for supposing, that the Certificate was intentionally erroneous."

7. We must be allowed to repeat here what has appeared in former correspondence, that when, in addition to their direct "approval" *at the Board*, the Commissioners reported this Contract to the Government in terms of the Act,—again without a word of objection,—if anything was wanted to complete their distinct acceptance of the terms of the Contract, and "approval" consequently of the expenditure to be made under it, this report of the Commissioners rendered it so.

8. We have already, in memorialising the Governor in Council, pointed out that *no allegation whatever has been made that the Certificates have been erroneous in any particular, or that any amount so certified on account is not due to the Contractors.*

9. Had there been any doubt on the minds of the Directors, or of the Contractors, that this "approval" of the proposed expenditure was incomplete on the part of the Commissioners, it must be evident that neither one nor other of these parties would have entered into the Contract.

10. If, however, in the face of these statements, the Government is of opinion that the proposal of Mr. Innes and Mr. Kemp should be entertained, we desire to ask what can possibly be the object of putting the Company to the cost of a *permanent* Staff, to enable Mr. Kemp to obtain the approximate information which is suggested? A short period, monthly, with necessary assistance, would suffice to supply what the terms of the Contract preclude the Company from attempting, but which Mr. Kemp states will satisfy him.

11. Whilst the Directors entertain the decided conviction that such a procedure is altogether unnecessary, yet to evince their anxious desire to afford some present solution of the existing disastrous complications, and to meet the apparent views of the Government on the question, the Directors undertake that the necessary assistance will be furnished on a requisition to that effect being made by the Commissioners; cheques for the overdue payments to the Contractors being completed by the Commissioners.

Hobart Town, 15th June, 1869.

231.

Colonial Secretary's Office, 15th June, 1869.

GENTLEMEN,

IN order to remove the existing impediment to the signature by you of the authority for the monthly payment of the moneys stated to be due to the Contractor for work performed in connexion with the Launceston and Western Railway, arising from the alleged insufficiency of the Certificates furnished by the Engineers, the Governor in Executive Council will be recommended to approve of your employing such means as may to you appear necessary for obtaining the requisite information relative to the amount of work executed, to enable you to give your sanction to the disbursement of the funds placed at the joint disposal of yourselves and the Railway Company.

I have, &c.,

(Signed)

RICHARD DRY.

The Commissioners Launceston and Western Railway.

232.

Hobart Town, 15th June, 1869.

SIR,

WE have the honor to reply to your letter, and to a memorandum purporting to emanate from the Directory of the Launceston and Western Railway Company, dated respectively Hobart Town, 15th June. We reply to the memorandum first,—in so doing following the several paragraphs as therein numbered.

1. It is not immaterial to say that the "difference" referred to is between the Commissioners and Directors, although the Engineers are involved.

The proposal that Mr. Kemp should have professional assistance, to enable him to satisfy himself as to the monthly payments, was not made by him, nor even with his knowledge, but solely by Mr. Innes, as a solution of a serious difficulty.

2. Mr. Innes could not be a party to arbitration on any basis but that of the *law*, while the Engineer refused to accede to any course but what his *Contract* seemed to him to warrant: in these circumstances, a common ground of "reference" being wanted, the proposal for "reference" failed.

3. The statement in this paragraph is denied. The Certificates and Reports at present furnished by the Contracting Engineer fail to show in detail how the work and materials are distributed, as also the terms on which the Contracting Engineer arranges with the Contractors for the Line, in respect to remissions, alterations, deviations, substitutions, or concessions, under the very large and unusual powers entrusted to the former acting on behalf of the Company. The Commissioners insist on the necessity of this information for their guidance, and with a view to a reasonable check. It is fallacious to contend that the terms are fixed by the Contract and Schedule,—elements being involved which neither Contract nor Schedule can specify.

4. *Approximate* quantities (as frequently explained) would have been satisfactory as regarded incomplete works, but reasonable accuracy was claimed as to works when finished.

5. The Commissioners can reap no advantage from the suggestion being adopted that Mr. Kemp should have the requisite assistance accorded him for measuring the work as it proceeds, &c., while Mr. Kemp's duties and responsibilities are enhanced. And if the Directors have any ground of complaint it is against their Engineer, who, receiving for two years the liberal remuneration of £7000 per annum for supervising the construction of the Line (over and above the sum paid for surveying it, &c.), on the understanding that he employs the necessary staff for that purpose, withholds information which an efficient staff could readily supply.

6. The legal views propounded in this paragraph scarcely call for discussion on the part of the Commissioners. We may say, however, that we repudiate the position that we can be reasonably held to be bound or compromised by the introduction into any contract made by the Company of conditions repugnant to law, at variance with the objects of our appointment as defined by law, or with the conditions on which the Legislature sanctioned the construction of the Launceston and Western Railway. And the Railway Act 30 Vict. No. 28 plainly contemplates nothing of the kind. All the power given in that Act to the Commissioners is that of "reporting" on contracts, and this, as the context shows, *after* they have been made. And if, as *ex-officio* Directors, it is contended that by our presence when the Contract with Messrs. Overend and Robb was concluded we became committed to its conditions, the unreasonableness of this position is evinced by calling attention to the fact that the Commissioner-Directors are *three* in number, the other Directors *fifteen*. Silence as to disputable conditions against such odds could imply little or nothing; but it does so happen that the Contract in question *was* impugned by us—without arresting its completion for one instant, of course—on the day that it was concluded, and a reference was made thereon to the Crown Law Officers, as shown in Parliamentary Report, Council Papers, No. 27, Session 1867.

So far in reply to the memorandum; but it was not necessary that we should have accepted the basis of considering the question to which that document has invited our attention. The Contract with Messrs. Overend and Robb having specified the kind of Certificate on which they could claim payment from the Company, cannot override the Law under which we claim *data* from the Directory before we consented to become parties to payments to the former;—it could furnish nothing better than a pretext for refusing that *data*, and a very slender one indeed.

7. This paragraph is already answered.

8. It is surely not a reasonable ground for contention why information should *not* be given,—why certificates and reports should *not* be in that form and character in which their correctness can be most easily tested,—that in the obscure form in which they have been hitherto furnished they have not been discovered to be "erroneous in any particular?" We have contended for fulness of detail and clearness as the best guarantee against anything erroneous being—not discovered, but—discoverable at any future period.

9. Although the Commissioners cannot be compromised by conditions embodied in contracts with the Company which conflict with the provisions of the law under which the Company exists, it is not to be supposed that they would in any manner disown the just obligations of any contract when not repugnant to law. For the temporary inconvenience sustained by the Contractors at present the Contracting Engineer is responsible, and if, by the adoption of a course on his part warranted by his *Contract*—which, however, we dispute—by a one-sided Contract which was made prior to our appointments as Commissioners, and with a body of men who at the time possessed no experience in dealings with Railway Contractors of one description or another.

10, 11. Without committing himself to details, it will not be less the wish than the duty of Mr. Kemp to accomplish the objects for which it is necessary, in the attitude assumed by Mr. Doyne, that he should be provided with assistance, at as small expense as will suffice.

Having given these answers to the Memorandum forwarded to us with your letter, we can neither deceive ourselves nor mislead you into the belief that the solution proposed for immediate embarrassments affords a permanent security against their recurrence. As Commissioners, it is impossible for us to protect the public interests unless we can insist on the most thorough transparency and fulness of detail as respects the transactions of the Company, or of the Contract Engineer with the Contractors executing the works or with others. It is not practicable to define beforehand what information we may require during the progress of an outlay amounting to three or four hundred thousand pounds; but the fact of Mr. Doyne being a Contractor, instead of an Engineer engaged on a different footing, ought not to interpose any obstacle to our obtaining all reasonable information such as no salaried Engineer would withhold. And here we may state that, as a preliminary to the discharge of the new duties undertaken by Mr. Kemp, it will be necessary that Mr. Doyne should supply copies of all plans, cross sections, and specifications; and we should like to have an assurance that these will not be refused or delayed. It will also be necessary that Mr. Kemp should have the measurements of all completed works below the surface of the ground.

Referring to what you state as to the removal of existing impediments to our signing a cheque for the payment of the Contractors, we desire to put matters on a clear and unambiguous footing. We do not know what may be said to be now due to the Contractors. Of course we are aware that the payment to them on account of April-May, £8009 18s. 7d., has been postponed. We know also, that the payment for the month of May-June is about due, not taking account of the period of ten days during which by the conditions of the Contract such payment may be kept back. But, in addition to the works represented in these two accounts, other works have been in progress for some time,—we refer to the alterations in the slopes of cuttings which have been found insecure—for which the Law Officers of the Crown have advised, and you have intimated to the Directory, that the consent of the Governor in Council is necessary before they can be undertaken. They have, however, been in course of execution without any such sanction; and we must hold ourselves free as to what course shall be adopted in respect to them when they come before the Directory. As respects the payment for April-May it can now be acceded to; while that for May-June need not be postponed inconveniently if the assurances now offered on the part of the Directory and Contracting Engineer, that they will afford every facility to Mr. Kemp, are practically fulfilled.

We have, &c.,

(Signed) FRED. M. INNES, } Commissioners under the Launceston
SAML. V. KEMP, } and Western Railway Acts.

The Hon. the Colonial Secretary.

233.

Colonial Secretary's Office, 16th June, 1869.

SIR,

I HAVE the honor to forward herewith a letter from Messrs. Kemp and Innes, in reply to my letter of yesterday's date, forwarding the Memorandum of the Directory of the Launceston and Western Railway Company of the same date.

I have, &c.,

(Signed) RICHARD DRY.

W. S. BUTTON, Esq., Chairman of the Board of Directors,
Launceston and Western Railway Company.

234.

Hobart Town, 16th June, 1869.

SIR,

I HAVE the honor to acknowledge your letter of to-day covering a further communication from Messrs. Innes and Kemp.

In view of the very grave consequences which, as already intimated, must inevitably result from delay, I regret that the very liberal offer to supply assistance to Mr. Kemp made yesterday by the Directors and Engineers should not have been at once accepted.

No good purpose can be served by replying in detail to that letter; I therefore at once proceed to place before you in as clear a form as possible, and as a distinct finality, the obligations to which I think each party should be prepared to conform, if a peaceable solution of the difficulty is really desired. The further concession comprised therein is made in the hope of a settlement being the result.

On behalf of the Company and Engineers you will find the necessary signatures already attached, and the Commissioners have only to add theirs and the matter in dispute will be disposed of, and the great calamity be averted which a few more hours delay will certainly bring upon the Colony, as well as on those concerned in the Railway work.

I have, &c.,

(Signed) W. S. BUTTON.

The Hon. the Colonial Secretary.

MEMORANDUM.

1. THAT Mr. Kemp be supplied with assistance to enable him to satisfy himself respecting the Progress payments certified from time to time by the Engineers to be due to Messrs. Overend and Robb under their Contract.

2. That access be afforded to Mr. Kemp, during office hours, to the plans and sections, cross sections, and other Contract documents in the office of the Engineers of the Company.

3. That the Commissioners engage to concur as heretofore in the payments for Nos. 9 and 10 Certificates; the Certificates being accompanied by the usual declaration by the Engineers that no payments on account of extra works are included therein.

W. S. BUTTON, *Chairman.*

H. DOWLING, *Secretary.*

W. T. DOYNE, *Engineer-in-Chief.*

Hobart Town, 16th June, 1869.

235.

MEMORANDUM.

Hobart Town, 17th June, 1869.

THE Commissioners under the Launceston and Western Railway Act have the honor to reply to the communication from Mr. Button addressed to the Honorable the Colonial Secretary, under date 16th instant, with memorandum of agreement attached, bearing the signatures of W. S. Button, Chairman, H. Dowling, Secretary, and W. F. Doyme, Engineer in Chief, also of that date.

The Commissioners gather from the first condition in the memorandum that Mr. Kemp will be supplied with such assistance as is necessary to enable him to satisfy himself respecting Progress payments certified from time to time by the Company's Engineers. Interpreting this to mean that the assistance given shall not be at the discretion of the Board, but as the Law provides, of the Executive, and that necessary information will be furnished when required, the Commissioners are satisfied.

2. This condition, under the circumstances, is accepted on the understanding that copies of all lithographed plans will not be denied.

3. The Commissioners are prepared, on the satisfaction now made on behalf of the Company, to sign the Cheque for the payment of No. 9 Certificate, but they cannot make any engagements in respect to No. 10, which they have never seen, and which, in fact, has not yet been laid before the Board of Directors. They spontaneously assure the Colonial Secretary, however, that for the sake of the several interests involved, it is their wish to unite with the Directory in the prompt satisfaction of the Contractors' claims.

The Commissioners do not feel that it would be consistent on their part to join in any formal articles of agreement with the officers of the Company in the manner they are invited to do.

(Signed) FRED. M. INNES, } *Commissioners under the Launceston*
SAMUEL V. KEMP, } *and Western Railway Acts.*

The Hon. the Colonial Secretary.

236.

Colonial Secretary's Office, 17th June, 1869.

GENTLEMEN,

I HAVE the honor to acknowledge the receipt of your Memo. of this day's date upon that of Messrs. Button, Dowling, and Doyme on behalf of the Launceston and Western Railway Company and their Engineers.

Your Memo. having been placed in the hands of Mr. Dowling, I have much pleasure in informing you that that gentleman, on behalf of the Company, acquiesces in the conditions proposed by you.

I have, &c.,
(Signed) RICHARD DRY.

*Messrs. INNES & KEMP, Commissioners Launceston
and Western Railway.*

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237.

BY ELECTRIC TELEGRAPH.

18th June, 1869.

SHALL be glad of last Memorandum of Commissioners to-morrow morning.

H. DOWLING, *Launceston and Western Railway.*

The Assistant Colonial Secretary.

238.

Colonial Secretary's Office, 18th June, 1869.

SIR,

I HAVE the honor to forward, as requested in your telegram of this day's date, copy of the last Memo. of Messrs. Innes and Kemp, Commissioners of the Launceston and Western Railway, to the Honorable the Colonial Secretary.

I have, &c.

(Signed) B. T. SOLLY.

H. DOWLING, *Esq., Launceston.*

239.

Colonial Secretary's Office, 19th June, 1869.

SIR,

I HAVE the honor to request that you will have the goodness to return the Memorandum of the Directors of the Launceston and Western Railway Company addressed to the Colonial Secretary, and which was transmitted to you for the information of the Commissioners on Tuesday last.

I have, &c.,

(Signed) B. T. SOLLY.

S. V. KEMP, *Esquire.*

240.

Colonial Secretary's Office, 24th June, 1869.

SIR,

I HAVE the honor by direction of the Colonial Secretary to forward to you, for the information of the Directors of the Launceston and Western Railway Company, the accompanying letter of Mr. Innes under date the 11th instant, and to request that the same may be returned to this Office at as early a date as possible.

I have, &c.,

(Signed) B. T. SOLLY.

H. DOWLING, *Esq., Launceston.*

241.

*Launceston and Western Railway Company, Limited,
Launceston, 29th June, 1869.*

SIR,

I HAVE the honor to forward the following papers with reference to the erection of the necessary staging for the placing of the iron girders of the South Esk Viaduct at Longford; viz.—

1. Letter from Engineers 28th June, covering letter to Contractors 22nd, and reply thereto 29th May.
2. Form of Contract proposed.
3. Tender made on 20th April.
4. Tracing of plan and section.

And I have to request that, as the circumstances are very urgent, inasmuch as the Company are bound by contract in London to have this staging ready by the arrival of the girders in Launceston,—and under penalties,—the whole question may be at once submitted to His Excellency the Governor in Council, in order to his sanction of the expenditure (namely £2915); the necessary sum having, by some untoward oversight, been omitted from the general estimate of cost.

The Directors gave authority to the Engineer to order this ironwork for the said Viaduct on the 21st July last year, and early in August again addressed the Engineer on the subject; but notwithstanding the fact of the question being thus before the Board and the Engineers, the cost of the staging, as well as of the cartage of the girders from Launceston to Longford, was, as I have stated, unfortunately omitted from the general estimates—an omission but recently detected. I beg to refer to the *précis* of letters, &c. which I annex.

His Excellency will, doubtless, observe that the Engineers report that they are proceeding with the work, for the cogent reasons given above, in the full conviction that the Governor will approve of the required expenditure being made out of present funds,—a course of procedure which the Government, I am confident, will fully justify by their approval.

I have, &c.,

(Signed)

H. DOWLING, *Secretary.*

The Hon. the Colonial Secretary, Hobart Town.

PRECIS.

Minute, July 21, 1868.—Engineer asked authority to order ironwork for South Esk Bridge from England. Resolved, That such authority be hereby given.

Minute, August 4.—Secretary was directed to apply to Engineers respecting the liabilities of the London Contractor, and so applied, August 5.

August 7.—Engineer replied that the said Contract, let in London, would include insurance and all other charges, excepting carriage from Launceston to Longford and erection of staging, on which the girders would be put together. That they intended to let the staging in a separate contract with the view of saving time; and because the English Contractor might put down excessive contingencies, to cover uncertainty regarding materials, labour, and foundations.

September 12.—Engineers advise the Inspecting Engineer in London, that they had determined to place the responsibility of the erection of the iron-work upon the Contractor employed to execute it in London, on the ground that experience in the Colonies had proved, that when the responsibility is divided the result is unsatisfactory, and the expense in erection greatly increased.

I may add that this question was submitted to the Board of Directors by the Engineers, discussed and approved.

H. DOWLING, *Secretary.*

*Launceston and Western Railway, Engineers' Office, Launceston,
Tasmania, 28th June, 1869.*

STAGING FOR LONGFORD BRIDGE.

DEAR SIR,

In accordance with your letter on this subject, dated 19th May, we communicated with Messrs. Overend & Robb in a letter (a copy of which we append); to this we received a reply, which we also annex, accepting the conditions proposed.

We now enclose a tracing which we have prepared, and a copy of the Specification and Conditions of Tender on which the agreement is based, to which it has been necessary to add a note providing for extension of time for completing the work, owing to the delay which occurred before the Tender was accepted. It will be necessary to obtain the signatures of the Contractors to these two documents to complete the Contract, prior to which we submit them for the approval of the Board.

We may add that the material required has been obtained, and the work already commenced.

We have, &c.,

(Signed)

DOYNE, MAJOR, & WILLETT, *Engineers.*

H. DOWLING, *Esq., Launceston.*

(Copy.)

*Launceston and Western Railway Engineers' Office,
Launceston, Tasmania, 22nd May, 1869.*

SCAFFOLDING FOR LONGFORD BRIDGE.

GENTLEMEN,

WE have to inform you that the Directors have decided to accept your Tender for this work, with the modifications expressed in your letter to the Secretary, by which the timber and ironwork used in the work shall remain the property of the Company.

There appears to be some doubt as to your intention to remove the scaffolding (on completion of the bridge) under the offer last made. We have, therefore, to state that the offer was accepted with the distinct understanding "that the entire scaffolding shall be removed by the Contractors at their own cost, as provided in the specification, and the material stacked on adjacent ground as the Engineer may direct."

On these terms we shall prepare the necessary documents in a few days.

We have, &c.,

(Signed) DOYNE, MAJOR, & WILLETT, *Engineers.*

Messrs. OVEREND & ROBB, Contractors.

*Launceston and Western Railway Contractors' Office,
Railway Wharf, William-street, Launceston, 29th May, 1869.*

GENTLEMEN,

WE beg leave to acknowledge the receipt of your letter of the 2nd instant, and in reply beg leave to say that we are prepared to proceed with the erection of the scaffolding for the Longford Bridge with the conditions mentioned in your letter.

We have, &c.,

(Signed)

OVEREND & ROBB,

Per ROBERT AIKMAN.

*Messrs. DOYNE, MAJOR, & WILLETT, Engineers
Launceston and Western Railway.*

(Copy.)

*Launceston and Western Railway Engineers' Office,
Launceston, Tasmania, 6th April, 1869.*

CONTRACT for Scaffolding for the Bridge over the South Esk River at Longford.

SPECIFICATION AND CONDITIONS OF TENDER.

THIS Contract comprises the erection of the Scaffolding required for the construction of the Iron Bridge over the River South Esk at Longford, being part of the works of the Launceston and Western Railway; and the supply of all materials, labour, tools, plant, tackle, cartage, stores, and everything necessary for the proper execution and completion of the said Scaffolding in accordance with the drawings, and its subsequent removal on the completion of the iron-work.

2. The Contract will include only the use, wear, and waste of the materials employed.
3. The character and dimensions of the Scaffolding are shown on the drawing, and it must be erected in exact accordance with it, and to the satisfaction of the Engineer.
4. The Scaffolding shall be completed and ready for the reception of the iron-work of the Bridge not later than the 1st day of July, 1869; and for every day's delay in the completion of the work after that day, the Company shall be entitled to deduct or set off from or against the Contract price as and by way of liquidated damages, and not as or in the nature of a penalty, the sum of £10 per working day.
5. When the erection of the Bridge is completed by the Company, as determined by a notice in writing to that effect from the Engineer, the Contractor shall remove at his own cost, and in a manner approved by the Engineer, the whole of the Scaffolding comprised in this Contract.
6. The General Conditions of the Contract for the construction of the Launceston and Western Railway shall apply to this Contract (with the exception of Clause 17), and the Contractors shall be bound by them.

(Signed) DOYNE, MAJOR, & WILLETT, *Engineers.*

NOTE.—Delay having arisen in letting this Contract, Clause 4 shall be modified so that such extension of time for the completion of the work shall be allowed as the Engineers may deem necessary, the Contractors pledging themselves to use every effort to complete it as early as possible.

DOYNE, MAJOR, & WILLETT.

Launceston, 1st June, 1869.

*Launceston and Western Railway Contractors' Office, Railway Wharf,
William-street, Launceston, 20th April, 1869.*

TENDER for Scaffolding for Bridge over South Esk at Longford.

WE hereby engage to erect the Timber Staging necessary for the erection of Iron Bridge at Longford, for the Launceston and Western Railway Company, in accordance with the Plan and Specification submitted, for the sum of Two thousand nine hundred and fifteen Pounds (£2915) sterling.

To the Secretary Launceston and Western Railway.

(Signed) OVEREND & ROBB.

242.

Colonial Secretary's Office, 1st July, 1869.

SIR,

I HAVE the honor, by direction of the Colonial Secretary, to forward for any observations you may desire to make a letter from the Secretary to the Launceston and Western Railway Company, with enclosures, seeking the authority of the Governor in Council to a certain expenditure for the erection of the necessary staging at the construction of the Bridge over the South Esk River at Longford; and at the same time to request that you will return the documents at your earliest convenience.

I have, &c.,

(Signed) B. T. SOLLY.

S. V. KEMP, Esq., Launceston.

243.

Railway Commissioners' Office, Launceston, 3rd July, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 1st instant, with enclosures from the Secretary of the Launceston and Western Railway Company, seeking authority from the Governor in Council for the expenditure of £2915 for the scaffolding required for the erection of the imported ironwork for the viaduct crossing the South Esk River at Longford; all of which enclosures are forwarded for any observations I may desire to make thereon. In reply, I beg to state that, in submitting my estimate in July, 1868 (see printed papers, No. 16), I based the cost of this scaffolding upon the weight of ironwork supplied to me by the Company's Engineers, viz. 200 tons, at £4 per ton; and had the actual weight been furnished to me, viz. 744 tons, as given by Mr. Hemans, the Consulting Engineer in England, my estimate would have been £2976,—a sum closely approximating the tender of Messrs. Overend and Robb.

I was taken very much by surprise when Mr. Hemans' letter of the 23rd November, 1868, was read at a Board meeting held on the 9th February, 1869, when the great increase of weight of ironwork and cost of same was first made known to the Directory and Commissioners. A resolution was passed, I believe, at the same meeting, requesting the Engineers to report and explain how such increased weight and cost had been incurred. To which they replied by stating that they had omitted from their estimate of £6600 for the South Esk Bridge (see the same printed papers before quoted) £2000 for the scaffolding and £1000 for the carriage of ironwork from the port to the site of erection, without giving any explanation as to the increased weight and cost of the ironwork. By adding these acknowledged omissions to their estimate, it will make the amount £9600 for the ironwork and erection of the South Esk bridge or viaduct.

	£	s.	d.
Advices from England show that the cost of making, forwarding, and erecting the ironwork of this viaduct will amount to	18,440	0	0
Cost of scaffolding as per tender of Messrs. Overend and Robb.....	2915	0	0
Cartage of ironwork as per Engineers' estimate	1000	0	0
	£22,355	0	0
Add further omissions and contingencies, deducting the value of timber after erection from the same; say	1000	0	0
Total cost	£23,355	0	0
Estimated amount for this work, calculated upon the data furnished to me in October, 1867, and upon which data I based my Report that the line could be opened for a sum not exceeding £350,000	6165	4	6
Excess arising from these increased weights of the ironwork of the viaduct beyond that originally provided for in the plans, &c., and the unreliable nature of the data furnished by the Company's Engineers to the Commissioners	£17,189	15	6

I beg to again remind you that the whole of the subscribed and debenture capital, amounting to £350,000, is already absorbed by existing engagements; and the authority now sought to expend £2915 is an excess beyond the amount of such capital, and for which excess provision will have to be made hereafter; and the Company now ask the authority of the Governor in Council to pay for such excess out of the funds so absorbed by existing engagements, now lying in the bank to the joint credit of the Company and Commissioners.

The question of the necessity of this work, under the existing engagements that have been entered into by the Company, is beyond dispute. Contracts have been let in England for the ironwork and its erection in the Colony, and in all probability advices of its shipment will be received by the next mail; and in the event of the scaffolding not being ready to receive the ironwork, the Contractors for the same will be absolved from their engagements as to time and penalties, and the opening of the line for traffic will be thus delayed.

Should the Governor in Council be pleased to give his assent to this increased expenditure required by the Company, I would respectfully venture to suggest that, before such assent is given, the Company should be required to state distinctly in the Contract Agreement between themselves and Messrs. Overend and Robb the extended time for the completion of the scaffolding, on the ground that the Contract for the erection of the ironwork for the viaduct is contingent upon the scaffolding being ready to receive it. Also, that the Directory should undertake to furnish to the Commissioners (whenever a progress payment is made) a statement showing the quantity of work executed in detail; and that no alteration, addition, substitution, deviation, or concession should be made to the works without first obtaining the consent of the Governor in Council or the Commissioners, as the Government may think fit.

I herewith have the honor to return all the enclosures.

I have, &c.,

(Signed)

SAML. V. KEMP.

The Honorable the Colonial Secretary, Hobart Town.

244.

*Launceston and Western Railway Company, Limited,
Launceston, 2nd July, 1869.*

SIR,

I HAVE the honor, in further acknowledgment of your letter of the 30th April, enclosing one from Messrs. Innes and Kemp, and requesting my remarks thereon, to say,—

1. I have submitted it to the Engineers, and now have to enclose, in addition to their part reply of the 1st ultimo, copy of their further communication, which discloses the cause of delay in answering you.

2. In the present position of affairs I agree with the Engineers, that it would be undesirable to extend correspondence which, whilst tending to irritate, is at the same time a mere repetition of controvertible statements on the one hand, and reiterated replies on the other.

3. Whilst I look forward to a future opportunity to arise when the statements made in this and other letters may be effectually met, I desire, meantime, to say positively that the question of Engineering orders going home through this Office, and not directly through that of the Engineers, was not raised at all until three months after the transmission of the orders in question. These were sent in July, and were read and minuted at the Board meeting on 18th August—Mr. Kemp being absent in Melbourne, and Mr. Innes at Hobart Town; and it was on the return of the former gentleman in October, on his reading the minutes and correspondence, that he first raised the question.

4. On the subject of the payment to the Engineer in Chief, the Government have been made aware that the expenses under this head by this Company are low as compared with other countries. Parliamentary Blue Books can be referred to, to prove that in England similar services to those the Company receive from their Engineer are higher paid; that Victoria has paid £1500 per mile, and New South Wales £1300 per mile, and Queensland (light railway) £540 per mile, for similar services, and in cash; whilst we pay £5000 out of £14,000 in shares of the Company; the period of service being three years, and not two years as asserted frequently by Mr. Innes. Thus much in vindication of the proceedings of the promoters, which the annexed papers will prove to have been marked by care and foresight.

I have, &c.,

(Signed)

H. DOWLING.

The Hon. the Colonial Secretary, Hobart Town.

30th June, 1869.

DEAR SIR,

WE return to you Messrs. Innes and Kemp's letter of the 29th April, which we have kept till now with the intention of replying in detail to the statements contained in it.

The altered aspect of affairs, however, leads us to think that it will be better to take no further notice of such documents, as we do not see that any good can result from frequent reiteration of explanations and denials. We content ourselves, therefore, by referring to our letter of June 1st on the subject of Mr. Kemp's memorandum.

We have, &c.,

(Signed)

DOYNE, MAJOR, & WILLETT, *Engineers.*HENRY DOWLING, *Esquire, Secretary.*

REPORT of Committee on Engineering Charges, reported to the Board April 9, 1867.

"IN consideration of the difficulties which surround a *departmental* system for survey and engineering supervision, we are unanimously of opinion that the best and safest course for the Directors and Company is to adopt the Contract mode of employment, the terms of payment and responsibility of the Engineers being satisfactorily defined.

"In considering the proposals of Mr. Doyne, contained in memoranda furnished by him, we find that as far back as 1861 he reported to the promoters that the Engineering charges would amount to £400 per mile; and such charge was embodied, in 1862, in the estimate of cost furnished to Parliament.

"We have now obtained professional opinions and further explanations from Mr. Doyne; and from these data, and in view of the large interest which Mr. Doyne proposes to hold in the Company's undertaking, and the guarantee afforded by his professional standing, we are persuaded that it will be advantageous to the Company to secure the services of Mr. Doyne for the engineering and supervision of the Line by Contract; and that, in event of the Board of Directors accepting his offer, such provisions should be made in the written Contract between him and the Directors as will guard the Company against responsibility, in case any protracted or indefinite delay should occur in proceeding with the construction of the Line; at the same time securing to him the due payment of charges for preparing plans and specifications for contracts, and also his continued employment, in full terms of his offer, when the Line shall be proceeded with.

"We recommend that Mr. Doyne should be asked to take £5000 in shares, as a means of helping the difficulty we have little doubt will be experienced in filling up the Share-list.

"We are convinced that it is most important the work should be proceeded with at once, believing that an actual commencement made will give the Directors important advantages in getting the Share-list completed, and financial arrangements satisfactorily carried out.

(Signed)

"W. S. BUTTON,

"W. TYSON,

"ISAAC SHERWIN,

"JOHN SCOTT,

"H. DOWLING,

} *Provisional Directors."*

(Copy.)

"Launceston, March 8, 1867.

"DEAR SIR,

"IN the various consultations I have had with the Directors of the Launceston and Western Railway Company during the week, some misapprehensions may have arisen as to what I have meant. I think it well, therefore, to jot down for your information the main points of my present proposals, and to give further explanations regarding them. You have already memoranda from me detailing the work to be performed by me, and the amount to be paid to me.

"To meet the views of some of the Directors, and to increase the amount of the Share-list, I am willing to modify the mode in which the payments are to be made to me, by, instead of my being given paid-up shares in part payment of my fees and expenses, I shall be paid the whole in cash, and agree to take shares to that amount, paying the calls in the usual way; and further, to accept £1000 out of the £3600 I am to be paid for preparing the Contract plans, &c., in Debentures at par, provided the Debentures are available within six months after the completion of the plans: if not, I am then to be paid in cash, and in either case with interest at six per cent. per annum.

"By this arrangement I should receive during the next three (3) years in available cash only £9000 to cover all my expenses and pay me for my time and professional advice. The direct out-of-pocket payments I shall have to make out of this sum will be so heavy as to leave me but a

small margin to cover unforeseen contingencies and give me a moderate fee. I am, in fact, relying in the main for my remuneration upon the future value of the shares, upon which I cannot realize for years to come, and upon the right of advising others professionally in other matters during the progress of these works.

"A difficulty having arisen in the minds of the Directors to understand what relation a fixed charge *per mile* bears to the usual rates paid for supervision, I wish to repeat what I explained the other evening, that the total sum named (£17,600) is only 5 per cent. on the estimated expenditure of £350,000; while the *total* sum that I am to receive *in cash* (£12,600) only amounts to 3½ per cent. Five per cent. is the usual commission paid to architects for making designs of buildings, and giving very slight and inexpensive supervision during the progress of the works. Buildings, such as they carry out in this manner, covering usually only small spaces, and the mechanical questions involved being few and simple, a single clerk of works, at a small salary, usually superintends the construction of even very large buildings. The works of which a Railway is composed are scattered over miles of country; thus requiring them to be divided into districts, each superintended by a skilled Engineer.

"It has been suggested that it would be a more satisfactory mode of proceeding for the Company to employ the staff instead of my doing so, and that I shall merely act in the capacity of consulting Engineer. On this plan I wish to observe that you are in possession of sufficient evidence to show that that system has proved far more expensive, where it has been tried, than the Contract system; and that it will also have the effect of removing from me to the Directors all responsibility regarding the application of that detailed supervision which is essential to the success of the undertaking.

"As consulting Engineer only, I should not bear any responsibility on account of the neglect or ignorance of the members of the Company's staff, while my professional reputation stands committed to every act of the members of my own staff. I am, therefore, confident that I not only advise your Directors honestly, but that I advise them for the best in the Company's interests when I recommend the adoption of a system which involves me in an individual responsibility,—a weight of responsibility which I should not seek but that I am convinced it is the only way to success; and that I am ambitious to be the Engineer who shall first prove that a Railway of first-class construction, equal to any in Europe, can be constructed in these Colonies over a country which, if not presenting great difficulties, involves several heavy works, at a cost within the means of a merely agricultural district; and which can be *worked* at a cost which will render it a profitable investment for private capital. These, and many personal considerations which cause me to enjoy a residence in Tasmania, will lead me to enter upon this work with a deep interest, and to give to it the closest personal supervision that can be necessary.

"Yours truly,
(Signed) W. T. DOYNE.

"H. DOWLING, Esq., Hon. Secretary."

245.

Colonial Secretary's Office, 3rd July, 1869.

SIR,

I SHALL feel obliged by your returning at your earliest convenience the letter of Mr. Innes under date the 11th June, forwarded to you on the 24th ultimo, as I am very anxious that the papers connected with the Launceston and Western Railway should be placed in the hands of the Government Printer at as early a date as possible.

I have, &c.,
(Signed) B. T. SOLLY.

H. DOWLING, Esq., Launceston.

246.

Launceston and Western Railway Company, Limited,
Launceston, 6th July, 1869.

SIR,

I HAVE the honor to inform you that your letter of the 24th ultimo, covering, for the information of the Directors, a letter from Mr. Innes, under date the 11th ultimo, I read to the Directors at their usual meeting, on the 29th ultimo; that the consideration of Mr. Innes's letter was postponed, by a resolution of the Board, until the weekly meeting of to-day, and that the result of such consideration by the Directors was the adoption of the resolution following, which I extract from the Minutes :—

"That the Secretary be instructed to return to the Honorable the Colonial Secretary the letter of Mr. Innes, dated the 11th ultimo, and to express the surprise and regret of the Directors, that a gentleman holding the position Mr. Innes sustains in respect to the Launceston and Western Railway Company should have penned a letter of such a character.

"It contains many statements the accuracy of which the Directors deny,—is so supercilious in its tone,—and its whole tenor so insulting to the Directors, the Secretary, and the Engineers,—imputing motives and conduct to them of which, were they capable, they would be utterly unworthy to retain their respective positions in connection with the Launceston and Western Railway,—that the Directors decline to offer any other remarks respecting the said communication than those conveyed by this resolution."

I have the honor, therefore, to return the said letter, as so directed by the Board.

I have, &c.,

(Signed)

H. DOWLING, *Secretary.*

The Hon. the Colonial Secretary, Hobart Town.

247.

MINUTE PAPER FOR THE EXECUTIVE COUNCIL.

Colonial Secretary's Office, Hobart Town, 5th July, 1869.

SUBMITTED,

THAT the Directors and Commissioners of the Launceston and Western Railway Company be authorised to expend a sum not exceeding £2915; such expenditure having been certified to be necessary by the Professional Commissioner for the construction of the necessary Staging for the placing of the Iron Girders of the South Esk Viaduct at Longford.

(Signed)

RICHARD DRY.

THE Governor in Council approves,

(Signed)

E. C. NOWELL.

The Hon. the Colonial Secretary.

248.

Colonial Secretary's Office, 6th July, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 29th ultimo, with enclosures; and in reply to inform you that the Governor in Council has been pleased to approve of the Directors and Commissioners of the Launceston and Western Railway expending a sum not exceeding £2915; such expenditure having been certified to as necessary by the Professional Commissioner for the construction of the Staging required for the works in connection with the Viaduct over the South Esk at Longford.

I have, &c.,

(Signed)

RICHARD DRY.

The Secretary Launceston and Western Railway Company, Launceston.

249.

Colonial Secretary's Office, 6th July, 1869.

SIR,

I HAVE the honor to forward to you herewith copy of a letter which has this day been addressed to the Secretary to the Launceston and Western Railway Company, conveying the approval of the Governor in Council to the expenditure by the Directors and Commissioners of a sum not exceeding £2915 for the construction of the Staging required for the works in connection with the Viaduct over the South Esk at Longford.

I have, &c.,

(Signed)

RICHARD DRY.

S. V. KEMP, *Esq., Launceston.*

Hobart Town, 8th July, 1869.

SIR,

A RESOLUTION having been passed at the last meeting of the Directory of the Launceston and Western Railway Company, in which, among other things, it is affirmed that my letter to you of the 11th ultimo "contains many statements the accuracy of which the Directors deny," I have the honor to represent to you my inability to combat so indefinite a denial. If, however, I have inadvertently made any statement to you which shall prove to be inaccurate, I shall very much regret the circumstance. Meantime, I invite investigation; and, in disclaiming all intention to mislead the Government, I need only point out that, in writing the letter complained of, I could not possibly anticipate that the Board would be denied (as it has not been) an opportunity of rebutting any statement it contained, any more than I could expect that statements appearing to me to be imperatively called for in the trust I had accepted would be acceptable to the majority of that body, or that they could be framed in language which would not be displeasing.

As my co-Commissioner, Mr. Bartley, announced to the Directors on Tuesday that he would offer a reply through the Government to my letter of the 11th ultimo, which he would at the following meeting read to the Board, I beg to be favoured with a copy, so as if necessary to answer it at once.

I have, &c.,

(Signed) FRED. M. INNES.

*The Honorable the Colonial Secretary.**Railway Commissioners' Office, Launceston, 30th June, 1869.*

SIR,

I HAVE the honor to state that, upon my proceeding to Hobart Town to wait upon the Executive subsequently to the reception on the 15th instant of the Deputation from the Directors of the Launceston and Western Railway Company, I had prepared for submission to the Governor in Council a communication, in which I endeavoured, in a clear and definite manner, to describe the circumstances which had occasioned the existing and past complications between the Company and the Commissioners, to state the position I had felt myself constrained to assume with respect to such complications, although such position was in direct opposition to that assumed by the other two Commissioners, and to endeavour to justify myself to the satisfaction of the Government for taking up and maintaining such a position.

That, upon my waiting upon yourself and colleagues upon the 15th instant, I found that you entertained the confident hope that a speedy and satisfactory solution of such complications would be arrived at; I was, therefore, unwilling to trespass upon the time and attention of the Government at such a juncture by presenting the communication referred to, more especially as I found that another, of perhaps equal length, from Mr. Innes, expressing his views upon some of the questions at issue, was then awaiting the consideration of the Government. I therefore withheld my letter, and contented myself by making a short verbal statement to yourself and colleagues of the opinions I entertained as to the absolute right of the Contractors to the due payment by the Company and the Commissioners of the amounts of the Monthly Certificates, and of the course I had adopted, and intended to continue, with reference to such payments.

Since returning to Launceston, I have observed that Messrs. Innes and Kemp handed, on the 16th instant, to the Government a Memorandum in which they describe, and attempt to justify, the position *they* had assumed, and the course *they* had adopted, and intend to pursue, with reference to such payments. Such Memorandum has since been published in all the newspapers of the Colony, and will shortly come before the Parliament in "The Blue Book." The Government and the Public have, and the Parliament will have therefore, in such Memorandum a statement of only one side of the questions at issue; that is to say,—of the views entertained and the course pursued by Messrs. Innes and Kemp, as two of the Commissioners, which have resulted in the past and present complications,—whilst neither the Government nor the public have, nor will the Parliament have before it, a similarly detailed statement of the views entertained, and the directly opposite course adopted, with reference to such questions by myself as the third Commissioner, in conjunction with the Directors of the Company. In justice to myself, therefore, as such third Commissioner, I now respectfully submit the said communication, so intended to have been handed to yourself and colleagues on the 15th instant, for the information and consideration of the Governor in Council.

I have, &c.,

(Signed)

THEODORE BARTLEY.

The Hon. the Colonial Secretary, Hobart Town.

Launceston, 14th June, 1869.

SIR,

As one of the Commissioners of the Launceston and Western Railway, I desire, through your medium, most respectfully to submit for the consideration of the Governor in Council the following statements having reference to, and the opinions I entertain respecting, the very serious complications which are now existing between the Directors of the Company and my two fellow-Commissioners—complications which have already occasioned very serious loss and inconvenience to the Contractors for the Railway; injuriously affected the credit of the Company, and depreciated the whole undertaking in public estimation; and which, unless some speedy and conclusive solution of the same is arrived at, must inevitably involve results affecting in the most disastrous manner, first, the interests of the Company and Contractors, and eventually those of the Government, the Railway District, and the whole community.

1. The Legislature, by the Railway Acts, sanctioned the construction of the Railway upon the designs, surveys, and estimates made and furnished by W. T. Doyne, Esq., now the head of the firm of "Doyne, Major, and Willett," the Engineers of the Company, provided the cost of such Railway did not exceed £350,000, of which £50,000 was to be subscribed by the Company.

2. By the Railway Act, No. 2, the Governor in Council was empowered to appoint three Commissioners, whose duty should be to report:—(1.) Whether the said Railway could be opened for public traffic for a sum not exceeding £350,000. (2.) Whether the said sum of £50,000 had been so subscribed and paid into a bank to the credit of the Company and Commissioners. (3.) To take care that the said sum of £350,000 was "expended upon the Railway and Works with their approval and not otherwise." And (4.) to have the "Contracts for the construction of the whole of the said Railway and Works within the Colony, and the estimates for rails and other portions of the said Railway and Works to be imported from abroad, submitted for their inspection, and to report thereon from time to time to the Governor in Council."

3. Upon the reports of the Commissioners that the said sum of £50,000 had been so subscribed and paid into a bank, and that the said Railway could be opened for public traffic for a sum not exceeding £350,000, the Governor in Council, as authorised by the said Act, signified his approval of the said Railway and Works being commenced.

4. The tender of Messrs. Overend and Robb for the construction of the whole of the said Railway and Works within the Colony was, subsequently to such approval, submitted to the Board of Directors, all the Commissioners in their capacity as Directors being present was carefully deliberated upon, and finally unanimously accepted by the Board; and a Contract in accordance with such tender was likewise submitted to, deliberated upon, and unanimously approved by the Board, and finally sealed with the Common Seal of the Company, and executed by the Contractors, the Commissioners in their capacity as Directors being present, and assenting parties to the acceptance of the tender and to the signing and sealing of the Contract which was subsequently submitted to their inspection as Commissioners, and respectively reported upon by Mr. Kemp, the professional Commissioner, and by Mr. Innes and myself as non-professional Commissioners, as required by the Railway Act; and by such procedure of the Commissioners I consider they signified their approval of the expenditure of the amount of Messrs. Overend and Robb's Contract upon the "Railway and Works within the Colony" in the manner set forth in detail in such Contract. In my letter to you of the 12th December last I made the following statements, which I now quote as the most ready way of bringing under the notice of the Government the representations I had previously made upon the questions at issue:—

"Among the General Conditions of such Contract, and embodied therein as set forth in Clause 27, is the following:—

'Payments will be made to the Contractors every month of the amount which the Engineers may certify by estimate from the Schedule of Prices as the price or value of the work performed during the preceding month, together with the value the Engineers shall place on any suitable materials that shall be delivered upon the works, less 10 per cent. upon such certified amount.'

"No exception was taken either by the Board of Directors or by either of the Commissioners to the foregoing distinct and definite condition, nor was any suggestion made by Mr. Kemp that the certificates so to be given by the Engineers should furnish schedules of quantities or any other information than that required by such condition.

"The Contract with such condition embodied therein having been so approved of by the Board of Directors and the Commissioners, and duly executed by the Contractors and the Engineers of the Company, the Contractors, in my opinion, were in every way both legally and equitably entitled to the prompt payment of the monthly amounts certified by the Engineers to be due to them in accordance with the said condition, and that the absolute right of the Contractors to such payment upon the production of such certificate could not in any way depend upon whether Mr. Kemp or the other Commissioners were, or were not, furnished by the Engineers with schedules of quantities, or any other information whatever than that supplied by such certificate; nor whether, if such schedules of quantities or other information required by Mr. Kemp were so supplied, Mr. Kemp's estimate of the amount due to the Contractors agreed with the estimate of the Engineers or otherwise. The form of certificate forwarded by Mr. Kemp as used by the Engineers and adopted by the Company is prepared strictly in accordance with the conditions embodied in the Contract (Clause 27) above referred to.

"Clause 28 of the said General Conditions terms such payments as 'Progress payments.' It clearly regards them merely as payments upon account of certain defined works, contracted to be performed for certain defined or fixed amounts, and accordingly provides 'that notwithstanding the giving of any certificate that portions or the whole of the works have been satisfactorily performed, the Engineer may require the Contractors to remove or amend at any future time previously to the final payment on account of the construction or maintenance of the works any work that may be found not to have been performed in accordance with the Contract.'

"The Directors, relying with implicit confidence upon the professional and personal reputation of their Engineers, have as above shown absolutely and unreservedly confided to them, *and to them alone*, the very onerous and responsible duty of estimating the monthly amounts due to the Contractors, and of furnishing such Certificates for the due payment of such amounts, and to this arrangement the Commissioners may be said to have been consenting parties.

"Influenced by the foregoing considerations, and by a conviction that by adopting such a course I should best promote or conserve the interests and credit of the Company, of the Government, and I may say of the community, I deemed it my imperative duty as a Commissioner appointed by the Government to guard such interests promptly to attach my signature to the cheques given for the monthly amounts, certified by the Engineers in strict accordance with the said Conditions of the Contract to be due to the Contractors, and to do all in my power to induce my fellow Commissioners to adopt the same view of the matter and to act accordingly.

"I would here remark that the Commissioners have it in their power to scrutinize every item of the Certificate so given by the Engineers, and to take care that no greater amount is paid for any defined work than that fixed by the Schedule of Prices referred to in such Condition as the total amount to be finally paid for the same; and I am decidedly of opinion that the furnishing of quantities with such Certificates would afford the Commissioners no additional facilities whatever for ascertaining the correctness or otherwise of such Certificates.

"Mr. Kemp's letter to you of the 11th ultimo contains the following paragraph:—'I have applied to the Board to be furnished with a bill of quantities, or with the same data used by the Company's Engineers in framing such Certificates, to enable me to satisfy my colleagues that the amount so certified has been spent upon the Railway and works as contemplated by the Acts of Parliament, and upon each occasion this information has been withheld from me.' Upon this statement I would first remark, that whilst I am equally desirous with Mr. Kemp that every practicable information as to the progress of the works should be furnished by the Company to the Commissioners, as one of the Commissioners I am fully satisfied by the Certificate of the Company's Engineers, prepared in accordance with the Conditions of the Contract, that the amounts so certified have been spent upon the Railway and works as contemplated by the Acts of Parliament, and shall as hitherto be always prepared promptly to attach my signature to the cheques for the amounts of such Certificates upon their production by the Contractors, irrespective of any other information than that comprised in such Certificates, and thereby, so far as in my power, avert the very serious results which, as I have before indicated, must inevitably accrue to the credit and interests of the Company, of the Government, and of the community, from withholding such payments.

"Upon the latter part of the paragraph quoted from Mr. Kemp's letter, 'that the bills of quantities he had applied for to the Board of Directors had been withheld from him,' I would remark, that, in compliance with Mr. Kemp's expressed wishes, the Board of Directors called upon the Engineers to furnish Schedules of Quantities with their Monthly Certificates to the Contractors.

"That Mr. Doyne, one of the Engineers, attended at the next meeting of the Board, and distinctly stated that it was quite out of the power of the Engineers to furnish bills of quantities founded upon the actual measurement of the earthworks whilst in progress, and that therefore to supply any detailed quantities as reliable would be to practise an imposition upon the Company. That the Board accepted Mr. Doyne's explanation as correct, and determined not to demand such quantities; and after hearing Mr. Doyne's emphatic statement, I feel bound to state that I entirely concur in such determination. And I would here in justice to the Company also distinctly state that, as far as I have had an opportunity of judging, they have at all times been ready to furnish all such information as was practicable to the Commissioners."

That the Government endorsed with their approval the opinions entertained and expressed in the foregoing extracts, is, I respectfully submit, clearly established by the following quotations from your letters. In your letter of this date to the Company you thus write:—

"With reference to no bill of quantities being furnished upon which the Certificate is given, it appears to me that materials for such a bill are not fully available, as the Certificates are given not from measurement but from personal inspection and experience, and by the aid of the Schedule of prices. I do not suppose the Commissioners require or can require the Engineer to measure the work, but all information which can reasonably be obtained should I think be afforded to them."

In your letter of this date to myself, in reply to mine of 12th December, from which the foregoing quotations are made, you say:—"I am unwilling in any way to interfere with the discretion of the Commissioners, or to express an opinion on the course they may deem it fit to take, *so long as no payments are made in excess of any item*, or on account of works not included in the Contract and which have not been approved by the Governor in Council."

In your letter to Mr. Kemp of the same date, in reply to his letter reporting to the Government his reasons for *not* signing such cheques, you thus write :—"Without wishing to fetter the discretion of the Commissioners, I would ask whether, under the 27th Clause of the Contract, they would not be warranted in taking the Certificate of the Engineers as *prima facie* evidence that the money was due to the Contractors, unless they were aware or had strong reason for supposing that the Certificate was intentionally erroneous. Even should the payment on account be too large, the Contractors would be bound to finish the work contained in any item for which the overpayment had been made."

Notwithstanding such clear expression of opinion on the part of the Government on the question at issue, Messrs. Kemp and Innes persistently refuse to unite with the Directors and myself in signing the cheque for the amount of the last monthly Certificate so furnished by the Engineers to the Contractors.

The question involved in the refusal of Messrs. Kemp and Innes to sign the cheques for the accounts so duly certified to be due to the Contractors stands thus :—

Messrs. Doyne, Major, & Willett are the Engineers of the Company. The head of that firm, Mr. W. T. Doyne, designed the Railway, and made and furnished the plans and surveys upon which, confiding in his well-known high personal and professional reputation, the Legislature authorised the construction of the Railway, and a Company was formed with a subscribed capital of £50,000 to carry out the same. The present Government have shown in the most unmistakeable manner their implicit reliance upon the integrity and professional ability of Messrs. Doyne, Major, and Willett, by unreservedly confiding to them the all-important and highly responsible duty of making a survey of the proposed Main Line of Railway, of estimating approximately its cost, and of making a Report of the same to the Government, by which Report it may be presumed the Legislature will be governed as respects any further procedure in the proposed undertaking in which such immense interests are involved.

These Engineers so confided in by the Legislature, the Company, and the Government are unreservedly and solely entrusted by the Company, who have invested £50,000 in the Launceston and Western Railway, to carry out the same under their personal direction and supervision;—common sense would, therefore, indicate that they may be safely and solely entrusted with making an estimate and furnishing a correct Certificate of the monthly amounts payable to the Contractors.

The Company *has* so unreservedly entrusted them, and these Engineers, therefore, make a careful personal monthly examination of the various works executed by the Contractors to the date of such Certificate, upon each item of work in the Schedule attached to the Contract, estimate the value of the work so executed upon every such item from the Schedule of prices, and make up, sign, and furnish to the Contractors a Certificate setting forth the estimated value of such work so executed upon each item, and the total amount payable to them on account of such work, in strict accordance with the terms of the 27th Condition of the Contract, and of which amount so certified the Attorney-General has advised the Contractors can enforce payment from the Company at law. The Directors of the Company and myself, as one of the Commissioners, fully confiding in the correctness, and fully aware of the legal force and validity of such Certificate so made up, signed, and furnished by the Company's Engineers, invariably accept the same, after due examination of every item, as conclusively establishing the right of the Contractors to the payment of the amount so certified to be due to them, and in accordance with the said Condition of the Contract as invariably sign the cheque for the amount so certified.

Mr. Kemp, the professional Commissioner, and Mr. Innes assert that they were not in any way whatever approving or assenting parties to the Contract of Messrs. Overend and Robb;—that, whilst aware of the legal liability of the Company to pay any amount certified by the Engineers to be due to the Contractors, in accordance with the 27th Condition of the Contract, that they are not bound to accept such Certificate as conclusive that the amount certified is due to the Contractors; and that they are not in any way called upon to unite with the Directors and myself in signing the cheque for such payments.

Mr. Kemp—whose professional reputation and general Engineering experience in the construction of Railways and otherwise is unquestionably far inferior to that of the Engineers of the Company, more especially to that of Mr. Doyne—claims, in his individual capacity as the professional Commissioner, the right to exercise, at his discretion, an absolute and arbitrary veto upon the account of the Contractors so certified and furnished by the three Engineers of the Company,—peremptorily demands that they shall furnish, in a form prescribed by himself and Mr. Innes, the quantities of work actually performed upon each item set forth in the certificate,—altogether ignores the fact that the Engineers have repeatedly asserted in writing that such quantities cannot be furnished to establish the correctness of an account based solely upon the money value of the work performed upon each item, the completion of which is contracted for at a fixed amount set forth in the Schedule of prices and in the said certificate irrespective of any quantities whatever,—and that to attempt to furnish such quantities would be to practise an imposition upon the Directors.

Mr. Innes supports Mr. Kemp in the position he has thus assumed,—stating that he shall at all times be governed on such questions by the opinion of the professional Commissioner, and thereby shield himself from any responsibility which he might otherwise incur; which, unquestionably, implies that, whatever may be the expressed opinion of the three Engineers of the Company, whenever Mr. Kemp may express an opposite opinion he, Mr. Innes, shall be implicitly governed thereby, without any regard to what may be the extent and nature of the interests involved by his adopting such a course. Acting upon this determination, Mr. Innes—who *had* united with myself and the Directors in signing the cheques for the amounts of eight Monthly Certificates given to the Contractors, under which certificates the £50,000, the

subscribed capital of the Company, has been expended,—has up to this time joined with Mr. Kemp in refusing to sign the cheque for the amount of the last Monthly Certificate; for which amount, as you have been already informed, a writ has been issued in the Supreme Court at the suit of the Contractors, in which suit judgment has gone by default, and execution is only delayed by the Solicitor to the Contractors with the hope that some speedy measures may be adopted to pay the amount of such writ, and thereby avert the very disastrous results which must otherwise accrue; amongst which I would mention that, upon execution being issued upon such judgment, any adverse Shareholder could at once institute proceedings to wind up the Company, a proceeding the ruinous consequences of which can hardly be overstated. Messrs. Kemp and Innes refuse to sign the said cheque for the amount of the last Monthly Certificate furnished to the Contractors by the Engineers, in strict accordance with the 27th Condition of the Contract, unless certain other data or vouchers, not required by such Condition, are supplied to them to enable them to decide upon the correctness of such certificate.

To this point I would desire to call the particular attention of the Government. If the data so required were furnished by the Company to Messrs. Kemp and Innes, or obtained by Mr. Kemp with the aid of a separate Staff, as suggested by Mr. Innes, and upon their examination of such data they disagreed with the Engineers of the Company as to the amount due to the Contractors, the present complication would remain in precisely the same state. The Engineers would continue to furnish to the Contractors the certificates prescribed by the said 27th Condition of the Contract. The Directors would accept such certificate so furnished by their Engineers as much more reliable than any estimate that could be arrived at and supplied by Mr. Kemp or Messrs. Kemp and Innes; and would, as heretofore, sign the cheques for the amounts so certified to be due to the Contractors, even if they were not legally bound to do so under their Contract. And I would here state distinctly that I entertain the same decided opinion that the certificates so furnished by the Company's Engineers must, in every respect, be much more reliable than any Mr. Kemp could supply, with or without the aid of his proposed "Staff;" and, as I distinctly stated in my letter to you of the 12th December last, should deem it my imperative duty promptly to unite with the Directors in signing the necessary cheques for the amounts of the certificates so furnished by the Engineers. Messrs. Kemp & Innes would *not* sign such cheques if their estimate of the amount due to the Contractors differed from that of the Engineers; and, as I have already said, the existing disastrous complication would remain unaltered. The only practicable solution of such complications appears to me as clearly indicated; viz.—That the Commissioners should, as so plainly suggested in your letter to Mr. Kemp of the 5th January last, already quoted, "accept the certificates of the Engineers as *prima facie* evidence that the money *was* due to the Contractors, unless they were aware, or had strong reasons for supposing, that the certificate was intentionally erroneous." That the Commissioners are bound by every principle of equity and justice, both to the Company and Contractors, so to accept such certificates, and to unite with the Directors in fulfilling the provisions of the 27th Condition of the Contract as to the mode of payment to the Contractors,—viz. to sign the cheques given by the Company for the amount certified by the Engineers in strict accordance with such provisions to be due to the Contractors,—in my opinion cannot be questioned by any impartial and disinterested parties who will carefully enquire into the position the Commissioners occupy with respect to the Contract, of which the 27th Condition may be correctly termed the main spring upon which the fulfilment or repudiation of such Contract altogether depends.

The Commissioners were, as I have before said, in their capacity as Directors present at the Board of Directors when the Contract with Messrs. Overend & Robb with the Company was deliberated upon, approved, and finally unanimously assented to by such Board, and duly signed and sealed by the Company and Contractors.

If the Commissioners, or either of them, disapproved of the 27th Condition of such Contract by which the Engineers were *absolutely* and *solely* entrusted by the Company to prepare and furnish Certificates of the monthly amounts payable to the Contractors, and by which condition the Company were legally bound to pay the amounts so certified, irrespective of any other data, or vouchers whatever than those furnished in such Certificate, it was clearly the duty of the Commissioners, and more especially of the professional Commissioner, previously to the Contract being unanimously approved of and assented to by the Board of Directors, of which they were then members, and certainly before the Contract was so signed and sealed, distinctly to have intimated to the Directors and to the Contractors their disapproval of such 27th condition, and that they could not unite with the Directors in accepting the Certificates thereby prescribed, and in paying the amounts so certified, unless other vouchers or data were supplied, which would in all respects satisfy the demands of the professional Commissioner. No such intimation was, however, made. Had such an intimation been made by the Commissioner, the Contract would not have been entered into by the Company or the Contractors—not by the Company, for they certainly would not have become legally bound to the Contractors to make, under certain prescribed conditions, payments amounting to upwards of £200,000, if any third party whatever, whether a professional Commissioner or otherwise, could claim and exercise an arbitrary and absolute veto upon their making such payments.

Most certainly not by the Contractors. Common sense, apart from any other guiding motives, would have determined them absolutely to refuse to enter into a Contract for the construction of a Railway for a sum exceeding £200,000, to be paid to them by the Company by monthly payments under certain prescribed conditions, if any third party could, under any circumstances whatever, arbitrarily prevent the Company from making any or all of such payments.

The Company, when they entered into a Contract by which they became legally bound to pay to Messrs. Overend and Robb the amounts certified to be payable to them upon the Monthly Certificates, were fully cognizant of the fact that the funds from which such payments were to be made were at the *joint* disposal of the Company and the Commissioners, and that such payments could not be made unless

the Commissioners were approving and assenting parties to such Contract, and to such legal obligation on the part of the Company. The Directors considered, and, I submit, were in every respect justified in considering, that the Commissioners WERE such approving and assenting parties, and therefore the Company unhesitatingly entered into such Contract.

The Contractors, knowing and having full confidence in those highly intelligent and respectable men who constitute the Directory, and of course fully believing that they had it in their power promptly to make such monthly payments from the funds at the joint disposal of the Company and Commissioners, also entered into such Contract, containing such distinct provisions for such monthly payments which the Directors feel themselves humiliated, if not dishonoured, in being arbitrarily and unjustly prevented from carrying out; in which feeling, I, as an approving and assenting party to such Contract, fully participate; and I cannot but entertain the full persuasion that a Court of Equity, if not of Law, would afford the Company and Contractors redress, by compelling the Commissioners to unite with the Directors in paying the amount of such Monthly Certificate.

I would here most respectfully but plainly state that, as an individual Commissioner, I consider myself to have been, in my respective capacities of Director and Commissioner, such an approving and consenting party to the acceptance by the Board of Directors of Messrs. Overend and Robb's tender; to the approval by such Board of the Contract founded upon such tender, and containing such 27th condition, and to the due execution of such Contract by the Company and Contractors; and that I consider myself—and although they entertain opposite views upon the question, the other Commissioners—bound by every principle of equity, honour, and of common honesty to unite with the Directors in faithfully and implicitly carrying out the very definite and important provisions of the said 27th condition on which the present complication has arisen: and, influenced by such paramount consideration, I intend to continue to sign every cheque given by the Directors for the monthly amounts so duly certified to be payable to the Contractors, irrespective of the approval of the professional Commissioner or otherwise; “unless,” again to quote from your letter to Mr. Kemp of 5th January last, “I was aware, or had strong reasons for supposing, that such Certificates were intentionally erroneous,” always bearing in mind, and influenced by the unquestionable and important fact, so clearly and emphatically stated in the next paragraph of your said letter, that “even if the payments on account should be too large, the Contractors would be bound to finish the work contained in any item for which the over-payment has been made.”

The question may arise:—If the professional Commissioner is expected so to accept the Certificate furnished by the Engineers of the Company in accordance with such 27th condition of the Contract, in what manner can he efficiently discharge the duty committed to him by legislation, to see that the whole of the capital of the £350,000 “is expended upon the said Railway and Works, with the approval of the Commissioners and not otherwise?”

On this question I would first remark, that I do not conceive it possible that the Legislature in requiring the appointment of three Commissioners without any indication whatever that one should be a professional Commissioner, nor the Government when they appointed Mr. Kemp as such professional Commissioner, could for one moment have supposed that he would claim and exercise an absolute and arbitrary veto as to the payments by the Company to the Contractors of the amounts of such Monthly Certificates so made up, signed, and furnished to the Contractors, in strict compliance with the terms of their Contract with the Company with respect to such monthly payments, nor that one of the non-professional Commissioners would implicitly endorse such veto, without any regard whatever as to whether the said Certificates of the Engineers of the Company or the opinion of Mr. Kemp were most to be relied upon.

To the question,—in what manner the professional Commissioner can most efficiently discharge the duties required of him by the Railway Act—to see that the said sum of £350,000 is “expended upon the Railway and works with the approval of the Commissioners and not otherwise”—the answer, in my opinion, is obvious and simple.

I would, however, before attempting to furnish such an answer, call attention to the significant fact before alluded to, that the Legislature, when, by “The Railway Act, No. 2,” it authorised the Governor in Council to appoint three Commissioners, did not in any way indicate that one should be a professional Commissioner; and I would respectfully state that since I have seen the results of such an appointment, the conviction has been forced upon me that the objects contemplated by the Legislature would have been more satisfactorily attained by the appointment of three non-professional Commissioners, with powers to avail themselves of the best engineering opinions and advice obtainable; and I have been informed by Mr. Innes that from the time he heard that the appointment of a professional Commissioner was contemplated, he not only entertained such an opinion, but that he urged upon the Executive the inexpediency of making such an appointment, and strongly recommended the appointment of three non-professional Commissioners, with powers to obtain the best engineering opinions and advice, as above indicated. Had this course been adopted I am persuaded none of the past or present complications between the Company and the Commissioners would have arisen.

As, however, the Government were pleased to appoint a professional Commissioner, it appears to me that the duties which he might be reasonably expected to discharge so as to comply with the requirements of the Railway Act with reference to the construction of the Railway, and to the promotion of all the important and varied interests involved therein, are, as I have before stated, obvious and simple in their character.

I submit that he should, by a continuous, personal, and careful inspection of all the works in progress upon the Railway, see that the whole of the works comprised in every item in the Schedule attached to

the Contract is faithfully and efficiently executed by the Contractors. That no "extra works" or deviations from the terms of the Contract are executed without the assent of the Governor in Council. That he should report to the Government upon any such extra works or deviations as may be considered by the Engineers of the Company to be necessary for the perfect construction of the Railway;—and see, as far as may be in his power, that the quantities and other necessary data are furnished by the Company's Engineers to enable the Commissioners sufficiently to check the accounts which may be rendered by the Contractors for the execution of any such extra works, the cost of which cannot, like the works executed under the terms of the Contract, be calculated from the Schedule of prices attached thereto; but would of course require actual measurements and quantities to be supplied by the Engineers of the Company. That an efficient supervision is given to the whole of the works in progress by the Engineers of the Company or their staff. To bring under the notice of the Directors any failure in the discharge of their respective duties he may conceive to have taken place on the part of the Engineers or the Contractors; and if the Directors do not attend to such representation with the view to remedy such failure, then to report upon the same to the Government; as also upon any question which may arise from time to time upon the Contract. To see that all the rails and other material imported from abroad are in all respects such as have been ordered. To ascertain the distribution of all material upon the Line; and generally to exercise his professional knowledge and experience upon the whole construction of the Railway; and to unite with the other Commissioners in carefully examining the monthly Certificates furnished by the Engineers, which he has hitherto persistently declined to do, or even to make himself acquainted with the peculiar but very simple, safe, and comprehensive principle upon which such Certificates are constructed, or the mode in which it is carried out by means of its very numerous, clear, and self-explaining details. In taking care that no greater amount is paid for the full execution of the work comprised in any "item" set forth in such Certificate than the amount stated as the total cost of such "item" in the Schedule of prices attached to the Contract; and also in examining all other accounts which may be rendered on account of the Railway. By the adoption of such a course I consider that the professional Commissioner would efficiently discharge the duties required of him by the Railway Act, under which he holds his appointment.

I think it must be admitted that had the professional Commissioner pursued such a course from the commencement of the Railway, he would have promoted the satisfactory progress of the works, and all the varied and important interests involved in the undertaking, much more effectually than by the course he has pursued by arbitrarily demanding that the Engineers of the Company should furnish "quantities" and other data in a form prescribed by himself and Mr. Innes, which the Engineers have repeatedly declared to be out of their power, to enable him to determine whether the estimate he might arrive at upon such "quantities" and other data supplied in such form would or would not agree with the estimate furnished by the Engineers in their monthly Certificates in the form prescribed by the 27th Condition of the Contract, and by which estimate the Company are legally bound to abide, whether the estimate the professional Commissioner might arrive at, with or without the aid of his proposed "staff," agreed or disagreed with the same,—by persisting in such demands after the Engineers had declared it was out of their power to comply with them, and thereby involving himself, his fellow Commissioners, the Directors, the Engineers, and the Government in the continuous harassing correspondence which has been in progress for some ten months with every prospect of its continuance. By such course, so persistently and arbitrarily pursued by Mr. Kemp, and implicitly supported by Mr. Innes, the past and existing complications have been occasioned.

I have not alluded to the late fruitless negotiations between the Company and Mr. Innes to submit the questions at issue to a reference, seeing that Mr. Innes has altogether receded from the proposal for such reference made by him in his letter of the 26th ultimo to the Secretary of the Company; whilst Mr. Kemp declares that he will be no party to *any* reference for the determination of such questions, nor abide by any professional decision which might be given upon any reference which might be agreed upon between Mr. Innes, the Company, and the Engineers. That the Government have already decided upon such questions at issue, by intimating their intention, upon the recommendation of Mr. Innes, to authorise him, Mr. Kemp, to employ "a staff" to enable him to obtain the data he has demanded from the Company. And as to the payment of the monthly instalment to the Contractors, for which "judgment has gone by default," Mr. Kemp thus expressed himself:—"Let the writ take its course, and the Company must abide by the consequences." Indeed, so strong does Mr. Kemp consider his position as to the main question at issue—the signing by himself and Mr. Innes of the cheque for the amount of the last monthly Certificate to the Contractors—that he openly declared at the Board of Directors "that if the Company obtained a *Mandamus* from the Supreme Court by which the Commissioners were compelled to pay the amount of the last monthly Certificate to the Contractors now overdue, he would compel the Company to obtain a *Mandamus* every month before he would sign the necessary cheque for the amount of the monthly Certificates."

I have been nearly 50 years a Colonist of Tasmania, 12 of which I was in the public service. I have been engaged in many important public matters in which the interests of the community have been deeply involved, but I have never yet been engaged in any matter in which the financial position and credit of a very large number of highly respectable Colonists, of the Government, and of the Colony were so seriously involved as they now are, pending some satisfactory solution of the complications existing between the Company and the other two Commissioners, to which I have referred at so much length. I neither have, nor can have but one object in view in the position I have taken up with respect to such complications,—the faithful discharge of the very responsible duties confided to me as one of the Commissioners by the Legislature and the Government—to promote the efficient carrying out of the Launceston and Western Railway, and the various and very important interests involved therein.

I have endeavoured, in as clear and plain a manner as I can, to set before the Government the present disastrous complications existing in the affairs of the Railway Company, and the relative positions which

the Company, the Contractors, the Engineers, and the Commissioners sustain with respect to such complications; and the course with reference to the monthly payments to the Contractors I intend as heretofore to pursue; and should the Governor in Council be of opinion that by my pursuing the course I have indicated, as respects the signing of the cheques for such monthly payments, I am not and shall not be satisfactorily carrying out the duties required by the Legislature, or which the Government expected me to perform when I was appointed a Commissioner, or which they now consider I should perform with reference to the very serious complications existing between my two fellow-Commissioners and the Company, so injuriously affecting, as I have before indicated, the interests of the Contractors, the Company, the Government, the Railway Districts, and the whole community, I would here most respectfully state that, upon receiving an intimation from the Government to that effect, I shall be fully prepared to place my appointment at the disposal of His Excellency the Governor in Council.

I very much regret that I have been, as it were, compelled to trespass upon your time and attention by this very lengthened communication; but I feel it is due both to myself and the Executive thus to place before them—and through their medium, ultimately before the Legislature, the Shareholders of the Company, the Ratepayers of the Railway Districts, and the public generally,—a clear and continuous narration of all the circumstances which have occasioned the past and present complications between the Company and the Commissioners; under which circumstances I have been constrained to assume the very responsible, anxious, and anomalous position I have hitherto sustained with reference to such complications,—a position in direct opposition to that assumed by the professional and the other non-professional Commissioners,—but a position which a due regard to my own personal character, to every principle of equity, of honor, and of common honesty, and to all the varied and important interests involved in the Launceston and Western Railway so far as they have been officially committed to my guardianship by the Legislature and the Government *has hitherto* constrained me to occupy, and will hereafter constrain me unalterably to sustain.

I have, &c.,

(Signed) THEODORE BARTLEY.

The Hon. the Colonial Secretary, Hobart Town.

252.

Hobart Town, 13th July, 1869.

SIR,

In returning to you Mr. Bartley's letter of the 30th with enclosure dated the 14th ultimo, I have only to reiterate my dissent from his views of the position and duties of the Commissioners under the Launceston and Western Railway Act. If the *three* Commissioners sitting with *fifteen* Directors chosen by Shareholders are bound to recognise and give effect to the resolutions of the majority, by signing cheques, &c., I am at a loss to discover a reason for their appointment.

When Mr. Bartley adverts, in similar terms to those of Mr. Dowling in previous correspondence, to the conduct of his fellow-Commissioners on the occasion of the Contract being made between the Company and Messrs. Overend and Robb, as being such as to preclude them from insisting on detailed certificates from the Company's Engineer, he is in error both in his facts and his deductions. It is not correct to represent Mr. Kemp and myself as on that occasion even tacitly approving all the conditions of that Contract: for I then and there impugned very material conditions in it; I then and there intimated that I would refer to the Crown Law Advisers upon them, and this course I did within a day or two thereafter concurrently with Mr. Kemp adopt; and one joint letter on the occasion may be read in page 39 Railway Correspondence published in Parliamentary Journals, 1867.

That we did not make an idle attempt by a division at the Board to arrest the execution of the Contract with Messrs. Overend and Robb, is true. That we did not seek to veto what we had no legal power to veto, is also true. The law had limited our function to *reporting* Contracts made by the Company to the Governor in Council, and how we discharged that duty may be seen in our respective communications as published in the correspondence above referred to. It was not concealed from the Government that on the scale adopted by the Directory the Railway could not be completed for £350,000.

But the most distinct acceptance on our part of the clause in the Contract with Messrs. Overend and Robb which describes the certificate entitling them to periodical payments, could be no bar to our requiring from the Engineers the details on which their certificates were based. And if the Contractors, against whom no complaint is made, have sustained inconvenience by the course which Mr. Kemp and myself have pursued, we can only say that *we* had no alternative but to adopt that course or set aside the Condition of the Law which provides that the "money shall be expended upon the said Railway and Works with the approval of such Commissioners and not otherwise." (Sec. 4, 30 Vic., No. 28.)

I cannot refrain in now disposing of Mr. Bartley's letter to you from adverting to the anomalous position in which Mr. Kemp and myself have stood as Commissioners in the space of a very few weeks as shown in correspondence passing through your hands. We have had in that

time to appeal to the Government against the Directory, to know whether we had or had not, as *ex-officio* Directors, the powers of other Directors; while, as against our own colleague, we have had to appeal against our function as Commissioners being merged, or practically extinguished, by the fact of our being Directors whether in an imperfect or in the ordinary sense.

I have, &c.,

(Signed)

FRED. M. INNES.

The Hon. the Colonial Secretary, Hobart Town.

253.

Colonial Secretary's Office, 14th July, 1869.

SIR,

I HAVE the honor by direction of the Colonial Secretary to acknowledge the receipt of your letter of the 30th ultimo, forwarding a communication under date the 14th of that month, in which you give expression to the views entertained by yourself in opposition to your co-Commissioners respecting the points at issue between the Commissioners and the Directors.

I have, &c.,

(Signed)

B. T. SOLLY.

T. B. BARTLEY, *Esq., Launceston.*

254.

Railway Commissioners' Office, Launceston, 12th July, 1869.

SIR,

IN my letter to you of the 30th ultimo, submitting for the information and consideration of the Governor in Council my previous communication dated the 14th ultimo, I stated that the memorandum of Messrs. Innes and Kemp, handed to the Government on the 16th ultimo, had been published in all the newspapers in the colony. On a portion of such memorandum I deem it due to myself to submit for the consideration of the Government the following observations. To a portion of the 6th paragraph of such memorandum—in which Messrs. Innes and Kemp endeavour to establish that they were not assenting parties to the Contract with Messrs. Overend and Robb, containing the 27th Condition, which defined the times and mode of payment to the Contractors, and therefore are in no degree bound to unite with the Directors in making such payments, and also to my remarks upon such paragraph,—I would respectfully ask the special attention of the Government. I quote the paragraph in full:—

“And if, as *ex-officio* Directors, it is contended that by our presence when the Contract with Messrs. Overend and Robb was concluded we became committed to its conditions, the unreasonableness of this position is evinced by calling attention to the fact that the Commissioners are *three* in number, the other Directors *fifteen*. Silence as to disputable conditions against such odds could imply little or nothing; but it does so happen that the Contract in question was impugned by us—without arresting its completion for one instant, of course,—on the day it was concluded, and a reference was made thereon to the Crown Law Officers, as shown in Parliamentary Report, Council Papers 27, Session 1867.”

That the whole tenor of such paragraph is evasive of the question at issue, and only tends to mystify the same and to mislead the Government and the Public, I shall proceed to establish. Messrs. Innes and Kemp call attention to the fact “that the Commissioners are *three* in number, the other Directors *fifteen*,” and state that “silence as to disputable conditions against such odds would imply little or nothing.” First remarking that any suggestion made or opinion expressed by either or any of the Commissioners at any Board of Directors at which they have attended as Members has invariably received all due attention on the part of such Board, I would observe that the above assertion of Messrs. Innes and Kemp, taken in connection with the preceding portion of the paragraph quoted, clearly implies that the 27th Condition of the Contract was “a disputable condition” at the Board of Directors, at which the Contract was considered, agreed upon, and executed, and of which Board all the Commissioners were members.

I assert, with all confidence, that the 27th Condition of the Contract was not disputed *at all* at such Board; but had it been so disputed, “silence on the part of any or either of the Commissioners as Members of that Board, so far from “implying little or nothing,” must be taken to have manifested a very serious neglect of his or their duty, which clearly would have demanded that, instead of occupying the position of mere “dummies” at such Board—as represented by Messrs. Innes and Kemp—the Commissioners should have openly and plainly expressed any opinion they might respectively entertain, favourable or adverse to *any* condition to that Contract affecting any important

interest involved in the Railway: much more so was it a paramount duty, which common justice to the Company and Contractors imperatively demanded at their hands, knowing as the Commissioners did that without their approval the Company could not make any payments whatever before the Contract with Messrs. Overend and Robb was finally, and as was supposed unanimously approved of by the Board, and duly executed by the Company and Contractors, to have distinctly expressed their disapproval of the terms of that Condition, by which the Company became legally bound to make monthly payments to the Contractors, upon the production of a prescribed form of certificate furnished to them by the Engineers of the Company,—to have as distinctly stated that the Commissioners could not unite with the Company in making—or rather that they could prevent the Company *from* making such payments, upon the production of the prescribed certificate, unless such further data and particulars, *not* prescribed by such Condition, but which might be demanded by the professional Commissioner, were supplied by the Company.

Had any two of the Commissioners made any such intimation to the Board, either the terms of the said Condition would have at once been altered so as to meet the views of the Commissioners, or the Contract would not have been entered into. Not the slightest hint *was*, however, given by either of the Commissioners of their disapproval of such all-important Condition, which, as I have before said, may be correctly termed “the main-spring” of the Contract. “Silence” “as to this Condition” was observed by the Commissioners; and if ever, under any circumstances, “silence” implied consent, it unquestionably did so in this instance.

That it was so regarded by the Board is evident by the fact, that a resolution approving of the Contract, including such Condition, was declared by the Chairman to have been “carried unanimously,” and was so recorded in the Minute Book, and the Contract was forthwith duly executed in the presence of such Board. The Contractors thereby became legally bound to construct the Railway, upon the condition that they should receive the prescribed monthly payments,—the Company became legally bound to make such monthly payments; but Messrs. Innes and Kemp—who were, and are, considered by the Directors, and by myself, to have united with us in assenting to such Contract,—have prevented the Company from making, and the Contractors from receiving, such payments; to which conduct on their part the recent complications are solely attributable.

Messrs. Innes and Kemp go on to evade and mystify the question at issue, by stating:—“But it does so happen, that the Contract *in question* was impugned by us, on the day it was concluded, and a reference was made thereon to the Law Officers of the Crown.” It must be borne in mind that the 27th Condition of the Contract is the only one “*in question*” in the memorandum from the Directors of the Company, submitted to the Government on the 15th ultimo, or in what purports to be the reply of Messrs. Innes and Kemp, to such memorandum which I have quoted; and I think it must be admitted that any general reader of such published reply would therefore infer that when they state, “but it does so happen that the Contract ‘*in question*’ was impugned by us,” they meant that they had impugned the 27th Condition, *then only in question*; but the fact is, they did not “impugn” such Condition, but other Conditions—6 & 6A.—(which numbers, however, they do not furnish) of a totally distinct character, as may be discovered by that portion of the public who can obtain, and has the patience and inclination to wade through “Parliamentary Report: Council Papers 27, Session 1867,” to which reference is so considerably indicated by Messrs. Innes and Kemp. Their argument amounts simply to this: That, because “it so happened” that Conditions 6 & 6A. of the Contract *were* impugned by them, “and reference thereon made to the Law Officers of the Crown,” *they were not assenting parties to the 27th Condition, which they did not in any way impugn, and to which no allusion whatever was made by them in the said “reference to the Law Officers of the Crown.”* This is clearly a “*non sequitur*.”—On the contrary, the natural and legitimate inference is,—that, after deliberating upon the conditions of the Contract with Messrs. Overend and Robb, they did so “impugn Condition 6 & 6A., and made reference thereon to the Law Officers of the Crown, and did not in any way whatever “impugn” or make allusion in the said reference, or in their subsequent reports on the Contract to the Government, to the all-important 27th Condition, they not only entertained no objection whatever to the terms of such 27th Condition, which could not be fulfilled without their actual concurrence with the Directors, but approved of, and as far as they had the power were assenting parties to, the terms of such Condition. They have, at all events, by the line of argument they have adopted to prove *that they were not such assenting parties*, unmistakably proved against themselves the all-important fact that after so deliberating upon the Contract, whilst they impugned and made reference to the Law Officers of the Crown as to the terms of the Condition 6 & 6A, they did not in any way whatever even attempt to impugn or refer to the Law Officers of the Crown the terms of the 27th, “the main-spring of the Contract,” on which, as I have before said, the recent complications between Messrs. Innes and Kemp and the Company have arisen.

In the 9th paragraph of Messrs. Innes and Kemp’s said reply they say:—“It is not to be supposed that they would in any manner disown the just obligations of any Contract when not repugnant to law.” I am utterly at a loss to conceive, and must leave to Messrs. Innes and Kemp to establish in what manner the 27th Condition of the Contract is repugnant to law. I confess I had always hoped and believed that it was impossible that the *just* obligations of *any* Contract could be repugnant to law. That Messrs. Innes and Kemp did not consider “the just obligation” of the 27th

Condition of the Contract between the Company and Messrs. Overend and Robb as "repugnant to law," or even attempt to impugn the same as so "repugnant," they have, as I have just shown, unmistakably established.

The position which Messrs. Innes and Kemp sustain with respect to their obligation to unite with the Directors in paying the amounts of the monthly certificates furnished by the Engineers of the Company, may be aptly compared to that of a merchant who authorises his Agent to draw upon him every month, at sight, in favour of a third party, from whom such merchant has ordered goods, for the amount such Agent may estimate to be then payable on account of such goods,—forwarding with such draft a certain form of voucher prescribed by such merchant. The merchant, afterwards deeply regrets that he so entrusted such Agent,—wishes he had associated another party with him to discharge such duties,—that he had prescribed another form of voucher, furnishing further and more detailed particulars, it may be the quantities, measurements, or weights of the goods so furnished on account of such order,—but notwithstanding his regrets and wishes when his accredited Agent's drafts are presented he dare not dishonour them;—he must accept them: he must pay them at maturity, or abide by the disastrous consequences. So with Messrs. Innes and Kemp: they have, so far as was in their power, become, with the Company, parties to the said 27th Condition of the Contract with Messrs. Overend and Robb, by which the Engineers are empowered, so to term it, to draw upon the Company and Commissioners at sight for the monthly amounts they, the Engineers, may estimate to be due to the Contractors, accompanying each such draft with the voucher or certificate prescribed by such condition. Messrs. Innes and Kemp may very much regret that they did so unite with the Company in becoming parties to the said 27th Condition—may attempt to deny that they did become such parties,—may very much regret that the Engineers *were*, so solely empowered to estimate the monthly amounts payable to the Contractors and to draw upon the Company and Commissioners for such amounts,—may very much wish that the professional Commissioner had been associated with the Engineers to discharge such responsible duties,—that they had required other forms of vouchers to accompany such drafts, furnishing quantities, measurements, and other data of the amount of work executed by the Contractors;—but, notwithstanding such deep regrets and earnest wishes, Messrs. Innes and Kemp are bound to unite with the Company in accepting such monthly drafts of the Engineers, accompanied by the prescribed certificates. They must unite with the Company in paying such drafts, or they—and, unhappily, the Contractors, the Company, the Government, the Railway District, and the whole community—must share in the disastrous results of their venturing to dishonour such drafts.

From the whole of the numerous communications of Messrs. Innes and Kemp to the Government—published and unpublished—on the question at issue, it might be assumed that the Directors had refused or neglected to supply the quantities and other data demanded by Messrs. Innes and Kemp; but the fact is the Directors have requested, and recently, to bring the question to some tangible issue, *demand*ed of the Engineers of the Company that they should supply such quantities and other data, in a form prepared and furnished by Messrs. Innes and Kemp, altogether different from that prescribed by the 27th Condition of the Contract as that which the Engineers are required to furnish. To the *requests* of the Directors the Engineers distinctly replied that such quantities and other data could not be supplied with any reliable degree of accuracy during the progress of the earthworks, attended by the almost continuous alterations of the slopes; and taking into consideration the peculiar nature of the Contract, which is not based upon any quantities but the money-value of each item, to attempt to furnish quantities would be perfectly useless. To the *demand* to have such quantities and other data supplied in the form furnished by Messrs. Innes and Kemp, the Engineers replied that to do so was out of their power; that, under the terms of their agreement with the Company, they disputed the right of the Directors to demand their compliance with such requirements, and referred the Directors to the clause in the said agreement, which provided that any disputed questions which should arise on such agreement should be referred to arbitration, by which they, the Engineers, would be governed.

The Directors, having thus done all in their power to comply with the requirements of Messrs. Innes and Kemp, and the non-compliance with such requirements clearly and solely resting upon the Engineers, and for which they are solely responsible, Messrs. Innes and Kemp have chosen, arbitrarily and I consider most unjustly, to prevent the Company from fulfilling their just and legal obligations to the Contractors, and thereby inflict upon the Company and the Contractors, who are clearly "innocent parties," much inconvenience, anxiety, and pecuniary loss, besides damaging their credit, and depreciating the Launceston and Western Railway in public estimation in this, and the adjacent Colonies,—a fact which is but too well established. I would conclude by again recording my conviction,—1st. That all the Commissioners were, as far as they had the power, approving and consenting parties to the terms of the 27th Condition of the Contract between the Company and Messrs. Overend and Robb, and to the expenditure of the amount of such Contract in the manner set forth in detail in such Contract.

2. That by such consent and approval the Commissioners so far fully and literally complied with the requirements of the 4th Section of the Railway Act, No. 2, that such sum of £200,671 should "be expended upon the said Railway and works with their approval and not otherwise."

3. That upon the production, and after a careful examination of each monthly certificate, prepared and furnished by the Engineers in strict accordance with the terms of the said 27th Condition of the Contract,—and after comparing the same with the Schedule of Prices attached to the Contract, and taking care that no greater amount is paid for any “item” in such certificate than the sum set forth in the Schedule of Prices as the full amount for the completion of such item, the Commissioners, as such approving and assenting parties to the terms of such 27th Condition, are bound by every principle of equity, honour, and common honesty, both as respects the Company and Contractors, promptly to unite with the Directors in signing the necessary cheques so certified by the Engineers to be payable to the Contractors, and that a Court of Equity would compel them to do so.

In my letter to you of the 12th December last, and in my letter of the 14th ultimo, I stated then my convictions that, acting upon such convictions, I had signed and should continue to sign every such cheque; and I now beg respectfully to intimate that up to this time I have continued, and intend to continue to do so.

It is a source of much gratification to myself to be able confidently to state for the information of the Government and the public, that a large majority of those highly respectable and intelligent men who constitute the Directory entertain the opinions I have expressed as to the clear obligations of the Commissioners to unite with the Directors in the payments to the Contractors, and that a Court of Equity would compel them to do so; and I may add, as another source of gratification, that two of the most eminent Counsel in Melbourne have distinctly affirmed the correctness of such opinions.

Messrs. Innes and Kemp, in the 12th paragraph of their letter, indicate that the solution proposed for immediate embarrassments—the furnishing a “Staff” to Mr. Kemp—affords no permanent security against their recurrence. I entirely concur in this opinion. If the estimate of the monthly amounts payable to the Contractors arrived at by Mr. Kemp and his staff agrees with that made and certified by the Engineers of the Company, no recurrence of the recent complications will be likely to take place; but, if such respective estimates do not agree, the Directors would regard the certificates of the Engineers of the Company as the most reliable—even if they were not legally bound to accept them when furnished, in accordance with the terms of the said 27th Condition of the Contract. The Directors would sign the cheque for the amounts of such certificates, in which I should feel myself bound to unite, and the recent complications would at once be renewed.

I have, &c.,

(Signed) THEODORE BARTLEY.

The Hon. the Colonial Secretary.

255.

Colonial Secretary's Office, 20th July, 1869.

SIR,

In the absence of the Colonial Secretary I have the honor to acknowledge the receipt of your letter of the 12th instant, which reached this office yesterday.

I have, &c.,

(Signed) B. T. SOLLY.

T. B. BARTLEY, *Esq., Launceston.*

256.

Railway Commissioners' Office, Launceston, 14th July, 1869.

SIR,

WE have the honor to enclose a letter just received by us from the Secretary of the Launceston and Western Railway Company, of this day's date, addressed to the Honorable the Colonial Secretary, having reference to alterations to slopes of certain cuttings authorised by the Government on the 25th February last, to the extent of £6614 5s.

In carrying out such authorised alterations, savings have been effected upon the slopes of five cuttings; also upon the slopes of the Big Hill Cutting, No. 38, by an alteration of the gradient alluded to in the last report from the Engineers, dated the 10th instant, and upon which we shall hereafter make a special report. The total of such savings amount to £582 3s. 11d., and in Cutting No. 37 an excess of £728, which appears to have arisen from a clerical error in the number of cubic yards (as stated by the Engineer) in the estimate submitted to the Government in February last, on which the said authority was given.

The enclosed statement will show the savings and excess alluded to.

The Directors now seek the authority of the Government to pay for such excess out of the savings effected and shown in the enclosed statement.

We recommend that such application be complied with; and in the event of such compliance we would respectfully request that a telegram to the Commissioners to that effect may be forwarded at once, so as to prevent any delay in signing the necessary cheque to the Contractors.

We have, &c.,
(Signed)

SAML. V. KEMP.
THEODORE BARTLEY.

The Hon. the Colonial Secretary, Hobart Town.

STATEMENT UPON WHICH THE AUTHORITY OF THE GOVERNMENT
WAS OBTAINED.

Number of Cutting.	Quantity.	Rate.	Amount.	Total.
	cub. yds.	s. d.	£ s. d.	£ s. d.
Cutting No. 13	666	1 6	50 0 0	
" 16	1333	1 6	100 0 0	
" 35	5052	1 7	400 0 0	
" 37	7000*	2 0	700 0 0	
" 38	71,472	1 11	6850 0 0	
" 40	4570	1 9	400 0 0	
" 42	8346	1 11	800 0 0	
				9300 0 0
Less amount used as Side Cutting, included in the Schedule:—				
Scheduled Item No. 266	1481	1 6	111 1 6	
" 267	20,439	1 6	1532 18 6	
" 268	3321	1 6	249 1 6	
" 269	10,569	1 6	794 13 6	
			2687 15 0†	
				£6614 5 0

STATEMENT SHOWING HOW THE AMOUNTS HAVE BEEN EXPENDED.

Quantity of Work executed.	Rate.	Amount.	Total.	Saving.	Excess.
	s. d.	£ s. d.	£ s. d.	£ s. d.	£ s. d.
454	1 6	34 1 0	—	15 19 0	
1255	1 6	94 2 6	—	5 17 6	
4672	1 7	369 17 4	—	30 2 8	
14,280	2 0	1428 0 0	—	—	728 0 0
68,407	1 11	6555 13 5	—	† 294 6 7	
3932	1 9	344 1 0	—	55 19 0	
6470	1 11	620 0 10	—	179 19 2	
			9445 16 1	582 3 11	
Less amount used as Side Cutting, included in the Schedule and deducted from the flattening of the Slopes:—			For future	authorisation	£145 16 1
1481	1 6	111 1 6	—		
20,439	1 6	1532 18 6	—		
3321	1 6	249 1 5	—		
10,569	1 6	794 13 6	—		
			2685 15 0		
			£6760 1 1		

* The Engineers now state that this quantity ought to have been 14,000 cubic yards.

† This saving has been effected by an alteration of the gradients in the Big Cutting, No. 38.

‡ £2 error in the Engineers' addition.

*Launceston and Western Railway Company, Limited,
Launceston, 14th July, 1869.*

SIR,

I HAVE the honor to ask your reference to your letter of the 25th February last, which authorises the expenditure of £6614 5s. on slopes proposed to be made in certain cuttings, the banks of which would not stand.

Now that these slopes are completed, it is found that the actual measured quantities are slightly in excess of the total of the approximate quantities forwarded to you on the 17th February as follows:—

	<i>App. quantities.</i>	<i>Measured.</i>
Cutting No. 13.....	666 cubic yards	454 cubic yards
16.....	1333 ..	1255 ..
35.....	5052 ..	4672 ..
37.....	7000 ..	14,280 ..
38.....	71,472 ..	68,407 ..
40.....	4570 ..	3932 ..
42.....	8346 ..	6470 ..
Totals.....	98,439 ..	99,470 ..

Totals—Approximate quantities, 98,439; measured, 99,470; or an excess of 1031 cubic yards.

Difference in cash as £6760 1s. 1d. and £6614 5s. = £145 16s. 1d., (one hundred and forty-five pounds sixteen shillings and one penny) not yet authorised.

The Commissioners, it appears, see some difficulty in paying the certificate held by the Contractors, as they regard the authorisation by the Government to have been made on the approximate estimate of each cutting; and I have the honor to beg that the Government will allow the sum thus due to the Contractors to be paid on the total work done throughout the whole of the said cuttings, as exhibited above; the actual amount of work done being, as stated, £6760 1s. 1d., of which the Company are desirous of paying the sum of £6614 5s.

I have, &c.,

(Signed)

H. DOWLING, *Secretary.*

The Hon. the Colonial Secretary, Hobart Town.

257.

By ELECTRIC TELEGRAPH.

15th July, 1869.

PRESUMING that the desire of the Directors is to obtain authority for the payment of six thousand seven hundred and sixty pounds one shilling and one penny instead of six thousand six hundred and fourteen pounds five shillings, such payment is hereby approved, and this authority will be submitted to the Governor in the next Executive Council for confirmation.

(Signed)

THOS. D. CHAPMAN, *Colonial Treasurer.*

S. V. KEMP, *Esq., Launceston.*

258.

Colonial Secretary's Office, 15th July, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of yesterday's date forwarded through the Commissioners, and accompanied by a letter from them, in which they recommend that the application of the Directors be complied with.

From your letter it appears that the actual amount of work done in flattening the slopes amounts to £6760 1s. 1d., while the amount authorised by the Governor in Council on this account in February last was £6614 5s. on the several items specified.

In the last paragraph but one of your letter you say,—“I have the honor to beg that the Governor will allow the sum thus due to the Contractors to be paid on the total work done throughout the whole of the said cuttings as exhibited above.”

From this I infer you seek authority for the payment of the sum of £6760 1s. 1d., but in your last paragraph you state—"The actual amount of work done being as stated £6760 1s. 1d., of which the Company are desirous of paying the sum of £6614 5s.," thereby seeking authority only for the payment of the smaller amount.

As, however, the Commissioners in their letter recommend a compliance with the application of the Directors, I have this day authorised by telegram the payment of the larger sum, and the confirmation of this authority will be sought at the next Executive Council.

I have, &c.,

(Signed) THOS. D. CHAPMAN,
For the Colonial Secretary (absent).

H. DOWLING, Esq., Launceston.

259.

Colonial Secretary's Office, 15th July, 1869.

GENTLEMEN,

I HAVE the honor to acknowledge the receipt of your letter of yesterday's date, forwarding a communication from the Secretary to the Launceston and Western Railway Company, to which a reply, copy enclosed, has been sent authorising the payment of the sum of £6760 1s. 1d. in liquidation of the Contractors' claim for work done in flattening certain slopes, as recommended by you.

I have, &c.,

(Signed) THOS. D. CHAPMAN,
For the Colonial Secretary (absent).

Messrs. KEMP & BARTLEY, Commissioners,
Launceston and Western Railway.

260.

MINUTE PAPER FOR THE EXECUTIVE COUNCIL.

Colonial Secretary's Office, Hobart Town, 16th July, 1869.

SUBMITTED,

THAT the Directors of the Launceston and Western Railway Company be authorised to pay to the Contractors the sum of £6760 1s. 1d. for work performed in flattening certain slopes on the Line, as per Statement furnished to the Commissioners, instead of the sum of £6614 5s. as already authorised by the Governor in Council in February last.

(Signed) THOS. D. CHAPMAN,
For the Colonial Secretary.

The Governor in Council approves,

E. C. NOWELL.
19. 7. 69.

The Hon. the Colonial Secretary.

261.

Colonial Secretary's Office, 19th July, 1869.

GENTLEMEN,

REFERRING to my communication of the 15th instant, I have now the honor to acquaint you that the Governor in Executive Council has been pleased to sanction the payment to the Contractors of the sum of £6760 1s. 1d. for work performed by them in flattening certain slopes on the Line of the Launceston and Western Railway.

I have, &c.,

(Signed) THOS. D. CHAPMAN,
For the Colonial Secretary (absent).

Messrs. KEMP & BARTLEY, Commissioners,
Launceston and Western Railway.

*Launceston and Western Railway Company, Limited,
Launceston, 8th July, 1869.*

SIR,

I HAVE the honor to acknowledge receipt of your letter of the 22nd ultimo, forwarding copy of communication to Mr. Kemp authorising the Commissioners to employ "such means as may to them appear necessary for obtaining the information relative to the amount of work executed as will enable the Commissioners to give their sanction to the disbursement of the funds placed at the joint disposal of themselves and the Company."

1. I am instructed by the Directors to express their extreme surprise and regret that such authority should have been given, after it had been distinctly and conclusively arranged between the deputation from the Board and the Commissioners that such assistance as Mr. Kemp might require should be furnished to him by the Company, upon a requisition to that effect being made by the Commissioners, the Engineer-in-Chief having consented to provide such assistance *without cost to the funds of the Company*.

The Directors would respectfully refer you to the 11th paragraph of Memorandum by the deputation addressed to you, dated 15th ultimo, as follows:—

"Whilst the Directors entertain the decided conviction that such a procedure (*i.e.* giving Mr. Kemp a staff) is altogether unnecessary, yet, to evince their anxious desire to afford some present solution of the disastrous complications, and to meet the apparent views of the Government on the question, the Directors undertake that the necessary assistance will be furnished, on a requisition to that effect being made by the Commissioners; cheques for the overdue payments to the Contractors being completed by the Commissioners."

Which paragraph, being read in connection with the following extracts from the Memorandum to the Government of the 16th ultimo, clearly establishes the fact that a definite offer to the effect now submitted was made by the deputation on behalf of the Directors; namely,—

"1. That Mr. Kemp be supplied with assistance to enable him to satisfy himself respecting the progress payments certified from time to time by the Engineers to be due to Messrs. Overend and Robb under their contract.

"2. That access be afforded to Mr. Kemp during office hours to the plans and sections, cross sections, and other contract documents in the Office of the Engineers of the Company."

And that such offer was distinctly accepted by Messrs. Innes and Kemp is clearly and conclusively established by the following paragraph (10-11) of their Memorandum dated the 15th ultimo, taken in connection with the 1st and 2nd paragraphs of their Memorandum of the 17th ultimo; *i.e.*—

"10. 11. Without committing himself to details, it will not be less the wish than the duty of Mr. Kemp to accomplish the objects for which it is necessary, in the attitude assumed by Mr. Doyne, that he should be provided with assistance, at as small expense as will suffice."

And,—

"1. The Commissioners gather from the first condition in the Memorandum (15th June) that Mr. Kemp *will be supplied* with such assistance as is necessary to enable him to satisfy himself respecting progress payments certified from time to time by the Company's Engineers. Interpreting this to mean that *the assistance given* shall not be at the direction of the Board, but, as the law provides, of the Executive, and that necessary information will be furnished when required, the Commissioners are satisfied.

"2. This condition, under the circumstances, is accepted, on the understanding that copies of all lithographic plans will not be denied."

That the Executive then considered such distinct and definite arrangement had been as distinctly and definitively agreed upon; and that such arrangement met the full approval of the Government the Directors are of opinion is clearly evidenced by the following quotation from your letter of the 17th ultimo, addressed to Messrs. Innes and Kemp in reply to their Memorandum of that date, just quoted:—

"Your Memorandum having been placed in the hands of Mr. Dowling, I have much pleasure in informing you that that gentleman on behalf of the Company acquiesces in the condition proposed by you."

Under these circumstances, the Directors request me to say that they can only imagine that you had not, previously to writing your letter of the 22nd ultimo, again referred to the respective Memorandums of the deputation and Messrs Innes and Kemp, which so clearly establish that the offer of the Directors to supply Mr. Kemp with such assistance as he might require had been distinctly accepted by Messrs. Innes and Kemp, and approved by the Government; for the Directors cannot for one moment imagine that the Government would, with a full remembrance of the facts above established, have authorised or even sanctioned any departure from such arrangement unless the Company *had failed* in fulfilling their part of the same, much less that the Government would deliberately authorise the carrying out a distinctly opposite procedure,—that Mr. Kemp should supply himself with such assistance,—a procedure suggested and recommended by Mr. Innes; and, as you must remember, the principal, if not the *sole* object of the appointment and

visit to Hobart Town of the deputation was to induce the Government to refuse their sanction to such proposal. (See my Telegram, 9th June.) The Directors therefore respectfully express their hope that the Government will, upon a reconsideration of the respective Memorandums referred to, see that in good faith to the Company the arrangement so agreed upon between the deputation and Messrs. Innes and Kemp, and so approved by the Government,—and so far acted upon by the Company and Engineers since the return of the deputation,—shall be adhered to by all parties; and will regard as an obvious necessity the immediate rescinding of the authority so given to Mr. Kemp.

I have, &c.,

(Signed)

H. DOWLING, *Secretary.*

The Hon. the Colonial Secretary, Hobart Town.

263.

Colonial Secretary's Office, 12th July, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 8th instant, respecting the authority given to Mr. Kemp to employ such means as may to the Commissioners appear necessary for ascertaining the amount of work executed, so as to enable them to sign the monthly cheques.

It appears to the Government that the Directors labour under a misapprehension as to the nature of the understanding arrived at between the deputation and the Government upon this subject at the conference on the 15th ultimo.

The Government never contemplated restricting the Commissioners to the employment of such assistance only as the Directors or Engineers might be prepared to place at their disposal; and while they would be glad to hear that Mr. Kemp felt satisfied to avail himself of such assistance, they are not prepared to fetter his discretion by limiting him in the employment of the means he may deem requisite.

I may add, in conclusion, that from a statement made by Mr. Innes after communicating with Mr. Kemp, there is reason to anticipate the entire expense attending that gentleman's measurement, &c. of the Works will not exceed thirty-five pounds per month.

I have, &c.,

(Signed)

THOS. D. CHAPMAN,

For the Colonial Secretary (absent).

*The Secretary Launceston and Western Railway Company,
Launceston.*

264.

*Launceston and Western Railway Company, Limited,
Launceston, 14th July, 1869.*

SIR,

I HAVE the honor to acknowledge receipt of your letter of the 12th instant, and which I submitted to the Directors yesterday.

I have to point out to you a grave misconception of the arrangement come to between the Government and the deputation, comprised in the third paragraph of this letter. The assistance to be afforded Mr. Kemp the Engineer-in-Chief agreed to place at the Commissioners' disposal on their requisition, and without cost to the Company, and was not restricted, as you say, to "such assistance only as the Directors or Engineers might place at their disposal."

The Board of Directors having now nearly exhausted the means within their power to avert from the public funds, or the funds of the Company, the additional and most unnecessary expense proposed to be incurred by Mr. Kemp, estimated by you at the large annual sum of £420, now direct me respectfully, but most emphatically, to protest against the said proposed expenditure, on behalf of this Company as well as on behalf of the Railway District, in the full conviction not only that the expenditure is wholly unnecessary if Mr. Kemp does his duty, but that the Governor in Council has not the power under the Railway Acts to increase Mr. Kemp's salary and allowances fixed at £750 per annum on his appointment, in pursuance of the provisions contained in the 6th Clause of 30th Victoria, No. 28, which reads as follows:—"The Governor in Council shall from time to time appoint three Commissioners for the purposes hereinafter mentioned; with such salary and allowances as the Governor in Council sees fit," &c.

I have, &c.,

(Signed)

H. DOWLING, *Secretary.*

The Honorable the Colonial Secretary, Hobart Town.

265.

Colonial Secretary's Office, 27th July, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 14th instant, to which the illness of the Colonial Secretary has prevented me from replying hitherto.

The Governor in Council when authorising Mr. Kemp to employ such necessary assistance as might be deemed requisite to ensure his obtaining the detailed information respecting the amount of work done, desired to place that gentleman in a position to secure the end in view without further delays should any unforeseen difficulties arise; nor did the Government at the conference ever contemplate absolutely restricting Mr. Kemp to assistance to be afforded by the Engineer in Chief.

The Government trust that the protracted correspondence arising out of the different views entertained as to the requisite form of certificate necessary to enable the Commissioners to sign the monthly cheques may now be considered closed, and that no further difficulties may arise to jeopardise the satisfactory conduct of the Works.

I have, &c.,

(Signed)

THOS. D. CHAPMAN,

For the Colonial Secretary (absent).

H. DOWLING, Esq., Secretary Launceston and
Western Railway Company.

266.

*Launceston and Western Railway Company, Limited,
Launceston, 14th July, 1869.*

SIR,

IN the monthly Progress Report of the Company's Engineers for the month ending 10th instant they report that they have been compelled to make alterations in the slopes of other cuttings beyond those included in former reports, "a statement of which will be made with as little delay as possible; and they further report that the nature of the material in the bottom of cutting No. 38"—(a cutting, slopes of which were authorised in February last)—"is of such a character as to induce us to propose an alteration in the gradient there, concerning which we will report specially."

These reports will be transmitted for your consideration as soon as received.

I have, &c.,

(Signed)

H. DOWLING, Secretary.

The Hon. the Colonial Secretary, Hobart Town.

267.

Launceston, 17th July, 1869.

SIR,

THE letter of Mr. Innes of the 11th, forwarded by you on the 24th ultimo to the Secretary of the Launceston and Western Railway Company, having been laid before the Board of Directors, I find a portion of such letter is devoted to statements respecting, and comments upon, the conduct and opinions of "one of his fellow Commissioners." I regret that justice to myself imposes upon me the painful task of quoting such portion in full:—

"I regret having to state that the majority of the Directors viewed with disfavour the claim to be supplied with the information referred to, and that one of my fellow Commissioners went so far as to denounce the claim as involving a breach of faith! He so denounced it on a view which no doubt was convincing to himself, that it was an addition to previous requirements from the Directory respecting which propositions had been entertained of a reference to arbitration. It did not appear to have struck him that if it really were an addition, then it could not by the very term have been *included* in any arbitration to the matters of which it was an *addition*; from which it would follow that it was not precluded from subsequent proposal, acceptance, or reference. I must avow for my own part, however, that I did imagine that by getting from the Engineers full data, I would have secured, inferentially at least, the information in question, or the basis of questions from time to time which would have elicited it; and had I found myself mistaken in that opinion after the data previously sought had been conceded, I should not have been restrained from asking for such additional information I discovered to be necessary in the discharge of the duty I have undertaken. I can conceive no greater "breach of faith" on the part of a Commissioner bound to satisfy himself and the country as to the proper disbursement of public funds, than his engaging *not* to ask for any information bearing on such disbursement, beyond a certain quantum which only his ignorance and inexperience or want of reflection can have led him to suppose was all-sufficient."

If Mr. Innes, instead of enshrouding the foregoing charge and covert imputations against "one of his fellow Commissioners" in the web of entangled verbiage I have so unwillingly quoted, and which can only tend to mystify and mislead, had stated in plain straightforward language what

he really meant, he would have adopted a more manly course,—left no room for doubt upon the matter on the part of the Government or the public,—and rendered it unnecessary for me to act as his interpreter, which office I am now constrained to assume, confining myself, however, to his charge and imputations.

First as to his charge. What Mr. Innes meant was simply this:—"That (Mr. Bartley) one of his fellow Commissioners" went so far as to denounce the claim made by him, Mr. Innes, to be supplied with certain information "as involving a breach of faith." To the truth of this charge I here give the most unqualified denial. I never did denounce any claim whatever made by Mr. Innes to be supplied with any information of any kind "as involving a breach of faith." I openly and directly imputed personally to Mr. Innes at the Meeting of Directors on the 8th of June, and also in my letter of 9th June to Messrs. Innes and Kemp, recording my protest against the course of conduct they were pursuing, (to a copy of which I forwarded to you on the same day I would desire to refer you) and do now as openly and directly impute to Mr. Innes a distinct "breach of faith" with the Directors by his repudiating, in the first place, his verbal agreement to refer the questions involved as to the due payment of the monthly Certificates to the determination of Mr. Higinbotham of Melbourne, Civil Engineer, or some other high professional authority. The terms of such reference, and the questions to be so referred, were discussed and deliberated upon by Mr. Innes, Mr. Crookes a Director, the Secretary of the Company, and myself; were agreed upon by all such parties on the forenoon of the 20th May, and in the evening of that day I reduced to writing a Memorandum of such reference and of the questions to be so referred. On the 22nd May I submitted such Memorandum to Mr. Innes, but he altogether repudiated having agreed to such reference as therein stated, and declined to refer any question but the legal right of the Commissioners to demand any information they pleased, which question could of course be only determined by a competent legal authority. I then submitted the Memorandum for the perusal and examination of Messrs. Crookes and Dowling, who affirmed its correctness, and attached their names with mine to a Certificate to that effect at the end of such Memorandum, a copy of which is hereunto annexed. By repudiating, in the second place, a distinct proposal made by himself for a reference, in his letter to the Secretary of the Company dated the 26th May, after the Directors had expressed by letter their readiness to assent to such proposal.

Mr. Innes, when he made the assertion that "one of his fellow Commissioners went so far as to denounce his (Mr. Innes's) claim to be supplied with certain information as involving a breach of faith," was perfectly aware that I had charged him with a breach of faith with the Directors, not for claiming any information, but for repudiating his own proposals for reference. This charge he had then before him in my letter of protest before alluded to, in the following plain and unmistakable terms:—"I consider that the refusal to abide by such proposal (for reference) so made by Mr. Innes and so accepted by the Directors involves a distinct breach of good faith with the Directors on the part of Mr. Innes." In the opening paragraph of Mr. Innes's letter referred to he has the temerity to state that "the general terms of reference to a third party made by him a fortnight previously had not been accepted;" and that he "endeavoured the day before yesterday (the 8th ultimo, on which the weekly meeting of the Board of Directors was held at which Mr. Innes attended) to open negotiations upon a new basis." I have already asserted, and do again assert that Mr. Innes himself repudiated the said proposal for reference made by him, and that the Directors did accept such proposal. I would further state that Mr. Innes did not upon the 8th ultimo attempt to open negotiations upon a new basis; that is, he did not do so at the Board of Directors held on that day at the Board Room, where only he met the Directors.

It would occupy too much time and space to establish these assertions in a written communication, but I am and shall be prepared to establish them before any Commission of Enquiry or other competent tribunal, both by oral and written testimony.

Secondly, as to Mr. Innes's covert imputations. He meant that Mr. Bartley, "a Commissioner bound to satisfy himself and the Country as to the proper disbursement of the public funds, engaged *not* to ask for any information bearing upon such disbursements beyond a certain quantum, which only his ignorance and inexperience or want of reflection can have led him to suppose was all-sufficient."

To the truth of such imputation I here also give the same unqualified denial:

Equally desirous with Mr. Innes to obtain all the information I may consider "necessary to the discharge of the duty I have undertaken," I never have "engaged *not* to ask for any information bearing upon the proper disbursement of public funds beyond any certain quantum." I certainly have "engaged," and do still "engage," not to withhold the payments of the amounts of the monthly Certificates furnished by the Engineers to the Contractors, in strict accordance with the 27th Condition of the Contract, to which I assert the Commissioners were approving and consenting parties, until, in addition to the clear and comprehensive details given in such Certificates, certain quantities and other particulars are supplied which, under the terms of such Condition, the Commissioners have no right to require, which the Company have endeavoured in vain to obtain, and which the Engineers have repeatedly declared is out of their power to furnish.

Having given the foregoing distinct denials to the direct charge and covert imputations made by Mr. Innes against myself as "one of his fellow-Commissioners," you may be of opinion that in doing so, and characterising the mode in which such charge and imputations are couched, I have expressed myself in too strong language.

These are occasions when strong and plain language is not only justifiable, but necessary.

I have been upwards of forty years more or less engaged in official correspondence of the most diversified character in this Colony, and I do not hesitate to say that no official communication containing so many allegations at variance with the truth, so supercilious in its style, and studiously offensive and insulting in its whole character, ever came under my notice.

Mr. Innes, as a Commissioner appointed by the Governor in Council "to sit and act as a Director" with that body of gentlemen who constitute the Directory of the Launceston and Western Railway Company, and in such double capacity to promote and conserve the interests of the Government, the Railway District, and the community in general, and, so far as would comport with such interests, those of the Company who subscribed and have now expended a capital of £50,000 on the Railway, has availed himself of such position in an official, and therefore a privileged communication addressed to the Government, which must shortly come before the Legislature, to traduce the motives, conduct, and character of the Engineers, the promoters, and the Directors of that Company from whose funds he derives his salary and allowances.

Mr. Innes, as such Commissioner and Director, having so availed himself of his position to traduce the motives, conduct, and character of the Engineers, the Directors, and promoters of the Railway, as I shall proceed to establish; I, as another Commissioner and Director, as one who has always, as is well known, maintained a perfectly neutral position as respects the promoters and opponents of the Railway; as one who is thoroughly acquainted with the conduct and character of the gentlemen referred to, and who is necessarily more closely and continuously associated with them in the promotion, direction, and management of the affairs of the Railway than Mr. Innes, who only visits Launceston at intervals, I deem it due to myself as such Commissioner and Director, and to the gentlemen referred to, to claim and exercise the right to comment without any reserve upon the accusations and imputations of Mr. Innes against them in their respective relations to the Railway; and plainly and unreservedly to state, for the information of the Government, the opinions founded upon such close and continuous association with those gentlemen which I entertain as respects their motives, conduct, and character.

Mr. Innes imputes to Mr. Doyne, the Chief Engineer of the Company, motives and conduct which, if truly attributable to him, would inevitably stamp him as an unscrupulous, designing, mercenary, untruthful pretender, who, utterly regardless of his own professional and personal reputation, of the varied and all-important interests involved in the question, was, in his estimate of the cost and in his report recommending the construction of the Railway, influenced by one consideration and one only: what amount of "profit," by adjustment with the Contractors and other similar manœuvres, he might "get out of the job?" This may appear a bold—a startling assertion. Let Mr. Innes establish its truth.

Mr. Innes furnishes a long extract from the report of the evidence given by Mr. Doyne in August, 1866, before a Committee of the Queensland Legislature condemnatory of the adoption of the slope of a quarter to one in the cuttings throughout "The Southern and Western Railway" on account of certain geological conditions manifested in many of such cuttings, then minutely described by Mr. Doyne, and which were so diversified in character that he thus concludes his evidence:—"Each of these cuttings requires, in my opinion, special treatment, each being an engineering study in itself."

After quoting the said extract, and sneeringly referring to Mr. Doyne's claim to geological and engineering knowledge, Mr. Innes thus proceeds—"Within a year or a little more after (giving such evidence), Mr. Doyne, in the character of a Contracting Engineer, having to frame plans,—the acceptability of which and his own professional employment depending on the terms at which it could be made to appear that these plans can be carried out,—proposes the very slope against which he has given such condemning testimony, and this too in connection with geological and other conditions not a whit less unfavourable than those described by him in Queensland." "I quote this in support of the appeal I now make to the Government not to leave the Launceston and Western Railway at the mercy of Contractors."

"This slope, he, Mr. Doyne, has alleged was suggested as an experiment."

"A professional man, I submit, whose proposals were not influenced by the strong inducements of getting a Contract, but governed by merely professional considerations, would never have propounded the disastrous 'experiment' of cuttings at a quarter to one, the quick and inevitable failure of which now fills with dismay and misgiving as to the future of the Deloraine Railway those who had previously reposed implicit faith in Mr. Doyne." He also alleged that the experiment was

recommended by considerations of economy. Again, a professional man, whose advice was paid for according to its worth, and not by the profits of the job, his getting which depended on the tenor of that advice, would not have been influenced by these considerations." And how illusory such "economy" is: signifying, in fact, nothing more than a temporary *make believe* "to be paid for afterwards."

I would here ask—When thus denouncing the mercenary, unscrupulous, and altogether unreliable suggestion of Mr. Doyne,—the expediency or propriety of which I must altogether leave to him to establish,—that the cost of the cuttings upon the line should be estimated at a slope at a quarter to one, did the question, which common fairness to the Engineers should have suggested, never occur to Mr. Innes—Who is responsible for such suggestion being adopted and carried out with results which occasion such widespread dismay? Whether it occurred to him or not, I will furnish a reply. "Mr. Doyne," Mr. Innes says, "suggested and propounded the disastrous experiment." It was the professional colleague of Mr. Innes who was appointed at an adequate salary, as I believe, although Messrs. Innes and Kemp assert the contrary, "to judge of the engineering feasibility of the plans, specifications, and estimates of the Company's Engineers," who endorsed such suggestion with his approval, as evidenced by his not even alluding to such slope to his non-professional colleagues before they sent in their reports to the Governor in Council that the Railway could be opened for traffic for £350,000; by his not alluding to the same in his own professional report to the same effect; and by his never even hinting at the estimate now so confidently stated by him, the accuracy of which I do not impugn, that to flatten the slopes of the cutting throughout the line will exceed £20,000. Had any such intimation been made by the professional Commissioner to his non-professional colleagues,—at least, I can so assert for myself,—their said Report would not have been made, and the sanction of the Governor in Council would not have been given to the commencement of the Railway. The professional Commissioner, therefore, as I have before stated, is primarily and principally responsible for the sanction of the Government being given to the construction of the Railway, with the slopes of all the cuttings estimated at a quarter to one, and should, in all common fairness, at least share the responsibility of the adoption of such slope with the Engineers of the Company. The question naturally arises—How came the professional Commissioner to overlook so very important a consideration in estimating the cost of the Railway? I have always accounted for such apparent oversight by assuming that the professional Commissioner—erroneously but conscientiously—endorsed the estimate of Mr. Doyne, that the slopes could stand at a quarter to one. Mr. Innes, who has always freely expressed his disapproval, of the appointment of any professional Commissioner, and doubtless taking the same view as he had expressed as to Mr. Doyne's estimate, has assigned as a principal reason for such disapproval, "that no professional Commissioner could reasonably be expected to give an impartial and unbiassed opinion upon the question committed to the Commissioners by the Legislature—whether the Railway could be opened for traffic for £350,000—the continuance of whose own professional employment at a salary of £750 per annum altogether depended, to quote Mr. Innes's own words in reference to the similar position of Mr. Doyne, as to whether "it could be made to appear" by his estimate and report that the Railway could be so opened. To prove a "persistent design on the part of the Contracting Engineer (Mr. Doyne) to escape the labour and the cost of fulfilling his contract engagements, for which he had to receive £17,000 or £18,000," Mr. Innes states that "he, Mr. Doyne, recommended that the Railway carriages should be obtained from England." Mr. Innes omits to state that this course was ultimately decided upon by the Directory, after the most mature and anxious deliberation and careful enquiry as to the comparative cost of building them in this Colony, in Victoria, or in England, and from whence they might be most speedily obtained. The Engineers in the strongest possible manner urged upon the Directors in more than one report upon the question, for many cogent reasons assigned by them, that the carriages should be ordered from England without further delay. At the weekly meeting of the Directory held on the 10th day of November last, eight Directors and all the Commissioners being present, a Report from the Engineers recapitulating the whole question of the supply of rolling stock, and reiterating their recommendation that the carriages should be at once ordered from England, a copy of which is hereunto annexed marked B., together with previous Reports on the same subject, were taken into consideration. Such Reports contain the following paragraphs:—

"All our correspondence shows that from the first it has been our desire to meet the wishes of the Directors by having the rolling stock made in Launceston, and the ironwork was ordered from England with this view. Upon instituting enquiries, however, we found that no probability existed of reliable Contractors being found in the Colony. Approximate prices were obtained which in our opinion quite decided the question against local manufacture."

"We also made enquiries in Melbourne, the result of which only tended to show that to invite public competition would not be attended with any favourable result, and that by far the cheapest and most desirable course in the interest of the Company would be to import from London without further loss of time."

"We regretted exceedingly to find that it would be necessary to abandon the idea of local manufacture, knowing the wishes of many Directors that the work should be done on the spot; but it became our duty to tender this advice, from which we could not shrink without imperilling our professional reputation."

"We see no reason to alter this opinion, and we must add that every month's delay greatly jeopardises the interests of the Company."

"These are the circumstances and considerations which have compelled us to depart from the original intention of manufacturing this stock in Launceston, and to urge upon the Board to order from England without further delay"—"which may result in the Company being placed in the serious position of having no rolling stock to place upon the line for some time after its completion."

A long discussion ensued upon the Engineers' said Report and recommendation. Several of the Directors strongly urged that the Carriages should be built in Launceston, in order "to foster colonial industries;" the motives and conduct of the Engineers on the question were freely commented upon, and considerable pressure had been brought to bear upon them to induce their consent to such a proposition; but, notwithstanding such pressure they adhered to their strong recommendation that the Carriages should be at once ordered from England. Influenced by the very great importance of the question, and fully persuaded that the Engineers were in every respect justified in such recommendation, I urged upon the Directors the very serious responsibility which would accrue to them if they did not act upon the opinions and advice of their Engineers, and absolved myself from any share in such responsibility by earnestly recommending them to do so, stating that the first and clear duty of that Board was to promote as far as possible the interests involved in the Railway, and not "to foster local industries" except so far as they might comport with such interests.

Eventually it was moved by Mr. Dodery, and seconded by Mr. Crookes, "that (on such Report and recommendation of the Engineers) it is desirable that the order for Rolling Stock be immediately sent to England." The resolution was carried, 7 Directors, including myself, voting for, and 2 against the same. Messrs. Kemp and Innes, although present when the Engineers' Reports and recommendation were considered and discussed, declined to vote on the question.

The Directors acted in accordance with this resolution; and that they acted wisely in so doing has been evidenced by the fact that Carriages of the most approved design and best construction obtainable in England will involve, landed here, not two-thirds of the cost of having them built in this Colony or in Victoria, and in all probability they will be obtained in much less time.

So far from any blame being attributable to the Engineers, I am of opinion that great credit is due to them for the firmness, prudence, and decision with which they acted in the matter.

If anything were wanting to show the strong "animus" entertained by Mr. Innes against Mr. Doyne, it is abundantly supplied by the accusation that "to escape the labour and cost of fulfilling his Contract engagements, the preparations of the plans of Railway Carriages for the Line, and to relieve himself of so much of the work he was in course of being paid for, he recommended that the Carriages should be ordered from England." Mr. Innes carefully abstains from doing Mr. Doyne the justice to state the cogent reasons which induced such recommendations, and the very great pecuniary and other advantages which will accrue to the Company from their acting upon the same. That other parties who were much interested and most anxious that the Carriages should be built here, and freely blamed the Engineers and Directors for ordering the same from England, now openly acknowledge that they entertain very different opinions, is evidenced in the clearest and most satisfactory manner, by the following copy of a letter from Messrs. Ditcham, Button, & Co., the only parties who offered to build Carriages here, which letter they most honorably and handsomely published in the *Launceston Examiner*, of the 12th ultimo:—

RAILWAY CARRIAGES.

To the Editor of the Launceston Examiner.

SIR,

WE feel, in justice to the Directors of the Launceston and Western Railway Co., bound to admit that they have, through the advice of their Engineers, done the very best for the Company by ordering the Carriages, Trucks, &c. from England, as they will be landed here at a price far below what we could have constructed them for. We state this having seen the prices at which the tenders have been taken in England, which prices are also far below those paid by the Victorian Government as ascertained by our Mr. E. L. Ditcham, when recently in Melbourne. We are satisfied the statements made at the last meeting of shareholders by Mr. Dowling, that a saving of 40 or 50 per cent. would be effected by ordering the Carriages from England has proved to be correct.

12th June, 1867.

DITCHAM, BUTTON, & Co.

Having concluded his condemnatory remarks upon the Carriages being ordered from England on the recommendation of Mr. Doyne, Mr. Innes goes on to say: "but this instance sinks out of sight in comparison with the next. Entrusted by a most unbusinesslike arrangement with authority to order from England, through the Company's Engineer there, the materials of the Longford Bridge, when the answer to his instructions reached the Board, the discovery was made that these instructions went to relieve him of a most critical part of his duty, the ordinary duty of a Contracting or other Railway Engineer, at the price of a larger additional outlay."

This charge against Mr. Doyne, so made by Mr. Innes, may be thus stated in a few words; viz.—"That Mr. Doyne, in order to shirk 'a most critical part of his duty,' gave instructions to the Company's Engineer in England to require the English Contractor for the ironwork of the Bridge to undertake its erection at Longford, and that the Directors were in ignorance of such instructions having been given until the answer to them arrived from England."

It would be well for Mr. Innes if this charge against Mr. Doyne, which is in every respect at variance with the truth, *could*, with that respecting the Railway Carriages just disposed of, "*sink out of sight*" of the Government, the Legislature, and the public, as I shall proceed to establish.

1st. At the weekly meeting of Directors held on 21st July, 1868,—at which were present W. S. Button, (Chairman), John Crookes, William Gibson, William Tyson, H. Dowling, (then a Director), Richard Green, James Robertson, Isaac Sherwin, John Scott, Alex. Webster, S. V. Kemp, and T. Bartley,—Mr. Doyne requested authority to order the ironwork of the Longford Bridge from England. A resolution to that effect was put and passed, and a copy of the same forwarded to the Engineers. This was the arrangement denounced as "most unbusinesslike" by Mr. Innes; but at all events his professional colleague may be presumed to have approved of it, as he was a consenting party to the same,—and of the mode in which the Engineers exercised the authority entrusted to them by such "unbusinesslike arrangement," Mr. Innes himself was an approving party, when it was brought under the consideration of the Board.

2nd. At the weekly meeting of the Directors held on 6th October, all the above-named Directors, except Messrs. Crookes and Robertson, and *all the Commissioners being present*, a copy of the letter of instructions from the Engineers to the London Agents, dated 12th September, including the specifications for the ironwork of the Longford Bridge, was read, fully deliberated upon, and approved. The first paragraphs of such letter contain the following clear and emphatic reasons for requiring the complete erection of the Bridge by the English Contractors:—

"We now send you tracings from the detailed drawings of the Bridge over the South Esk at Longford, and a description and specification of the work as we wished it to be executed."

"You will perceive that we have determined to place the whole responsibility of the erection of the ironwork upon the Contractor whom you may employ to execute it in England. This we do, because experience has proved in these Colonies that when the responsibility is divided in this respect it is almost impossible to ensure a satisfactory result, and the expenditure in erection is greatly increased."

At the same meeting another letter of the Engineers to the London Agents, giving instructions for the purchase and shipment of the rails, was read, and Mr. Kemp called attention to the rails being ordered at 72 lbs. to the yard instead of 65 lbs. as originally stated in the estimates of the Engineers, but no exception whatever was taken or disapproval expressed either by Mr. Kemp, Mr. Innes, or any other Director as to the stipulation that the English Contractor for the ironwork should complete its erection here, nor indeed as to any other portions of such instructions so contained in the Engineers' letter.

Mr. Innes asserts, as before quoted, that "the discovery that instructions had been forwarded by the Engineers for the erection of the ironwork here by the English Contractors was only made by the Directors when the answers to such instructions reached them from England." I have proved that, so far from this being the case, a copy of such instructions was submitted for the consideration of a Board of Directors, held on the 6th October, at which Mr. Innes himself and the other two Commissioners were present, was deliberated upon, and apparently unanimously approved of by such Board; the reasons assigned by the Engineers for such stipulation being considered in every respect satisfactory.

Leaving Mr. Innes to deal with such proof, I proceed to notice that a considerable portion of Mr. Innes's letter is devoted to condemning the appointment by the Company of a Contracting Engineer without entering upon the question whether such an appointment was desirable or otherwise. I would observe, that such a course appears from documentary evidence to have been adopted in pursuance of the decided recommendation of a Committee appointed by the Directors to enquire into and report upon the question.

As respects the due supervision of the works by the Engineers, the correspondence annexed by Mr. Innes to his letter will fully inform the Government on the question. I would merely remark that I united with the Directors in passing a Resolution, "that nothing short of a supervisor being stationed upon each of the principal works, whilst in progress, would be satisfactory to the Directory."

The quotations I have hitherto given from Mr. Innes's said letter impugn the motives, conduct, and character of Mr. Doyne alone: the following and last extract I shall furnish impugns the motives, conduct, and character of himself and partners—Messrs. Doyne, Major, & Willett, who have been the Engineers of the Company since the Contract was entered into.

Referring to the proposal of the Engineers, that the Directors should meet them on the works "that they might have an opportunity of showing them how scrupulously they were fulfilling their engagements as to the supervision of the Line," Mr. Innes says, "Reduced to a practicable shape, the acceptance of such a test signifies this,—a day appointed for the meeting, by which it is arranged that vigorous workmen are on a fixed spot, when as vigilant overseers of one kind and another are to be seen also, and a courteous Chief Engineer presides over the scene, blandly or triumphantly pointing

a Deputation, already cheered by country air, to the conclusive evidence of facts. The Deputation return from the excursion, if not refreshed into good-humoured satisfaction, silenced by a test to which they have credulously assented."

This graphic and, it must be admitted, highly artistic sketch of the designs of the Engineers in so inviting the Directors to visit the Works, and of the probable manœuvres which according to Mr. Innes would have been adopted by the Engineers to carry out such designs, with the probable results, when reduced into plain and unadorned terms amounts to this :—

The Engineers invited the Directors to meet them on the works, that they might have an opportunity "of showing how scrupulously they were fulfilling their engagements." Had the Directors accepted the invitation, the Engineers would have made the necessary "adjustments with the Contractors" to unite in deceiving the Directors by having "vigorous workmen (picked navvies) and as vigilant overseers of one kind and another upon a fixed spot," where they would not have been but for such an arrangement,—the Chief Engineer would preside over the fraud," and the Deputation would "return, it might be refreshed," but deceived and insulted.

To such miserable, dishonorable, contemptible subterfuges Mr. Innes indicates the Engineers of the Company, and the Contractors Messrs. Overend & Robb (who in my opinion are equally incapable of such unworthy conduct), would have stooped in order to deceive, and thereby insult that body of gentlemen representing the Company, who had entrusted them with the carrying out the great and important work upon which the Company had expended the whole of their subscribed capital of £50,000.

Whether Mr. Innes in indicating that these despicable manœuvres would have been resorted to by the Engineers and the Contractors to deceive the Directors, merely displayed his powers of imagination, or so described the course which would have been adopted by himself under similar circumstances, I leave "an open question."

In so impugning the motives, conduct, and character of the Engineers of the Company, did Mr. Innes remember that they are gentlemen who have established for themselves a high professional and personal character? that Mr. Doyne more especially may be said to sustain "a world-wide" reputation in these respects?

When he imputed to Mr. Doyne that, in designing and estimating the cost of the construction of the Railway, he was solely "influenced by the strong inducements of getting a Contract," "by the profits of a job, his getting which depended upon such advice," did Mr. Innes remember that Mr. Doyne at all events showed his sincerity in giving such advice, by investing £5000 in the undertaking he so recommended, which must absorb the greater part of his individual share of the whole amount to be paid to Messrs. Doyne, Major, & Willett as the Engineers of the Company?

In charging Mr. Doyne "that, having to frame plans the acceptability of which and his own professional employment depending upon the terms at which it could be made to appear that these plans can be carried out, he proposed a slope of a quarter to one, against which he had given condemnatory testimony,"—I ask, did Mr. Innes remember that this, in his (Mr. Innes's) estimation, unscrupulous, designing, mercenary charlatan is the head of that firm who, on account of such established high professional and personal reputation, have been entrusted by the Government—it may be said with the approval of the Legislature—to survey and determine upon the route of the Main Line of Railway, and to estimate its approximate cost; which very responsible and—having reference to the commerce and varied interests involved therein—all-important duty is now completed? If Mr. Innes's estimate of the motives, conduct, and character of these Engineers is a correct one, what deep regret and disappointment must be felt by those who so ardently desire a Main Line of Railway, and who at length obtained from the Parliament a grant of £5000,—that such amount has been now expended upon a survey and estimates made by Messrs. Doyne, Major, and Willett,—men, whose survey and estimates, if Mr. Innes's accusations and imputations are correct, must be altogether unreliable, and can only tend to deceive and mislead those parties who might place any confidence in them;—"by men who are here to-day, enlisting support to schemes from which they are to derive profit, and having carried them out are gone to-morrow."

In fact, if such is the case, the £5000 may be said to have been completely "thrown away;" and these unscrupulous, designing, mercenary Engineers should not only have nothing more to do with the Main Line, but should be forthwith removed from the charge of the Launceston and Western Railway.

The Promoters and Directors Mr. Innes describes "as a number of individuals embarked in a speculative undertaking, in which they had previously enlisted as a political cause;" and who, having been deceived, misled, and contemptuously treated by those Engineers, whose motives, conduct, and character have been so pourtrayed by Mr. Innes—regardless of their own official position—of the interests of the Shareholders committed to their guardianship—of their own personal reputation as honorable and honest men, as men of business and intelligence, or at all events of common sense,—

and also regardless of their own pecuniary interests involved in the efficient construction of the Railway to the extent of nearly £12,000, "ignominiously succumb" to those Engineers, "lest they should extinguish the hopes they had lighted upon those whom they had induced to follow them and accept the same pecuniary risk," by allowing them, the Shareholders, to suspect that they, the Directors, had lost confidence in those Engineers; and Mr. Innes, apparently considering that with such an object to attain, expediency is a safer guide than principle, states:—"That it is not only excusable but rather creditable in some respects that they should fortify the confidence 'of the Shareholders,' even should it be with undue leaning 'to those same Engineers' in whom they have been induced to confide." Which, reduced into plain English, simply means that the Directors, having been deceived, misled, and contemptuously treated by the unscrupulous, designing, mercenary Engineers of the Company, have very judiciously "ignominiously succumbed" "to relations with such Contract Engineers of a derogating character," and "rather creditably" manifested an undue leaning "to them, in order that they, the Directors, might more successfully mislead and deceive the Shareholders and the public!" When so impugning the motives, conduct, and character of the Directors, had Mr. Innes forgotten their names? I subjoin them for the information of the Government and the public, and as affording a ready and practical answer to the accusations of Mr. Innes. The Directors, 15 in number, have been:—W. S. Button (Chairman), John Crookes, Richard Green, William Gibson, the late Isaac Sherwin, James Robertson, Alexander Webster, William Tyson, W. D. Grubb, William Doderly, M.H.A.; John Scott, M.H.A.; The Hon. Joseph Archer, Esq.; William Archer, of Brickendon; William Archer, of Cheshunt; Alfred Harrap.

The eleven Directors, whose names stand first upon the foregoing list, have almost invariably attended the weekly meetings of the Board, generally occupying several hours in careful examination into, and anxious deliberation upon, matters connected with the Railway,—hours of peculiarly valuable time to them, as men engaged in extensive business operations, but time freely afforded without any remuneration whatever.

Did it not occur to Mr. Innes that these gentlemen stand so high in public estimation as practical men of business, of integrity, intelligence, and independence of character, that such accusations as those, officially promulgated against them by Mr. Innes, can have only one effect—to reflect discredit upon their author?

In thus stigmatising the promoters and Directors of the Launceston and Western Railway Company, did Mr. Innes remember that he was addressing one of the earliest, most zealous, and, as the whole community knew, most disinterested of its promoters, who had one object in view—the general advancement of the community—and who had evidenced his confidence in the beneficial results to the Colony of such an undertaking by investing £5000 in the same,—who can judge of the truth of Mr. Innes's assertion, "that the promoters embarked in the undertaking in which they had *previously* enlisted in a political cause;"—and also whether those gentlemen, now Directors of the Company, who acted with him as "Promoters" of the undertaking, and embarked their capital in it, were, or can be, capable of the motives and conduct imputed to them by Mr. Innes?

I have said that Mr. Innes has availed himself of his position as a Commissioner and Director to traduce the motives, conduct, and character of the Engineers, the Promoters, and the Directors. As another Commissioner and Director, I have claimed and exercised the right of freely expressing my opinions respecting them; and shall conclude these unavoidably lengthened remarks by recording my conviction that it is impossible for any body of men more conscientiously, assiduously, and efficiently to discharge the duties devolving upon them than do those highly honourable, intelligent, and business-like men—the Directors and Secretary of the Launceston and Western Railway Company,—men who would scorn "ignominiously to succumb to relations with Contract Engineers of a derogating character;" to countenance (as insinuated by Mr. Innes) "the ear-wiggling mode of conducting business;" "to leave everything to the Engineer and Secretary;" or that "the tenor of all that is done and of all correspondence that takes place should be determined by two or three individuals, or it may be by one only, to whom the Board is no more than a name." I would, as an *ex officio* Director, distinctly state that, as far as my knowledge extends, Mr. Innes's statements and imputations are altogether without foundation.

As respects the Engineers of the Company, having proved that the charges made against them as to the ordering the rolling-stock and the ironwork of the Longford bridge from England—charges which apply in some measure to the Directors and to myself—are altogether at variance with the truth, I leave them, the Engineers, to defend themselves from the more general charges brought against them by Mr. Innes, merely recording my conviction that they are men of honor and integrity, and as such utterly incapable of the motives and conduct imputed to them by him; and that they evince the deepest interest in, and devote their best energies to promote, the progress and ultimate success of the undertaking committed to their charge.

I have, &c.,

(Signed)

THEODORE BARTLEY.

The Hon. the Colonial Secretary:

(Copy.)

MEMORANDUM of Reference.

CERTAIN differences having arisen between the Commissioners appointed by the Government under "The Launceston and Western Railway Act," the Directors of the Launceston and Western Railway Company, Limited, and the Engineers of the said Company, upon the under-mentioned questions, it is proposed that the said parties shall agree to refer the said questions for the sole determination of Thomas Higinbotham, Esq., Civil Engineer, of Melbourne, or any other Engineer of high attainments:—

1. Whether the monthly Certificates for "progress payments" furnished by the Engineers to the Contractors, in accordance with the 27th Condition of the Contract, are, in all respects, sufficiently full, clear, and explanatory, both as to form and details, to enable the professional Commissioner to judge whether the quantity or proportion of work executed by the Contractors on any or the whole of the "items" set forth in such Certificate is sufficient to justify the payment of the amount so certified as due to the Contractors for the execution of such work; and also to enable the whole of the Commissioners satisfactorily to determine generally upon the correctness of such Certificate, so as effectually to discharge the duty confided to them by the Legislature, with reference to the due and proper expenditure of the funds at the joint disposal of the Company and Commissioners upon the said Railway and works?

2. Whether the Certificates so furnished by the Engineers are such as are usually furnished by Engineers of Railways when the Contract is based solely upon the money value of work to be executed by the Contractors irrespective of "quantities" or other data; and whether such Certificates are accepted by the proper authorities as conclusive, and as fully entitling the Contractors to the prompt payment of the amount certified to be due to them by such Certificates?

3. Whether, having reference to the efficient discharge of the duties so confided to the Commissioners by the Legislature, the professional Commissioner is justified in rejecting the Certificates so furnished as aforesaid, and requiring that the Engineers should furnish the Certificates in the form hereunto annexed?

Railway Office, Launceston, 20th May, 1869.

THE above-mentioned reference was proposed by Mr. Bartley to Mr. Innes and some of the Directors as the most desirable course to pursue with respect to the differences existing upon the above questions. Such proposal was accepted by some of the Directors and apparently by Mr. Innes, but on the 22nd instant he declined to accede to the same.

THEODORE BARTLEY, *Commissioner Launceston and Western Railway.*

Present—JOHN CROOKES, Director.

H. DOWLING, *Secretary.*

*Railway Office, Launceston,
27th May, 1869.*

B.

(Copy.)

*Launceston and Western Railway Engineers' Office,
Launceston, Tasmania, 7th November, 1868.*

DEAR SIR,

ROLLING STOCK.

WE have your letter of the 4th instant, and beg to say that Mr. Doyne will attend the next sitting of the Board as requested. In view of the proposed interview we take the liberty to briefly recapitulate the whole question of the supply of rolling stock.

All our correspondence shows that from the first it has been our desire to meet the wishes of the Directors by having it made in Launceston; and the ironwork was ordered from England entirely with this view. Upon instituting enquiries, however, we found that no probability existed of reliable contractors being found in the Colony. Approximate prices were obtained which in our opinion quite decided the question against local manufacture. We also made enquiries in Melbourne, the result of which only tended to show that to invite public competition would not be attended with any favourable result, and that by far the cheapest and most desirable course in the interests of the Company would be to import from London without further loss of time.

We regretted exceedingly to find that it would be necessary for the present to abandon the idea of local manufacture, knowing the wishes of many Directors that the work should be done on the spot; but it became our duty to tender this advice, from which we could not shrink without imperilling our professional reputation. We see no reason to alter this opinion; and we must add that every month's delay greatly jeopardises the interests of the Company. Could we have foreseen the difficulty we should from the first have recommended the early transmission of the orders to England.

As the matter now stands, it is impossible to advertise in any reliable form before late in January ; and in event of the result being unsatisfactory, as we feel confident it will be, the alternative will be to send home orders by March mail. At this point we shall be met by the difficulty which distance from England imposes. If freightage be promptly available, which is very doubtful, and no loss at sea should occur, the stock cannot be expected here before March, 1870. The Directors will therefore see that no margin remains for the contingencies referred to, or for putting the waggons, &c. together and placing them on the line, which, with the insufficient appliances we shall possess, will occupy local workmen two or three months after the arrival of the stock.

These are the circumstances and considerations which have compelled us to depart from the original intention of manufacturing this stock in Launceston, and to urge the Board to order from England without further delay.

We have, &c.,

(Signed)

DOYNE, MAJOR, & WILLETT.

HENRY DOWLING, Esq., Secretary Launceston and
Western Railway Company, Limited.

**CORRESPONDENCE WITH THE HONORABLE THE COLONIAL
TREASURER.**

268.

Launceston, 29th July, 1868.

SIR,

WE have the honor to submit for your consideration and observations enclosures numbered 1, 2, and 3.

Copy of Letter No. 1, from the Secretary of the Launceston and Western Railway Company, dated 28th instant, forwarding for the consideration and concurrence of the Commissioners a letter to the Manager of the Union Bank of Australia, pointing out the circumstances under which the proposed arrangement in the said letter has appeared necessary to the Directors.

Copy of Letter No. 2, to the Manager of the Union Bank of Australia, referred to in Letter No. 1, setting forth the proposed arrangement mentioned therein.

Copy of Letter No. 3, from J. Crookes, Esquire, to the Commissioners, testifying to the commercial standing of the appointed agent in London, Mr. Terry, partner in the late firm of Messrs. Walter Powell and Company, and now solely carrying on the business of the said firm.

Having given the proposed arrangements our fullest consideration, we are of opinion that they are, perhaps, under all circumstances, the only arrangements that can be satisfactorily adopted to ensure the due fulfilment of all the conditions connected with the carrying out the Railway and Works, and we are willing to concur in them, provided they meet with the approval of the Government.

You will perceive that the proposed arrangement which provides for the payment of the necessary plant, &c. out of the proceeds of the Debentures may be deemed not in accordance with the provisions of Sec. No. 11 of the Launceston and Western Railway Act, No. 2, which provides that the subscribed capital of £50,000 shall be expended upon the Railway and Works before any portion of the proceeds of the Debentures shall be expended; but we consider it absolutely necessary for the due fulfilment of the Contract entered into by the Company with Messrs. Overend and Robb that the unexpended balance of the said subscribed capital now lying to the credit of the Company and Commissioners in the Union Bank of Australia, Launceston, shall be devoted to the payment of the monthly certificates as they become due.

We have, &c.,

(Signed)	SAML. V. KEMP, THEODORE BARTLEY, FRED. M. INNES,	}	Commissioners under the Launceston and Western Railway Acts.
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The Hon. the Colonial Treasurer, Hobart Town.

(No. 1.)

*Launceston and Western Railway Company, Limited,
28th July, 1868.*

GENTLEMEN,

IN forwarding to you for consideration and concurrence the enclosed letter to the Manager of the Union Bank of Australia, it has occurred to me as desirable to point out to you the precise circumstances under which an arrangement of this nature has appeared necessary to the Directors.

The rails and other ironwork have to be delivered to the Contractors without unnecessary delay, or they will be released from their obligation to open the line at the period now fixed. This I am sure you will see must be avoided, or serious loss may follow.

The freightage of this ironwork is calculated at (say) 7000 to 8000 tons; and this, you are aware, will have to be extended over a long period of time, in order to meet with necessary shipping to these Colonies; whilst the payments to the manufacturers must necessarily be in cash on delivery.

The instructions to the agents named it is intended shall make ample provision for the careful inspection of all these materials by Mr. Hemans, the Inspecting Engineer to the Company, and for prompt and economical shipment to this Colony by Mr. Terry.

With respect to these gentlemen, to whom the Directors propose to confide the credit named in the letter to the bank, I desire to say that, with reference to Mr. Terry, the Directors have had most ample testimony to his commercial ability and integrity: but on this point I prefer referring

you to Mr. Crookes, who has for many years been largely connected in business with Messrs. Reed and Hawley, and Messrs. Walter Powell and Co. (to whose business Mr. Terry now succeeds). I am sure that Mr. Crookes' testimony will be highly satisfactory and assuring.

With respect to Mr. Hemans, I have only to say that his professional reputation is world-wide. He has been a Member of the Institute of Civil Engineers since the year 1837; has occupied the important professional position of a Member of the Council of the Institute; and is now, I believe, one of its Vice-Presidents.

These two gentlemen are personally wholly unconnected, commercially or otherwise. Here, therefore, the Directors and yourselves have the guarantee of high professional standing in the case of Mr. Hemans, and of very large commercial reputation in the case of Mr. Terry, united in this agency of the Company; and I respectfully submit, whether you may not adopt the letter now enclosed with entire confidence.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Commissioners under the Launceston and Western Railway Acts.

(No. 2.)

*Launceston and Western Railway Company, Limited,
28th July, 1868.*

DEAR SIR,

WE beg to advise you that the Directors of this Company have instructed their Engineers to transmit orders to London for the iron rails and plant required for this Railway; and have now to request that, as the Contracts are from time to time completed, you will, on our account, honor the joint drafts of Mr. George Willoughby Hemans, Member of Council of the Institute of Civil Engineers (of No. 1, Westminster Chambers, Victoria-street, Westminster), and Mr. John Terry, merchant (of St. Dunstan's Buildings, St. Dunstan's Hill, London), to the extent of £50,000 (fifty thousand pounds). All cheques drawn under this authority to be accompanied by vouchers to be furnished by the above-named gentlemen, and these vouchers to be transmitted to you; the bank, however, not incurring any responsibility in respect to such vouchers.

We have, &c.,

(Signed)

W. S. BUTTON, *Chairman.*

H. DOWLING, *Secretary.*

J. T. SALE, *Esq., Union Bank.*

(No. 3.)

Launceston, 28th July, 1868.

GENTLEMEN,

IN reply to your enquiries respecting the respectability, mercantile standing, and integrity of Mr. John Terry, London Agent for the Company, I have much pleasure to inform you that I have known him for many years, and that I have the highest confidence in his judgment and ability as a man of business, and in his uprightness and integrity. I may state that he is agent for my firm, and conducts its business to my entire satisfaction. I am enabled, therefore, to say that you may place every confidence in him with the most perfect safety.

I have, &c.,

(Signed)

JOHN CROOKES.

The Commissioners of the Launceston and Western Railway.

269.

MINUTE PAPER FOR THE EXECUTIVE COUNCIL.

Colonial Treasury, Hobart Town, 3rd August, 1868.

THE Colonial Treasurer submits for consideration a Letter received from the Commissioners under "The Launceston and Western Railway Act," dated 29th July, with a Letter attached from the Secretary of the Launceston and Western Railway Company, dated 28th July, addressed to the Commissioners.

"The Launceston and Western Railway Act, No. 2," provides that the sum of £50,000, part of the paid up capital of the Company, shall be expended upon the said Railway and works before any of the proceeds of the Debentures for £300,000 shall be expended.

The Company and Commissioners represent that they have entered into a Contract for the construction of the Line, and that it is their intention to appropriate the paid up capital of £50,000 in payment of the monthly instalments to the Contractors.

The Company and Commissioners request the authority of His Excellency the Governor in Council to the appropriation of the sum of £50,000, being part of the proceeds of the Debentures for £300,000 now in the Union Bank of Australia in London, to the payment of Railway Plant, Rolling Stock, and other materials to be purchased in the United Kingdom for the use of the said Railway.

The Colonial Treasurer recommends the Governor to approve of £50,000 being appropriated in the manner proposed by the said Company and Commissioners.

(Signed) THOS. D. CHAPMAN.

The Governor in Council approves,

(Signed) E. C. NOWELL.
3rd August, 1868.

The Hon. the Colonial Treasurer.

270.

Colonial Treasury, 3rd August, 1868.

GENTLEMEN,

I HAVE the honor to acknowledge the receipt of your Letter of the 29th ultimo, forwarding a Letter you had received from the Secretary of the Launceston and Western Railway Company dated 28th ultimo.

In reply I have the honor of informing you that the Government have given every consideration to the proposal made by the Company and the Commissioners for appropriating the paid up capital of the Company in payment of the monthly instalments to the Contractor for making the Railway, and for appropriating a portion of the funds derived from the proceeds of the Debentures for £300,000 (say not exceeding £50,000) in the purchase of part of the Rolling Stock and other materials for the use of the Railway in the United Kingdom; and His Excellency the Governor in Council has been pleased to approve of the arrangements proposed.

I have, &c.,

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

*The Hon. F. M. INNES, Esq., THEODORE BARTLEY, Esq., S. V. KEMP, Esq.,
Commissioners Launceston & Western Railway Company.*

271.

*Launceston and Western Railway Company, Limited,
Launceston, 11th August, 1868.*

SIR,

I HAVE the honor herewith to forward a Petition to His Excellency the Governor in Council from the Board of Directors of this Company, praying for a grant of land in consideration of the expenditure of the private moneys of the Shareholders on the construction of the said Line of Railway, but not to issue until the Line has been opened for locomotive traffic; and I have to request that you will embrace the earliest convenient occasion to present the same to His Excellency, and to move His Excellency to be pleased to transmit the same to the House of Assembly for consideration.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Hon. the Colonial Secretary, Hobart Town.

To His Excellency Colonel THOMAS GORE BROWNE, C.B., Captain-General and Governor-in-Chief of Tasmania and its Dependencies.

The Petition of the Chairman and Directors of the Launceston and Western Railway Company, Limited.

RESPECTFULLY SHOWETH:

THAT the Launceston and Western Railway Company have now fulfilled the primary conditions imposed by the several Acts of Parliament, and have entered into Contracts for the construction of the said Railway.

That a further condition comprised in the said Acts of Parliament is, that before any money borrowed by the said Company shall be expended, the sum of £50,000 of the private moneys of the Colonists whom Petitioners represent shall be first expended on the construction of the said Railway; and for this expenditure ample provision has been made by the Shareholders.

That, with two exceptions, the Shareholders of the Company reside within the Districts to be traversed by the said Railway; and as a rule they have not taken shares in a spirit of ordinary speculation or enterprise, but out of a desire to promote a great public work, and in most cases at considerable personal inconvenience.

That in the Prospectus of the Company issued in 1865 it is stated that an application will be made to Your Excellency and Parliament for a grant of land in consideration of the expenditure by the Company of £50,000 as aforesaid, in conformity with the provisions of "The Waste Lands Act, 1863."

Petitioners therefore pray that Your Excellency will be pleased during the coming Session to adopt measures to procure the sanction of the Parliament to a grant of land being made to the Launceston and Western Railway Company, Limited, in respect to the expenditure of the said £50,000 of the private moneys of the said Colonists; such grant to comprise one acre of land for every pound sterling so expended, but not to issue until the said Line has been opened for public traffic by locomotive power and not otherwise.

W. S. BUTTON, *Chairman.*

JAMES ROBERTSON.

RICH. GREEN.

ALEX. WEBSTER.

W. TYSON.

JOHN CROOKES.

ALFRED HARRAP.

WM. ARCHER.

W. ARCHER.

W. D. GRUBB.

Launceston, 11th August, 1868.

272.

*Launceston and Western Railway Company, Limited,
Launceston, 25th August, 1868.*

SIR,

A LETTER addressed to you on the 10th July last by Mr. Innes, one of the Railway Commissioners, and which appears in Parliamentary Paper, No. 16, just issued, contains the following passages:—

"The question remaining in suspense by the refusal of Mr. Bartley and myself to sign the 'undertaking,' the Commissioners were on the 2nd instant favoured with a communication from the Company's Secretary, conveying the following Resolution, to which our concurrence was invited:—

"That, in the opinion of this Board, it will be of advantage to the Company if an arrangement can be made for placing with the Government, at interest, the sum of £45,000 of the moneys to be derived from the sale of Debentures issued for £300,000; and that the said sum be offered to the Government, &c., &c."

"To this the Commissioners unanimously acceded, as a satisfactory solution of the difficulties to be overcome, and were prepared as Directors to give effect. I regret, however, to have to inform you, that question having arisen as to the power of the Company to conclude such an arrangement, the opinion of the Company's Solicitor was taken, when it appeared that under an agreement which had been entered into with the Union Bank, the Company could not dispose of its funds in the way contemplated without the Bank's concurrence. I deem it necessary to add here that the arrangements, which thus fettered the discretion of the Directory, were made prior to the Commissioners certifying to the Governor in Council the payment of £50,000 into the Bank—prior, therefore, to their taking their seats at the Company's Board; and neither officially nor otherwise did I ever learn that any agreement existed between the Company and the Bank, restraining the discretion of the Directors and Commissioners in respect to the moneys at their joint credit, until the fact was disclosed as I have related a few days since."

I am instructed by the Directors to say that no agreement exists between the Company and the Union Bank restraining the discretion of the Directors and Commissioners in respect to moneys at their joint credit for Railway purposes.

The great practical difficulty which stood in the way of making a loan to the Government of any moneys derivable "from the sale of Debentures," was the fact that no advice had been received that the proceeds of those Debentures had been paid to the joint credit of the Company and the Commissioners in London. Indeed it was notorious that you were withholding these proceeds. But the conclusive point which ultimately influenced the Directors and the Commissioners was that which Mr. Bartley, another Commissioner, so distinctly puts in the last paragraph of his letter to you on the same subject (p. 34 Correspondence), as follows:—

"The proposed arrangement to lodge in the hands of the Government a sufficient amount from the proceeds of the Debentures to cover the interest during the period of such construction, might be considered as contrary to the 11th Section of the Act No. 2, which requires that the £50,000 raised by the Company shall be expended before any portion of the proceeds of the Debentures

shall be available for the purposes of the said Act; and because the proposed arrangement was attended with other difficulties which might have occasioned serious delay both to the Government and the Company."

These various considerations it was that created impediments in the way of negotiating a loan to the Government, and not the existence of any agreement between the Union Bank and the Company, restraining the discretion of the Directors and Commissioners, in respect to moneys at their joint credit for Railway purposes; which credit at that time consisted only of the unexpended balance of £50,000 lodged in the Union Bank at Launceston.

I have, &c.,

(Signed)

H. DOWLING, *Secretary.*

The Hon. the Colonial Treasurer, Hobart Town.

273.

*Launceston and Western Railway Company, Limited,
Launceston, 5th September, 1868.*

SIR,

I HAVE the honor to enclose copies of correspondence with the Union Bank, being an order from the Company and Commissioners to the Union Bank in London to pay £9000 (Nine thousand Pounds) to the credit of the Tasmanian Government at the Consolidated Bank, London, on the 20th December next, to meet the January coupons on £300,000 Debentures exchanged for Bonds of the Company; and the acknowledgment of this order by the Manager of the Union Bank here.

I have, &c.,

(Signed)

H. DOWLING, *Secretary.*

The Honorable the Colonial Treasurer, Hobart Town.

Union Bank of Australia, Launceston, 4th September, 1868.

DEAR SIR,

I BEG to acknowledge the receipt of your favor of the 1st instant, covering a letter signed by the Chairman, Secretary, and two Commissioners of the Launceston and Western Railway Company, requesting that I would cause to be paid to the Consolidated Bank in London to the credit of the Tasmanian Government, on the 20th December next, the sum of Nine thousand Pounds (£9000) out of the moneys now at the credit of the Launceston and Western Railway Company and Commissioners in our London Office.

In reply, I beg to inform you that I will by the outgoing mail request our London Office to make the required payment.

I have, &c.,

(Signed)

JOHN T. SALE.

Secretary Launceston & Western Railway Company, Launceston.

*Launceston and Western Railway Company, Limited,
Launceston, 1st September, 1868.*

SIR,

WE have to request that you will cause to be paid to the Consolidated Bank in London to the credit of the Tasmanian Government, on the 20th December next, the sum of £9000 (Nine thousand Pounds) out of the moneys at the joint credit of the Launceston and Western Railway Company and the Commissioners in your London Office, and charge the same to that account.

We have, &c.,

(Signed)

W. S. BUTTON, *Chairman.*

H. DOWLING, *Secretary.*

S. V. KEMP, }

T. BARTLEY, } *Commissioners.*

The Manager Union Bank of Australia, Launceston.

274.

Colonial Treasury, 8th September, 1868.

SIR,

By the arrival of the English Mail on Saturday last I was placed in possession of letters from the Bankers of the Government in London, dated 17th of July last, with full particulars respecting the Government Loan for £400,000; and I am now enabled to furnish you with a statement showing the net proceeds of the sale of Debentures for £400,000, by which you will see the net sum realised amounted to £404,183. 2s. 3d.

The amount payable to your Company will be £303,137 6s. 9d.

I have received advices from the Consolidated Bank and the Bank of New South Wales, reporting that the sum of £240,000 was paid over to the Union Bank of Australia for account of your Company and the Commissioners on the 1st July last.

I have already advised you that instructions have been forwarded to the London Bankers of the Government to pay over the further sum of £60,000; and I have now to inform you that by the outgoing mail for London instructions will be forwarded to the Bank of New South Wales in London to pay over to the Union Bank of Australia in London the further sum of £3137 6s. 9d. for account of your Company and the Commissioners.

I have, &c.,
(Signed) THOS. D. CHAPMAN.

H. DOWLING, Esq., Secretary.

STATEMENT showing the Proceeds of the Loan for £400,000 negotiated in London by the Bank of New South Wales and the Consolidated Bank, Limited, as per Accounts furnished by the Banks to 10th July, 1868.

	£	s.	d.	£	s.	d.
Total proceeds	—			409,871	11	0
Deduct Expenses—						
Banker's Commission, 1 per cent.	4000	0	0			
Brokerage paid	911	15	0			
Stamp Duty $\frac{1}{2}$ per cent.	500	0	0			
Advertising	205	17	3			
Telegram	9	7	6			
Petty Expenses	1	9	0			
Expenses preparing Debentures in the Colony	60	0	0			
				5688	8	9
				£404,183	2	3

W. LOVETT, Assistant Colonial Treasurer.

Colonial Treasury, 7th September, 1868.

MEMO.

	£	s.	d.
Amount payable to Railway Company	303,137	6	9
Amount payable to the Government	101,045	15	6
	£404,183	2	3

275.

Launceston and Western Railway Company, Limited,
Launceston, 15th September, 1868.

SIR,

I HAVE the honor to acknowledge receipt of your letter of 8th instant, with enclosure of London accounts in the matter of the sale of the Debentures, showing balance due to this Company and the Commissioners of £3137 6s. 9d., and which the Bank of New South Wales has to pay to the Union Bank in London for account of the Company and Commissioners.

I have, &c.,
(Signed) H. DOWLING.

The Hon. the Colonial Treasurer, Hobart Town.

276.

Launceston and Western Railway Company, Limited,
Launceston, 25th September, 1868.

SIR,

THE ground required for a Station at Westbury is held by the Municipality as a reserve for a Cattle Market; and as you are aware is inalienable except by consent of the Governor in Council.

The Board of Directors propose to offer an exchange of land to the Municipal Council of Westbury; and I have the honor to ask whether, in the event of this arrangement being effected, the Government will assent.

I have, &c.,
(Signed) H. DOWLING, Secretary.

The Hon. the Colonial Treasurer, Hobart Town.

REFERRED to the Surveyor-General for perusal.

The Surveyor-General will be good enough to forward to this Department the Chart of the Township of Westbury, with a tracing showing the Reserve made for a Cattle Market, with any observations he may have to offer.

The Surveyor-General.

THOS. D. CHAPMAN.
30th September, 1868.

PLAN and tracing herewith forwarded. The land has been set apart for the Municipal Council by order of the Governor in Council, but no grant has yet been issued for it. I question if the law admits of an exchange being made as herein proposed, but perhaps the Honorable the Colonial Treasurer will obtain the opinion of the Law Officers of the Crown on that point.

J. E. CALDER.

The Hon. the Colonial Treasurer. 1st October, 1868.

277.

Colonial Treasury, 2nd October, 1868.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 25th ultimo, informing me that the land required by your Company for a Station at Westbury for the Railway is held by the Municipality of Westbury as a reserve for a cattle market; that your Directors proposed offering an exchange of land to the Municipal Council of Westbury, and desired to know whether the assent of the Government would be given to such an arrangement.

In reply I have the honor of informing you that I referred your letter to the Surveyor-General, and desired him to furnish me with a tracing showing the situation of the reserve for the cattle market in the Township of Westbury, with any observations he thought proper to make.

I enclose herewith the tracing furnished by the Surveyor-General, with the Surveyor-General's observations endorsed on your letter for your perusal; and you will be good enough to return the same in course of post, informing me at the same time if the allotment referred to on the tracing is the allotment your Company wish to obtain for a Station; and on receiving the same I will consult the Hon. the Attorney-General, and ascertain whether the Governor in Council can sanction the transfer of the land from the Municipal Council to the Railway Company.

You will be good enough to assure your Directors that every facility for carrying out the arrangement proposed that can be legally done shall be done.

I have, &c.,

(Signed)

THOS. D. CHAPMAN.

HENRY DOWLING, JUN., Esq., Secretary.

278.

*Launceston and Western Railway Company, Limited,
Launceston, 6th October, 1868.*

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 2nd October, enclosing tracing of the Westbury Station land, and observations by Surveyor-General.

I have the honor to submit that that Officer does not seem to be aware of the fact that, under "The Launceston and Western Railway Act, No. 3," the Company have powers to take by purchase about 8 acres of the Cattle Market Reserve. The Directors have made proposals for such purchase; but in view of not coming to terms with the Council,—who would certainly have to submit the whole question finally to the Governor in Council,—I thought it necessary to ascertain if an exchange of land deemed eligible by the Municipality (the piece so exchanged being reserved by the crown as in the first instance) would be acceptable to the crown.

There are numerous precedents, you are aware, for this course.

The Municipality of Longford have consented, subject to the consent of the Governor in Council, to a similar course in the case of Station land at Perth; with reference to which land I wrote you in June, 1867.

I have, &c.,

(Signed)

HENRY DOWLING, Secretary.

The Hon. the Colonial Treasurer, Hobart Town.

279.

Colonial Treasury, 31st October, 1868.

SIR,

I HAVE the honor of informing you that I have this day received letters from the bankers of the Government in London advising that on the 7th of September last the further sums of £50,000 and £10,000, together £60,000, had been paid over to the Union Bank of Australia in London to the credit of the Launceston and Western Railway Company and the Commissioners of that Company.

In your letter of the 5th ultimo you advised me that arrangements had been made with the Union Bank of Australia in London for paying over the sum of £9000 to the Consolidated Bank in London on the 20th December next, to meet the half-year's interest payable on the loan for £300,000 due on the 1st January next; but I understood it was contemplated to place a further sum of money in the hands of the Government to meet the interest falling due in July, 1869, January and July, 1870, and January, 1871, in all £36,000.

I should be glad to be informed whether this arrangement will be carried out: if so, I would suggest that arrangements should be made by your Company and the Commissioners to pay over the sum of £18,000 to the credit of this Government in the Consolidated Bank, Threadneedle-street, London, to provide for the interest due and payable by your Company in London on the 20th June and 20th December, 1869; and that the further sum of £18,000 should be paid into the Colonial Treasury in Hobart Town, to meet the interest due and payable by your Company at the Colonial Treasury, Hobart Town, on the 20th February and the 20th of August, 1870.

Should your Company and the Commissioners agree to make the payments in accordance with the suggestions I have made, I would write to the Consolidated Bank in London requesting them to place the £18,000 as a fixed deposit in their Bank on account of this Government, bearing current bank interest until required to pay the interest falling due on the Debentures. And with regard to the £18,000 proposed to be paid over to the Colonial Treasury in Hobart Town, this Government would allow the same rate of interest thereon until the 30th June, 1869; as the banks in Hobart Town allow on fixed deposits; and after the 1st July, 1869, this Government would allow interest at the rate of Five Pounds per cent. per annum on the said sum of £18,000 until the same was required to be remitted to London to pay the interest on the Debentures.

As it is desirable that I should know whether your Company and the Commissioners will act on the suggestions I have made and in accordance with the terms proposed, I have to request you will be good enough to place this letter before the Directors and Commissioners of your Company at their first meeting, and communicate their decision thereon to me by an early mail.

I have, &c.,

(Signed) THOS. D. CHAPMAN.

HENRY DOWLING, Esq., Secretary.

280.

Launceston, 10th November, 1868.

SIR,

ON the 10th July I addressed to you a letter (see 94, p. 36, Parliamentary Report, No. 16, 1868), explanatory of the failure at that time of a proposal to place with Government the sum of £45,000, wherewith the interest of the Railway Debentures would have been secured during the period of the construction of the Line. In that letter I alleged that after the proposal in question had been made by the Directory of the Launceston and Western Railway Company to the Commissioners, and unanimously acceded to by them as a satisfactory solution of difficulties, it fell to the ground in this manner:—"That question having arisen as to the power of the Company to conclude such an arrangement, the opinion of the Company's Solicitor was taken, when it appeared that under an agreement which had been entered into with the Union Bank the Company could not dispose of its funds in the way contemplated without the Bank's concurrence;" and I proceeded to represent to you that "the arrangements which thus fettered the discretion of the Directory were made prior to the Commissioners certifying to the Governor in Council the payment of £50,000 into the Bank—prior, therefore, to their taking their seats at the Company's Board; and neither officially nor otherwise did I ever learn that any agreement existed between the Company and the Bank restraining the discretion of the Directors and Commissioners in respect to the moneys at their joint credit until the fact was disclosed, as I have related, a few days since."

I find that this representation of facts by me has been impugned in a letter addressed to you by Mr. Henry Dowling, of date 25th August, and to which I should have rejoined at once had his communication come before me at the period at which it purports to have been written. Mr. Dowling therein states that he is "instructed by the Directors to say that no agreement exists between the Company and the Union Bank restraining the discretion of the Directors and Commissioners in respect to moneys at their joint credit for Railway purposes."

While I deeply regret the necessity imposed upon me, you, Sir, must acknowledge that I cannot suffer Mr. Dowling's contradiction of my plain statement of facts to pass unnoticed, either in justice to myself in the delicate and responsible duty I have undertaken, or to the Government. Either I have asserted what was not correct, or he has; either an agreement such as I represented to you subsisted on the 30th January, 1868 (see Parliamentary Paper, No. 16, 1868, pp. 13-14), by which the discretion of the Directors and Commissioners in respect to moneys at their joint credit for Railway purposes was restrained, or there was "no agreement" of the kind as Mr. Dowling states. In my letter to you of the 10th July I referred to an opinion given by the Company's own Solicitors as my authority for the allegation in dispute; and it appears to me now, that the most satisfactory course is to give that opinion at length, as communicated to the Directory in the following letter:—

Launceston, 6th July, 1868.

DEAR SIR,

IN reply to your letter of the above date, requesting our advice on the construction to be put on the following paragraph in the Bond of the 29th January, 1868, in reference to the Directors negotiating a Loan with the Government, we beg to submit the clause in the recital, which is to the following effect:—"The Company shall not withdraw or transfer the account of the said Company from the Bank, or enter into, or engage in, *any monetary, discounting, or financial business or operation* for or on account of the Company save and except through or with the consent of the Bank." This, of course, has reference to the prior portion of the recital; wherein it is stated the proceeds of the £300,000 of Debentures shall be paid by the Company to the Bank in London. By the letter forwarded to us of the date 16th January, 1868, from the Company to the Manager of the Union Bank in Hobart Town, in p. 9 we find:—"The Bank may at any time decline to take moneys on fixed deposit, or to continue holding the funds of the Company at interest, but that in such cases the Company will be permitted to invest at interest, but not otherwise."

We, therefore, come to the conclusion, "that the Company can make no contract with the Government for the Loan of the £300,000, or any portion thereof, except the Bank refuses to pay interest, or by special arrangement with the Bank and Company."

Yours truly,

(Signed) DOUGLAS & COLLINS.

HENRY DOWLING, Esq., Hon. Secretary of the Launceston and Western Railway Company, Limited.

As a natural corollary from this state of things, I have now to acquaint you that, following on a resolution adopted at the meeting of the Directory held this day, partially acceding to your proposal for a sum of £45,000 being deposited with the Government, this further resolution was also adopted:—

"That before any action is taken on the former resolution the Secretary communicate to the Union Bank the proposal of the Government, and that it is the intention of the Board of Directors to concur."

The mover of this resolution desired that after the word "concur" the words "provided the Bank has no objection" should stand part of the question, but the additional words were omitted on grounds of expediency.

In reference to the reasons which Mr. Dowling has alleged in the place of the reasons assigned by me as those which actuated the Directors and Commissioners on the occasion referred to, they are disposed of in one sentence:—They had all been discussed time after time; they were all, however, practically set aside, when, on the 2nd July, the Commissioners received the communication of Mr. Dowling conveying the opinion of the Directory that it would be "of advantage to the Company if an arrangement could be made for placing £45,000" in the hands of the Government on terms; and I repeat emphatically, that that proposal would never have fallen to the ground but for the Bond of the Company as interpreted by Messrs. Douglas and Collins. In other words, the discretion of the Directors and Commissioners in respect to moneys at their joint credit was controlled by the conditions of a Bond, of the existence of which I had no previous knowledge; and it remains so controlled at the present time.

I have, &c.,

(Signed)

FRED. M. INNES.

The Hon. the Colonial Treasurer.

281.

Launceston and Western Railway Company, Limited,
Commissioners' Office, Launceston, November 11th, 1868.

SIR,

IN reference to your letter of the 31st October to the Secretary of the Launceston and Western Railway Company, we have the honor to acquaint you, that at a meeting of the Directory of the Company, held on the 10th instant, the following resolution was adopted:—

"That the request of the Colonial Treasurer be acceded to, in so far as paying the sum of eighteen thousand pounds (£18,000) in London, and nine thousand pounds (£9000) in Hobart

Town; or otherwise, nine thousand pounds (£9000) in London, and eighteen thousand pounds (£18,000) in Hobart Town, in payment of interest in advance, for the period during the construction of the Line."

By the 11th Section of the Launceston and Western Railway Act, No. 2, it is provided that the subscribed capital of £50,000 shall be expended before any money to be expended under the provisions of the Act is expended. It is in the presumption that the overture made to the Directory in your letter of the 31st ultimo, referred to, was so made with a knowledge of this provision of the law, that the Commissioners have waived any objection on that ground to the proposal of the Government; to which the Directory has acceded to the extent set forth in the above-quoted resolution.

(Signed) SAMUEL V. KEMP, } Commissioners under the
FRED. M. INNES, } Launceston and Western
THEODORE BARTLEY, } Railway Acts.

The Hon. the Colonial Treasurer, Hobart Town.

282.

*Launceston and Western Railway Company, Limited,
Launceston, 27th November, 1868.*

SIR,

As it was understood here that you were likely to pass through Launceston to Hobart Town, on your return from Melbourne, your letter of the 30th October has remained unanswered, hoping I might be able to meet you personally.

I have the honor to suggest, as likely to be more acceptable to the Directors, that you ascertain what amount of rebate the Government will be in a position to offer for each period at which interest on the Company's bonds falls due; and let the decision of the Board be taken on this. The only certain amount of interest named in your letter referred to, is that of 5 per cent., from July, 1869.

The Directors are willing to pay £27,000 thus in advance, if the terms are approved by them.

As I have been instructed to ascertain, with more certainty, the amount which would accrue to the Company, it occurs to me to suggest that the Government shall ascertain, in the first instance, the amount derivable for the whole period; and by this means render unnecessary two or three differing and uncertain rates of rebate.

I am sorry I could not have had the honor of a personal conference.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Hon. the Colonial Treasurer, Hobart Town.

283.

Colonial Treasury, 3rd December, 1868.

SIR,

THE last mail from England brought me a letter from the Crown Agents for the Colonies in London offering their services to this Government for supplying Railway Plant, &c. As it is possible your Directors and Commissioners might wish to avail themselves of the services of the Crown Agents, I have thought it desirable to forward you the enclosed copy of their letter for the information of your Company and the Commissioners.

I have, &c.,

(Signed) THOS. D. CHAPMAN.

HENRY DOWLING, *Esq., Secretary.*

(Copy.)

*Offices of the Crown Agents for the Colonies, Spring Gardens,
London, S.W., 26th September, 1868.*

SIR,

THE Crown Agents are informed that the Government of Tasmania is about to commence the construction of Railways; I would, therefore, remind you that this Department has had very considerable experience in conducting all the necessary operations in this country connected with Colonial Railways.

Tenders have been invited by this Department for the construction of Railroads; and immense quantities of permanent-way materials, rolling-stock of every description, including Locomotives, as well as stores of all kinds, have been purchased and shipped to the Colonies.

Two Lines of Railway in Mauritius, and one in Ceylon, have been recently completed, the Crown Agents having conducted all the Railway business in this country for the Local Governments of those Colonies.

That this business has been performed in a satisfactory manner to the Colonies concerned, it may be sufficient to quote (1st) the following extract of a letter from Sir F. Rogers to the Crown Agents, dated 10th March last; and (2nd) of one from the Director-General of the Ceylon Railways:—

1st. "His Grace has observed with satisfaction the recognition which your services in the management of the important home business relating to the Mauritius Railways have obtained both from the Governor and from the Legislative Council."

2nd. "There is scarcely a single article in the innumerable articles sent out (to Ceylon) for the Railway which does not fully correspond with the intention of the indent."

Besides these Railways, for which the home business has been conducted by this Department from their commencement, inclusive of contracts for construction, to a satisfactory completion, a great deal of Railway business has been transacted for other Colonial Governments.

Amongst these latter I may mention that the Government of Queensland, about twelve months since, transferred its Railway business from a private Agency to this Department.

Any additional contribution which your Government might have to allow this Department for Railway work would be much less than you would have to pay a Private Agency, and would of course cease with the services for which it was intended to provide.

I have, &c.,

(Signed)

W. C. SARGEAUNT.

The Hon. the Colonial Treasurer, Tasmania.

284.

Hobart Town, 15th December, 1868.

SIR,

I HAVE the honor to represent that, from time to time, the Government is liable to have applications made to it through your department for concessions of one kind and another in favour of the Launceston and Western Railway Company. These applications may emanate from the Secretary of the Company acting on his own responsibility,—without previous reference to the Directory,—in cases in which the interest of the Company is so undoubted as to warrant the exercise of his discretion. In such cases the Commissioners under the Launceston and Western Railway Act may have no knowledge of these applications, and therefore cannot be compromised by them. But in those cases in which requests are preferred by previous sanction of the Directory, it is liable to be assumed that the Commissioners being *ex-officio* Directors they are concurrent parties thereto; whereas, this may not be the case, inasmuch as the Commissioners, or any of them, may have been in a minority at the Company's Board on the question referred to the Government, or they may have declined to urge an opposition which would have been useless there.

With a view therefore to obviate misapprehensions or undue responsibility, and to secure to the Executive such information and advice as may contribute to a judicious determination on any application preferred to it by the Company, I venture to suggest the expediency of referring the same to the Commissioners for their report.

I have, &c.,

(Signed)

FRED. M. INNES.

The Honorable the Colonial Treasurer.

285.

Hobart Town, 2nd March, 1869.

SIR,

ADVERTING to the correspondence between the Government and the Commissioners under the Launceston and Western Railway Act last year, in reference to the guarantee of the payment of interest on the Railway Debentures during the construction of the Line (see Parliamentary Paper No. 16, Council Journals, 1868), and more particularly to my own letter to you of the 10th July, 1868 (pp. 36-7), wherein I pointed out the defects inherent in the "undertaking" you required

before handing over the proceeds, in full, of the Debentures to the Company and Commissioners, and the precariousness of any arrangement short of the deposit in your hands of the sum required for the payment of interest,—I have now the honor again to address you.

As you are of course aware, renewed proposals were made to the Directors, &c. to deposit, on terms, part of their funds in the Treasury, wherewith the payment of interest might be secured, but these proposals have to this time been without any result;—the reason for this, I learn, being, that under the compact with the Union Bank that establishment can virtually negative any arrangement for the temporary investment of the Company's funds; with the knowledge of which fact no bank will tender for the deposit. The result is, that the security which the Government has for the payment of interest out of the capital of the Company during the construction of the Railway consists in the "undertaking" you obtained from the Company and Commissioners;—an "undertaking" which I felt it to be right to warn you would be "ineffective, if through unforeseen causes the construction of the Railway should be found in excess of what was estimated, and the Directory failing to require or obtain subscribers for the second moiety (or so much thereof as might be necessary) of the shares, the funds to the credit of the Company in the bank were exhausted."

I find that the Government has given its assent to an expenditure on the Railway involving an excess on the sum raised for its construction either by Debentures or by shares, and in these circumstances I trust that I shall be absolved from responsibility under the "undertaking" (pp. 34-5, Parliamentary Paper) referred to, if, in consequence, it be found at any future period that the Company and Commissioners are not in a position to redeem the engagements therein made.

I have, &c.,

(Signed) FRED. M. INNES.

The Hon. the Colonial Treasurer.

286.

Colonial Treasury, 8th March, 1869.

SIR,

THE last mail from England brought advices from the Consolidated Bank in London of the receipt of £9000 from the Union Bank of Australia, being the amount of interest on the Railway loan for £300,000 due on the 1st of January last; and as it is now necessary that arrangements should be made to provide for the payment of the half-year's interest due on the 1st July next, I shall be glad to hear from you by an early mail that the Directors and Commissioners have made arrangements with the Union Bank of Australia for the payment of £9000 to the Consolidated Bank in London on the 20th June next on account of this Government, to meet the half-year's interest due on the 1st of July next.

As I conclude that the Directors and Commissioners do not intend to pay into the Colonial Treasury a sufficient sum to meet the interest on the Railway loan for £300,000 during the construction of the line, I feel it my duty to call the attention of the Directors of your Company and the Commissioners to their Memorandum of the 8th July last, by which the Directors and Commissioners undertook to pay to the Consolidated Bank, London, on the 20th June and the 20th of December in each year during the construction of the line a sufficient sum to meet the interest on the Railway loan out of the proceeds of the Debentures paid over to the Union Bank. I am induced to refer to this matter at the present time in consequence of the recent application to the Executive Government to sanction an expenditure beyond the original estimate of £350,000, and also from having received from Mr. Innes, one of the Commissioners, a letter desiring to be relieved from the responsibility under the undertaking referred to, if it be found at any future period that the Directors and the Commissioners are unable to redeem their engagement.

To prevent any future difficulty with regard to the payment of the interest during the construction of the line, I would suggest to your Directors and the Commissioners the advisability of arrangements being forthwith made with the Union Bank of Australia to set aside from the funds now in their hands the sum of £27,000 to meet the three half-years' interest falling due on the 20th December, 1869, 20th June, 1870, and 20th December, 1870. The Union Bank would no doubt be prepared to allow a liberal rate of interest on the moneys so set aside, and the landholders of the Railway District at once satisfied that no rate would be levied on their properties until the Railway was opened for traffic.

Trusting the suggestion I have made will meet with the approval of the Directors of your Company and the Commissioners,

I have, &c.,

(Signed) THOS. D. CHAPMAN.

HENRY DOWLING, Esq., Secretary.

287.

*Launceston and Western Railway Company, Limited,
Launceston, 10th March, 1869.*

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 8th instant, and which I submitted to the Board of Directors yesterday, having reference to the payment of interest on Debentures in London, in place of payment at Hobart Town on Company's bonds.

I beg to express my regret that, arising from pressure of other business, I failed to give the usual advice to you that by last mail the Directors and Commissioners transmitted an order to the Union Bank of Australia in London to pay to the Consolidated Bank the sum of £9000 (Nine thousand Pounds) to the credit of the Tasmanian Government.

I am now instructed to say that the Directors intend punctually to fulfil the obligations of the Company with reference to the interest on their £300,000 bonds.

Respecting payment of this interest in advance, I have to remind you that an answer has not yet been received to the letter addressed to you by their immediate instructions on the 27th November last, in reply to your latest communication on the same subject dated 31st October last, and by which you were advised of the willingness of the Directors to pay the interest in advance if your terms of rebate met their approval.

The conclusion, therefore, at which you say you have arrived,—i.e., "that the Directors and Commissioners do not intend to pay into the Colonial Treasury a sufficient sum to meet the interest on the £300,000 Railway loan during the construction of the line,"—I am instructed to say is not justified by any communication made on this subject; and I am now respectfully to ask your attention to their unanswered letter of the 27th of November last.

I am further to request that a copy of Mr. Innes's letter, to which your present letter refers, may be furnished for the information of the Board of Directors.

I have, &c.,

(Signed)

H. DOWLING, *Secretary.*

The Hon. the Colonial Treasurer, Hobart Town.

288.

Colonial Treasury, 13th March, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 10th instant in reply to my letter of the 8th instant.

I am glad to find that arrangements have been made by your Directors and Commissioners with the Union Bank of Australia in London to pay to the Consolidated Bank in that City, on account of the Tasmanian Government, the sum of Nine thousand Pounds to meet the interest on the Railway Loan for £300,000 due on the 1st of July, 1869.

When you advised me, on the 5th September last, of the arrangements made with the Union Bank of Australia for paying over £9000 to the Consolidated Bank on the 20th December, 1868, to meet the interest on the Railway Loan due on 1st January, 1869, you were good enough to forward copies of the correspondence that had passed between your Directors and Commissioners and the Manager of the Union Bank of Australia in Launceston on the subject, by which I was enabled to advise the Manager of the Consolidated Bank in London of the precise arrangements that had been made for the payment of the £9000 on the date referred to: may I request that you will be good enough to furnish me by an early mail with copies of any similar correspondence that may have passed in reference to the payment of £9000 to the Consolidated Bank on the 20th June next, to enable me to advise the Manager of that Bank by the next out-going mail for London that such payment will be made to them by the Union Bank of Australia for account of this Government.

With regard to future payments of interest on the Railway Loan, I learn with satisfaction that your Directors have instructed you to say, that they intend punctually to fulfil the obligations of the Company in reference to the interest on their Bonds for £300,000.

May I request you to convey to your Directors my assurance that I never for one moment doubted their intentions in reference to the payment of the interest on their Bonds; but as the Memorandum signed by your Directors and Commissioners on the 8th July last provided for the payment of interest (during the construction of the Line) out of the proceeds of the Debentures paid

over by the Government to the Union Bank of Australia, I felt it my duty, in the interests of the Landholders and the Government, to suggest to your Directors and the Commissioners the advisability of arrangements being forthwith made with the Union Bank of Australia to set aside the sum of £27,000 as a fixed deposit at interest to meet the half-yearly interest on the Railway Loan due on the 20th December, 1869, 20th June, 1870, and 20th December, 1870. I stated, moreover, that I was induced to urge this matter on the consideration of your Directors and the Commissioners from the fact of the Executive Government having been asked to sanction an expenditure beyond the original estimate of £350,000, and also from the fact of Mr. Innes, one of the Commissioners, having requested to be relieved from the responsibility under the undertaking signed by your Directors and the Commissioners on the 8th July, 1868; and I again beg to urge on your Directors and Commissioners the great importance of placing this matter on a satisfactory footing before other claims upon the proceeds of the Debentures in the Union Bank render it impossible to comply with the undertaking given to the Government on the 8th July, 1868.

With reference to my letter of the 31st of October last, and yours of the 27th November in reply, I have to state that, as I found it impossible to get an offer from the Banks to allow interest on such sum as you might pay over to the Colonial Treasury, and as I understood from one of the Commissioners that, when the question was under the consideration of your Directors, the Solicitors of your Company had expressed an opinion that the Company could not dispose of its funds in the way contemplated without the concurrence of the Union Bank, I allowed the matter to stand over until I heard from you again on the subject; and, as the Government are not in want of the funds, it appears to me, under all the circumstances, better that your Directors and Commissioners should arrange with the Union Bank of Australia to pay the half-yearly interest over to the Consolidated Bank in London during the construction of the Railway, and as I understand it is scarcely probable that other funds of the Company will be available during the year 1870 for the payment of interest on the Railway Loan, I trust the suggestion I have made will meet with the favourable consideration of your Directors and the Commissioners.

In compliance with the request made by your Directors to be furnished with a copy of the letter addressed to me by Mr. Innes, on the 2nd instant, I beg to forward a copy of the same herewith.

I have, &c.,
(Signed) THOS. D. CHAPMAN.

H. DOWLING, Esq., Launceston.

289.

MEMORANDUM.

Colonial Treasury, 15th March, 1869.

THE Colonial Treasurer forwards herewith all correspondence between the Directors of the Launceston and Western Railway Company and this Department in reference to an application for the use of a portion of the Western Swamp, Launceston, for Railway purposes.

The Colonial Treasurer desires to call the particular attention of the Surveyor-General to the letter from this Department, dated 24th February, 1869, by which he will observe the terms on which the Government are willing to permit the land in question to be occupied until Parliament shall have an opportunity of dealing with the subject.

The letter of the Secretary of the Company, dated 11th instant, in reply, with the tracing herewith, will show the Surveyor-General what the Company now require.

The Surveyor-General is hereby authorised to permit the Railway Company to occupy the land in question—as shown by the tracing herewith—on the terms named in the Colonial Treasurer's letter of the 24th February last.

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

The Surveyor-General.

(All Papers to be returned.)

H. Dowling	7th October, 1868.
"	9th December, 1868.
"	2nd February, 1869.
J. E. Calder	10th February, 1869.
Colonial Treasurer	16th February, 1869.
H. Dowling	18th February, 1869.
Colonial Treasurer	24th February, 1869.
H. Dowling	11th March, 1869.
Also, Tracing.	

*Launceston and Western Railway Company, Limited,
Launceston, 7th October, 1868.*

SIR,
I HAVE the honor to enclose diagram of land on the Western Swamp at Launceston, certified by the Engineers to the Company to be required for the purposes of the Launceston and Western Railway, and which I have the honor to request may be submitted to His Excellency the Governor in Council, and that he may be moved so to appropriate the same.

I have not been instructed by the Directors on the question of the mode of its appropriation; but I have no doubt they will be satisfied to hold this land under the terms prescribed by the late Act of the Legislature referring to the Eastern Swamp.

You are aware that former correspondence has passed on this subject; and to this I have the honor to refer you; especially to your letters of the 21st May, 1867; Mr. Innes's (as Colonial Treasurer) 20th January, 1862; and mine of the 21st May, 1868, covering a letter from Mr. Kemp, 12th November, 1867, in the Parliamentary Paper, No. 16, of the last Session of Parliament.

I have, &c.,
(Signed) H. DOWLING, Secretary.

The Hon. the Colonial Treasurer, Hobart Town.

*Launceston and Western Railway Company, Limited,
Launceston, 9th December, 1868.*

SIR,
I HAVE the honor respectfully to beg your attention to my letter of the 7th of October last, respecting the land on the Western Swamp at Launceston, required for the purposes of the Launceston and Western Railway.

I am advised that in a short time rails and other plant and materials will be in the course of landing from Melbourne and England; and that very considerable preparation will be required at the part of the river which bounds the land in question, to facilitate their landing directly on the Company's works.

Other considerations also weigh with the Directors inducing them to urge an early settlement of this question.

I have, &c.,
(Signed) H. DOWLING, Secretary.

The Hon. the Colonial Treasurer, Hobart Town.

*Launceston and Western Railway Company, Limited,
Launceston, 2nd February, 1869.*

SIR,
I HAD the honor, on the 9th December last, to request your attention to the letters of the Directors of this Company with reference to a grant of land reserved for the use of this Railway in the Western Swamp; and I am now instructed to assure you that any further delay in the settlement of this question may be attended by serious inconvenience and loss to the Company.

The advices from London, just received, respecting shipments of rails and other heavy plant which should be landed at the spot indicated, require the immediate erection of a suitable landing-place, from which by rail these goods can be expeditiously and cheaply conveyed to the Launceston Station.

I have therefore to request the favour of an early reply.

I am aware that the Surveyor-General is under the impression that the quantity reserved is unnecessarily large; but I have no doubt at all that very early in the operations of this Railway, without referring to the contingency of the existence of a Main Line, the ground referred to would be fully and advantageously occupied. In the neighbouring Colony of Queensland where the authorities were under the impression sufficient Station grounds had been reserved, the Railway Department are already much inconvenienced by the limited extent reserved. And, although seventy acres are occupied at the Spencer-street Station, Melbourne, alone, the space is found not too ample. It may be said that the limited traffic at Launceston renders Melbourne an unfit parallel case; but this is not so much the case, I submit, when it is remembered that the space required for the moving about of the locomotives and other rolling stock, and for the storage of timber and other goods for transit or delivery, is not to be altogether measured by the proportion of comparative business at the two places.

If, however, the Government deem it best, I beg to suggest that 20 acres be granted on the terms defined in the Act passed for land on the Eastern Swamp, and the remainder be absolutely retained by the crown as a reserve for Railway purposes. Most certainly it will all be ultimately required.

I have, &c.,
(Signed) H. DOWLING, Secretary.

The Hon. the Colonial Treasurer, Hobart Town.

Survey Office, 10th February, 1869.

SIR,

IN submitting to you a plan of a part of the Launceston Swamp, in connexion with an application made by the Launceston and Western Railway Company, Limited, for a piece of land of 31 acres 1 rood and 28 perches, colored red on the accompanying sketch, and marked A. B. C. D. ; and also for the narrow strip D. E. F. to unite their present Station-ground with the land now applied for and with their contemplated wharf (somewhere about G. H. I believe), I beg to state that if any new piece of land can be granted to the Company it cannot be in the form now applied for, as that would at once close the Esplanade, as also Dry-street, which I respectfully submit the Executive has no power to do. A glance at the sketch will show how private interests may be damaged thereby ; for all the land that was sold fronting on the intended thoroughfare—at most extraordinarily high prices—was sold on the faith of these thoroughfares being kept open throughout, and I submit that they cannot now be legally closed ; and if the Government ever gives its countenance to such arrangement, I respectfully submit that it will incur a very serious responsibility by so doing.

With regard to the proposal to run the Railway along the Esplanade, according to the red line marked with the letters D. E. F. to connect the Railway Station-ground with the land now applied for, &c. I take leave to say that I think the most that the Government should promise is not to oppose any obstruction to it, that is, if your Honorable colleague can advise you that it is not illegal. The Esplanade being under the jurisdiction of the Municipality of Launceston, it will be for that body to oppose it if any interests are damaged thereby.

The application for permission to make a Wharf somewhere about that portion of the River Tamar that I have marked with the letters G. and H. may be approved, provided that it does not interrupt the navigation of the Tamar (see 38 Section of the 27 Victoria, No. 22).

In conclusion I beg to say that I do not know under what Act of the Legislature it is sought to acquire possession of so much of this land as may be disposable ; but I do not think that the Governor has any power to make a grant of it under the 2nd or any other Section of "The Waste Lands Act," but any of it, except Dry-street and the Esplanade, may be had by auction or under "The Lands Clauses Act."

I have, &c.,

(Signed) J. E. CALDER.

The Honorable Colonial Treasurer.

Colonial Treasury, 16th February, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 2nd instant in reference to an application made by your Company for a grant of land on the Western Swamp, Launceston, for the purposes of the Launceston and Western Railway ; and in reply I have the honor of informing you that the Executive Government have no power to grant this land for the use of the Railway, and that the land referred to can only be granted to your Company for Railway purposes by the authority of Parliament, in the same way that the block of 13 acres on the Eastern Swamp was granted by Parliament during the last Session, under the provisions of the Launceston and Western Railway Act, 29 Vict. No. 24.

I have, &c.,

(Signed) THOS. D. CHAPMAN.

HENRY DOWLING, Esq., Secretary.

Launceston and Western Railway Company, Limited,
Launceston, 18th February, 1869.

SIR,

I HAVE the honor to acknowledge your letter of yesterday on the subject of the land on the Western Swamp reserved for this Railway in 1862, and now urgently required.

I beg to propose for your consideration that, under the circumstances stated, the Company shall be allowed to occupy the ground for Railway purposes, pending an application to Parliament on the subject, when it can be decided if the Company shall receive it as a grant, or pay for it under the provisions of the Lands Clauses Act, which is incorporated with the Company's Bill for the purpose. The convenience of the Company's works will thus be met without any prejudice whatever to the interests of the Crown.

I have, &c.,

(Signed) H. DOWLING, Secretary.

The Hon. the Colonial Treasurer, Hobart Town.

Colonial Treasury, 24th February, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 18th instant, in reference to your application for the use of a portion of the crown land on the Western Swamp, Launceston, for Railway purposes.

In reply I have the honor to inform you that the Government are desirous of affording every facility for the construction of the Railway, but as the Executive Government are not authorised by law to grant the Public Estate to the Railway Company, the Government will be unable to do more than authorise the Railway Company to lay down a temporary Line of Railway from the Railway allotment adjoining the bridge on the Eastern Swamp, crossing the George Town Road, and along the Esplanade on the Western Swamp to the River Tamar, on the western side of the Swamp; and also to erect such temporary wharf on the bank of the river as they may think fit; it being clearly understood that the permission to occupy the land referred to is only for a temporary purpose, pending an application to Parliament for such land for Railway purposes, on such terms as Parliament may think fit.

I return herewith the tracing forwarded to this Department on the 30th September last, showing the land applied for, and have to request you will be good enough to return the same again to this Department with a tracing showing the land you would desire to occupy for a temporary Line of Railway and Wharf until the question can be submitted to Parliament. On receiving your reply with the information required, instructions will be immediately issued to the Surveyor-General to comply with your request.

I have, &c.,

(Signed) THOS. D. CHAPMAN.

HENRY DOWLING, Esq., Launceston.

*Launceston and Western Railway Company, Limited,
Launceston, 11th March, 1869.*

SIR,

I HAVE the honor to forward herewith diagram of land on Western Swamp, returned to this Office on the 24th ultimo, the land actually necessary for wharfage and rails, for the landing of materials and conveying them to the Station ground on the Eastern Swamp, being marked over the red colour in Indian ink, barred with lines throughout as you request; and I beg respectfully to ask that the necessary instructions to the Surveyor-General may be at once given. My former letters have explained the urgency of this business.

I have, &c.,

(Signed) H. DOWLING, Secretary.

The Hon. the Colonial Treasurer, Hobart Town.

(Copy.)

Survey Department, 16th March, 1869.

SIR,

REFERRING to the correspondence which has passed between yourself and the Honorable the Colonial Treasurer on the subject of a grant of a portion of the Western Swamp, at Launceston, for Railway purposes, I have the honor to inform you that immediate possession can be taken of the land indicated in red tint on the accompanying tracing, on the distinct understanding that such possession is only for a temporary purpose, pending an application to Parliament for such land as may be required for the purposes in question.

I have, &c.,

(Signed) J. E. CALDER, Surveyor-General.

H. DOWLING, Esq., Secretary.

*Launceston and Western Railway Company, Limited,
Launceston, 16th March, 1869.*

SIR,

I BEG to acknowledge receipt of your letter of yesterday, covering a diagram of land on Western Swamp, at Launceston, and informing me that the Company may take possession of the portion indicated in red tint on that tracing, for a temporary purpose, and pending an application to Parliament respecting the land reserved for Railway purposes in 1862.

I have, &c.,

(Signed) H. DOWLING, Secretary.

E. BOOTHMAN, Esq., Dep. Commissioner Crown Lands.

*Launceston and Western Railway Company, Limited,
Launceston, 16th March, 1869.*

SIR,

I HAVE this morning received your letter of the 13th instant, which I will submit to the Directors to-day.

Meantime, that not a post may pass without attention to your request for copies of correspondence referred to, I have the honor to forward them herein.

You will find that they are in fact fac-similes of those of September last.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Hon. the Colonial Treasurer, Hobart Town.

ENCLOSURES.

1. Letter to Union Bank, Launceston.
2. Letter to Mr. Sale, forwarding same.
3. Mr. Sale's acknowledgment.

(Copy.)

*Launceston and Western Railway Company, Limited,
Launceston, 24th February, 1869.*

SIR,

WE have to request that you will cause to be paid to the Consolidated Bank in London, to the credit of the Tasmanian Government, on the 20th June next, the sum of nine thousand pounds (£9000) out of the moneys at the joint credit of the Launceston and Western Railway Company and the Commissioners in your London Office, and charge the same to that account.

We are, &c.,

(Signed)

W. S. BUTTON, *Chairman.*

HENRY DOWLING, *Secretary.*

THEODORE BARTLEY, } *Commissioners.*
S. V. KEMP, }

Manager of the Union Bank of Australia, Launceston.

(Copy.)

*Launceston and Western Railway Company, Limited,
Launceston, 24th February, 1869.*

DEAR SIR,

ENCLOSED you will find the authority from the Company and Commissioners for the transfer, in London, of the usual half-yearly payment of £9000 (nine thousand pounds) to the credit of the Government of Tasmania with the Consolidated Bank, London, and to which I beg to ask your usual attention.

I have, &c.,

(Signed)

H. DOWLING, *Secretary.*

J. T. SALE, *Esq., Union Bank of Australia, Launceston.*

(Copy.)

Union Bank of Australia, Launceston, 25th February, 1869.

DEAR SIR,

I AM in receipt of your favour of the 24th instant, enclosing letter from the Directors and Commissioners of the Launceston and Western Railway Company, requesting that I would cause to be paid out of the funds now to their credit with our London Office, on the 20th June next, the sum of £9000 (nine thousand pounds) to the Consolidated Bank of London, to be placed to the credit of the Tasmanian Government.

In reply I beg to inform you that by the outgoing Mail I will request our London Office to make the required payment.

I have, &c.,

(Signed)

JOHN T. SALE, *Manager.*

H. DOWLING, *Esq., Secretary Launceston and Western
Railway Company, Launceston.*

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291.

Colonial Treasury, 18th March, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 16th instant, which came to hand this morning, with copies of the correspondence between your Company and the Commissioners and the Manager of the Union Bank of Australia, Launceston; in reference to the payment of £9000 to the Consolidated Bank in London, on the 20th day of June next, to meet the half-year's interest on the Railway Loan due on the 1st of July next, for which I am obliged.

I have, &c.,

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

H. DOWLING, *Esq., Secretary Launceston and Western Railway Company, Launceston.*

292.

*Launceston and Western Railway Company, Limited,
Launceston, 18th March, 1869.*

SIR,

I SUBMITTED to the Directors, at their usual weekly meeting on the 16th, your letter of the 13th instant.

I am directed to reply, that they regret to find that the Government do not require the use of the money proposed; and that you, therefore, suggest the advisability of arrangements being forthwith made with the Union Bank of Australia, in London, to set aside the sum of £27,000 (twenty-seven thousand pounds) as a fixed deposit at interest, to meet the half-yearly interest on the Railway Loan, due 20th December, 1869; 20th June and 20th December, 1870.

I have the honor to advise you that the Bank Account in London is now at a satisfactory interest, and that there does not appear to the Directors any reason why it should be disturbed.

It is to be regretted that Mr. Innes should have addressed you in the terms of his letter of the 2nd instant, with reference to the "undertaking," signed by the Company and Commissioners, on the 8th of July, 1868; for it is certain that document cannot prove ineffective, unless by the default of the Commissioners themselves.

With regard to the Company's arrangement with their bankers, I take the liberty most confidently to assure the Government, that it could not have operated against the payment of interest on the Company's Bonds, in advance, under rebate, could the Government have accepted these moneys on such terms. I state this on the authority of the Manager of the Bank; though it is clear from the arrangement itself.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Hon. the Colonial Treasurer.

293.

*Launceston and Western Railway Company, Limited,
Launceston, 27th July, 1869.*

SIR,

I HAVE the honor to advise you that the Directors have instructed me to make arrangements for placing £18,000 at the disposal of the Tasmanian Government with the Consolidated Bank, London, for the payment of interest on Debentures, on the terms set forth in the Telegram from you just received.

I will have all the necessary papers prepared in sufficient time for your despatches by the next overland.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Hon. the Colonial Treasurer, Hobart Town.

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294.

Tasmania,

Colonial Treasury, Hobart Town, 28th July, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of yesterday's date, in which you inform me that the Directors of your Company have instructed you to make arrangements with the Union Bank of Australia for placing the sum of £18,000 to the credit of this Government at the Consolidated Bank, London, in accordance with the terms named in the Telegram I forwarded to you yesterday, which will be very satisfactory.

I take note that you will furnish me with copies of the correspondence that may pass between the Company and the Union Bank of Australia on the subject of the proposed arrangement in good time for transmission to the Consolidated Bank, London, by the out-going mail.

I have, &c.,

(Signed)

THOS. D. CHAPMAN.

HENRY DOWLING, Esq., Secretary.

295.

Office of the Commissioners of the Launceston and Western Railway,
Launceston, 27th July, 1869.

SIR,

IN reference to previous correspondence which we have had the honor of holding with you regarding the payment into the hands of the Government before it became due of the interest on the Railway Debentures, we have the satisfaction of acquainting you that a proposal to that effect was initiated in the Board to-day and generally acquiesced in, the expediency of this course being strongly urged in connection with the prospective occasion of the Company resorting to Parliament for the aid necessary to complete the Railway, &c. The proposal did not emanate from the Commissioners but originated with the Secretary, the inducements for its adoption being urged by Directors.

The matter will be brought before you in detail by the Secretary of the Company.

We have, &c.,

(Signed)

SAML. V. KEMP.

FRED. M. INNES.

The Hon. the Colonial Treasurer.

296.

BY ELECTRIC TELEGRAPH.

27th July, 1869.

IF the entire amount of interest is paid to the account of Government Consolidated Bank, will the full interest allowed by that Bank be allowed Company and Commissioners by Government? Let me have reply at once.

(Signed)

H. DOWLING, Launceston.

The Hon. Colonial Treasurer.

297.

TELEGRAM.

Colonial Treasury, Hobart Town, 27th July, 1869.

IN reply to your Telegram just received, I have to state that, in the event of the Railway Company paying over to the credit of this Government at the Consolidated Bank in London the sum of £18,000 to meet the interest on the Railway loan falling due in the year 1870, the Government will undertake to pay over to the Railway Company and Commissioners all interest that may be allowed on such deposit by the Consolidated Bank until it is required to be used to meet the half-year's interest on the Debentures due in London on the 1st of January and the 1st of July next.

(Signed)

THOS. D. CHAPMAN.

HENRY DOWLING, Esq., Secretary.

*Launceston and Western Railway Company, Limited,
Launceston, 28th July, 1869.*

SIR,

I HAVE the honor to state for the information of the Government,—in continuation of my letters to the Honorable the Colonial Secretary, on the question of additional capital required,—that, from the more matured information now before the Directors, I am enabled to advise the Government the items comprised in the sum of money (£60,000) which it will be desirable to raise; and for this purpose I beg to enclose to you a paper prepared by me by direction of the Board, and read at their meeting yesterday.

I have, &c.,

(Signed)

H. DOWLING, *Secretary.*

The Hon. the Colonial Treasurer.

MEMORANDUM.

TOTAL Amount of Money required to open the Line, and to provide extra Rolling Stock and Stations.

	£
In London : comprising total Contracts taken for permanent way, girders for Longford Viaduct, Locomotives, (2), Carriages, and Trucks, Freight, Commissions, and Insurance	85,000
Cost of Land, and Lay expenses on both sides, tenants' compensation, &c., say.....	15,000
Stations estimated at.....	4000
Interest on Debentures for 2 years, from 1 July, 1868, to 1 July, 1870	36,000
Slopes required in cuttings where the banks will not stand	12,000
Telegraph throughout, recommended as necessary for safety and economy	2000
Staging for erection of Longford girders; Contract £2900, the timber being after use the property of the Company	2500
Extra Gates, to meet demands for accommodation crossings in excess of those provided in Contract, say	1000
Cartage of Bridge girders to Longford from Launceston	1000
Melbourne freight and wharfage with commissions for transhipments from London ships	3000
Office and Commissioners' Expenses	5000
Amount expended prior to signing of the Contract	6830
Engineering; but of this sum the Company receive back in payment for 250 shares..	14,000
Overend and Robb's Contract exclusive of maintenance for one year	194,218
Contingencies.....	5452
	<u>£387,000</u>
In addition to this sum the Engineers recommend the following additional Rolling Stock, to give efficiency and economy to working of the Line:—	
	£
2 Locomotives	5500
5 Carriages	2500
40 Trucks, &c.....	5500
Add to Stations Shops, &c.....	5000
Contingencies	4500
	<u>23,000</u>
	<u>£410,000</u>

Colonial Treasury, Hobart Town, 29th July, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of yesterday's date, with detailed estimates of the probable cost of the Launceston and Western Railway until the time it is open for traffic, amounting to the sum of £387,000; in addition to which I notice that the further sum of £23,000 will be required for additional Rolling Stock, &c., bringing up the cost of the Line when complete and in full working order to the total sum of £410,000.

As the sum now estimated for completing the work is in excess of the amount formerly named by the sum of £60,000, I shall be glad to be informed, for the information of the Government, what arrangements are contemplated by your Directors for raising the additional amount required.

I have, &c.,

(Signed)

THOS. D. CHAPMAN.

HENRY DOWLING, *Esq., Secretary.*

300.

*Launceston and Western Railway Company, Limited,
Launceston, 3rd August, 1869.*

SIR, I HAVE the honor to inform you that the Directors and Commissioners have directed the Manager of Union Bank of Australia here to arrange with the London Office the transfer of £18,000 (eighteen thousand pounds) from the account of Company and Commissioners there to the account of the Tasmanian Government at the Consolidated Bank, London; and the Manager assures me, by letter dated yesterday, it shall be duly notified to the London Office by the outgoing mail.

The said sum will be paid to said account on or before the 20th November next, and will thus provide for due payment of interest on Coupons due 1st January and 1st July, 1870, upon the terms specified in your telegram of the 27th ultimo.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Hon. Colonial Treasurer, Hobart Town.

(Copy.)

*"Launceston and Western Railway Company, Limited,
July 29th, 1869.*

SIR, WE have to request that you will cause to be paid to the Consolidated Bank in London, to the credit of the Government of Tasmania, on or before the 20th November next, the sum of £18,000 (eighteen thousand pounds), out of the moneys at the joint credit of the Launceston and Western Railway Company and Commissioners, in your London Office, and charge to that account.

"We have, &c.

(Signed) "W. S. BUTTON, *Chairman.*

"H. DOWLING, *Secretary.*

"S. V. KEMP,

"THEODORE BARTLEY, } *Commissioners.*

"Manager Union Bank Australia, Launceston."

(Copy.)

"Union Bank Australia, Launceston, 2nd August, 1869.

DEAR SIR,

"I AM in receipt of your favour of the 29th ultimo, enclosing authority for the transfer (in London) of £18,000 from your Company and Commissioners' account with our London Office to the credit of the Tasmanian Government, on or before 20th November next, which shall be duly notified to our London Office by the outgoing mail.

"I have, &c.,

(Signed) "JOHN T. SALE.

"H. DOWLING, *Esq., Secretary.*"

301.

*Launceston and Western Railway Company, Limited,
Launceston, 18th August, 1869.*

SIR,

SINCE I had the honor of addressing you on the 28th ultimo, with an approximate estimate of the amount required to complete the Railway, and the further amount which it would appear very desirable should be expended on rolling-stock and stations, to render the working of the line more effective, and consequently economical, forming, together with a contingent sum of £5400, a general total of £60,000, it has been suggested to the Directors, as likely to be acceptable to the Government and to Parliament, that provision shall be made by loan for a further payment of 6 or 12 months' interest on the coupons of Government Debentures for the original sum of £300,000, and also for the cost of maintenance by the Contractors for 12 months after opening,—omitted in the estimate sent, but forming a part of the contract with Messrs. Overend and Robb.

This question has been under consideration by the Directors; and, with the view of these additional sums being included in the application to Parliament, it is proposed to leave the amounts blank in the Draft Bill, for future consideration and settlement in the House.

Such a provision being made, you will at once see, would effectually protect the public Treasury from a probable payment of interest, and consequent assessment of, and levying a rate upon, the district, which otherwise may be rendered necessary during early operations—before the development of traffic will have rendered the contingency improbable; would provide, in fact, for the payment of interest in advance, on terms which might be arranged similar to those under which payment has been made of interest due in January and July, 1870; and would, therefore, I trust, receive the sanction of the Government.

Should such a provision prove to be acceptable to the Parliament, the approximate estimate forwarded on the 28th ultimo will have to be dealt with as follows:—

	£
Taking the total Estimate of.....	60,000
Less contingency of	5,400
	<u>£54,600</u>
And add for one year's maintenance to Contractors at.....	£6,453
One year's interest at 6 per cent. on £300,000	18,000
Timber in Longford staging	400
	<u>£24,853</u>
Say £80,000.	<u>£79,453</u>

Mr. Douglas has kindly undertaken the preparation of a Draft Bill, which will be ready for the ensuing Session of Parliament.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Honorable the Colonial Treasurer, Hobart Town.

ADDITIONAL CORRESPONDENCE WITH THE HONORABLE THE
COLONIAL SECRETARY.

302.

Colonial Secretary's Office, 23rd July, 1869.

SIR,

I HAVE the honor to forward for your perusal the accompanying letter of Mr. Bartley, under date the 17th instant, and to request that the same may be returned to this Office at as early a date as possible, with the view to its being printed with the other correspondence relating to the same subject.

I have, &c.,

(Signed)

B. T. SOLLY.

The Hon. F. M. INNES, Esq., M.L.C., Launceston.

303.

Launceston, 26th July, 1869.

SIR,

I HAVE the honor to acknowledge your letter of the 23rd instant, with enclosed letter from Mr. Bartley of the 17th, both received this day.

Having perused the same, I think it best not to trouble you with a reply but to await the reference of questions now in dispute to a Parliamentary Committee, the appointment of which is inevitable. I therefore make no observations whatever on the advocacy of Mr. Bartley, whether as it relates to the acts of the Directory or of the Contracting Engineers. I cannot, however, allow any delay to take place in offering my rejoinder to those portions of Mr. Bartley's letter in which he seeks to disprove my statement that Mr. Kemp objected to orders being sent home for plant, &c. through the Engineers and that I supported him therein, and that we were both over-ruled, and an "unbusiness-like" arrangement instead adopted. On that point I have asked Mr. Kemp to give his recollection of what passed on the occasion, and which I transmit herewith.

It is scarcely necessary for me to say that the Directory having as a general rule resolved that the Engineers should transmit orders in detail for plant, without their communications passing under the review of the Board, it would have been a mere waste of time to divide the Board on every occasion on which an order had to be sanctioned or an authority given.

I have, &c.,

(Signed)

FRED. M. INNES.

The Hon. the Colonial Secretary.

I have to add that communications have been received from time to time from England, in which reference has been made to letters from this of the tenor of which neither we nor the Board had any previous knowledge, and when explanations have been required both Commissioners and Directors have been silenced by being told that they related purely to professional questions between Mr. Doyne and Mr. Hemans.

MEMORANDUM.

AFTER the Contract was entered into with Messrs. Overend and Robb, the Engineers applied to the Directory for authority to order the necessary plant from England. I informed the Directors that the usual and most business-like course was, that all such orders should emanate from the Directory through the Secretary under the advice of their Engineers; and that unless the business of the Company was conducted upon those principles unsuccessful results would follow. Mr. Innes concurred in and supported these views; but so decided was the opinion among the Directory that these matters should be left to the Engineers, that I felt that any opposition on our part would be fruitless.

(Signed)

SAML. V. KEMP.

304. LAUNCESTON AND WESTERN RAILWAY COMPANY, LIMITED.

*Launceston and Western Railway Company, Limited,
Launceston, 21st July, 1869.*

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 5th July, by which I am informed that the Governor in Council will be moved to allow a further sum of £145 16s. 1d. to be expended on the slopes of certain cuttings, in addition to the sum of £6614 5s. already assented to by His Excellency.

The time having now arrived when the Engineers are enabled to measure up the slopes completed, I am instructed to ask the further assent of His Excellency the Governor to the Commissioners and Company being authorised to expend the further sum of £5239 18s. 11d., making in all the sum of £12,000 applied for by my letter of the 6th February, 1869, to be expended as may be required in flattening slopes which may be found to require this.

I have to-day forwarded to the Office of the Commissioners, in order thus to save time of reference necessary to be made to those gentlemen, further reports from the Engineer, promised by my letter of the 14th instant, in which they advise further work in this direction, but far within the above-named sum, amounting in the whole to £9308 8s., or £2548 6s. 11d. beyond the sum already allowed by His Excellency.

I again most respectfully submit the former request of the Directors, that His Excellency will be pleased to assent to the Company, with the approval of the Commissioners, being permitted to spend any sum not exceeding in the whole the sum of £12,000 on the "slopes and cuttings;" but if this cannot be advised, then I have to beg that a sum not exceeding the amount of £2548 6s. 11d. may be spent on the works enumerated in said reports, namely,—Cuttings 36. 68. 5. 6. 9. 63. 20. 22. 23 to 27, and 29 to 33 inclusive.

I am glad I can now report, in view of the actual measurements before me, that the estimate of £12,000 will be sufficient for the slopes, and also for the alteration proposed in Cutting 38 at a cost of £350.

A report on this last work is included in the papers forwarded to the Commissioners, and includes a carefully prepared diagram.

I have, &c.,

(Signed) H. DOWLING, *Secretary.*

The Honorable the Colonial Secretary, Hobart Town.

REFERRED for the consideration and report of the Commissioners of the Launceston and Western Railway.

B. TRAVERS SOLLY.

22 July, 1869.

NOTHING has occurred to induce me to alter the views contained in my letter to the Honorable the Colonial Secretary of the 5th April last. I am waiting for further information from the Directory before I can report upon the alterations now in progress in Cutting 38.

S. V. KEMP.

29 July, 1869.

305.

Colonial Secretary's Office, 22nd July, 1869.

SIR,

I HAVE the honor, by direction of the Colonial Secretary, to acknowledge the receipt of your letter of the 21st instant, and in reply to acquaint you that, in the absence of any communication from the Commissioners of the Launceston and Western Railway, your letter has been referred to them for their consideration and report.

I have, &c.,

(Signed) B. TRAVERS SOLLY.

H. DOWLING, *Esq., Secretary Launceston and Western Railway.*

Colonial Secretary's Office, 31st July, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 21st instant, in which you seek the authority of the Governor in Council for the expenditure by the Company and Commissioners of the further sum of £5239 18s. 11d., making with the amount already sanctioned the sum of £12,000 for flattening certain slopes as may be required. You also inform me that you have forwarded to the Commissioners further reports from the Engineers, in which they advise further work in this direction, amounting to £2548 6s. 11d. beyond the sum already allowed by His Excellency in Council; and, in the event of the Government not being prepared to advise the issue of the necessary authority for the larger amount, you request that the expenditure of the above-named lesser sum, namely, £2548 6s. 11d. may be approved.

Your letter was at once referred to the Commissioners, and Mr. Kemp's reply is as follows:—

"Nothing has occurred to induce me to alter the views contained in my letter to the Honorable the Colonial Secretary of the 5th April last.

"I am waiting for further information from the Directory before I can report upon the alterations now in progress in Cutting 38."

Pending the receipt of the official concurrence of the Commissioners, the subject is not ripe for submission to the Governor in Council.

I have, &c.,

(Signed) THOS. D. CHAPMAN,
For the Colonial Secretary (absent).

H. DOWLING, Esq., Secretary Launceston and
Western Railway Company.

*Launceston and Western Railway Company, Limited,
Launceston, 2nd August, 1869.*

SIR,

I HAVE the honor to ask, for the information of the Board of Directors, a copy of Mr. Kemp's letter of 5th April last (referred to in yours of the 31st ultimo, now just received), and which the Directors have not had forwarded.

Meantime, I beg to ask your attention to Mr. Commissioner Bartley's letter to the Government, upon the same question of slopes in cuttings, of the 4th of April last, a copy of which communication was, at the time, transmitted for the information of the Directors.

I have, &c.,

(Signed)

H. DOWLING, Secretary.

The Hon. T. D. CHAPMAN, Esq., pro Colonial Secretary.

Colonial Secretary's Office, 3rd August, 1869.

SIR,

I HAVE the honor to acknowledge the receipt of your letter of the 2nd instant, and to transmit herewith, as requested, a copy of Mr. Kemp's letter of the 5th April last.

I would here state for your information, that Mr. Bartley's views, as expressed in his letter of the 4th April, were fully known to the Government, but that, in the absence of the official concurrence of the professional Commissioner and one of his colleagues, the authorisation of the additional expenditure, as requested in your letter of the 21st ultimo, cannot be submitted to the Governor in Council.

I have, &c.,

(Signed)

THOS. D. CHAPMAN.

H. DOWLING, Esq., Secretary Launceston and
Western Railway Company.

*Launceston and Western Railway Company, Limited,
Launceston, 9th August, 1869.*

SIR,

I HAVE the honor to acknowledge your letter of the 3rd instant, covering copy of Mr. Kemp's letter of the 5th April last.

Mr. Kemp, as you are aware, united with Mr. Bartley in recommending the first instalment of the Engineers' estimate of £12,000 being placed at the disposal of the Company and Commissioners, but recommends the Government to withhold their assent to the second instalment, as set out in this letter of the 5th April, until they shall "have been fully advised of the amount that will be required beyond the sum authorised by the Legislature;" and yet, at the same time, he reports that the said expenditure "will be necessary before the line can be opened for traffic," but adds, that he would postpone these works "till funds have been procured for the payment of the same."

In the report by Mr. Bartley, on the 4th of April, the day before that of Mr. Kemp's report, and to which your letter refers, I find the following earnest recommendation of the application made by the Directors, which I here transcribe, as fully expressing the urgency of the case in terms more suitable than any I could hope to employ:—

Entertaining, therefore, the decided conviction that the Engineers would only order the flattening of such slopes as they may so consider absolutely necessary, and fully aware that any delay whatever in flattening of such slopes may involve great additional expense and inconvenience, by the slipping or falling in of the cuttings where such slopes are necessary, as, in some instances, has already taken place, I would again, as in a former communication on the same question, respectfully, but earnestly, recommend that the Government should *at once* authorise the Commissioners to sanction the expenditure of the balance of the said sum of £12,000, estimated for the flattening of such slopes as may from time to time prove to be necessary to ensure the safety and durability of the earthworks, which are, it may be said, the foundation of the whole undertaking, and upon which its successful completion must, in a very great measure, depend.

In the belief that when the Government gave authority for the payment of the first portion of the works, estimated at £12,000, they at the same time recognised the absolute necessity of the remainder being expended on extra slopes, from time to time ordered by the Engineers, who were the sole judges of the necessity for such works, the Directors have had no hesitation in adopting the reports of the Engineers regarding the slopes now completed; and I have most respectfully to urge on the attention of the Government the confirmation of the proceedings of the Directors, and the authorisation of the payments asked,—at least, so far as those now due to the Contractors.

The principal condition which Mr. Kemp urges as a ground of delay in April last has now been completed by the Directors,—the Government having been fully advised, in detail, of the total sum which will be required beyond the amount of £350,000 (three hundred and fifty thousand pounds).

I have, &c.,

(Signed)

H. DOWLING, *Secretary.*

The Honorable the Colonial Secretary, Hobart Town.

Railway Commissioners' Office, Launceston, 14th August, 1869.

SIR,

WE have the honor, in reference to the letter of the Secretary of the Launceston and Western Railway Company, of the 21st ultimo, relating to alterations, substitutions, deviations, and extra works which have been executed on the Launceston and Western Railway up to July, 1869, again to address you.

We refrain from troubling you with any remarks upon the detail of cost, or deduction for minor alterations, &c., &c., as we trust that any question in respect to them will be satisfactorily adjusted between us and the Company. It is right, however, that we should note the tardiness with which our repeated demands for full information have been complied with. Not until after several monthly accounts have been settled, has the Directory been made acquainted with the terms of arrangement between their Engineers and the Contractors for the Line, in respect to alterations, additions, &c., &c.; and it has been left to the Commissioners without the countenance of the Board to insist on all such matters being periodically accounted for. We hope that a similar postponement will not take place in regard to future arrangements between the respective parties referred to.

With reference to the report of the Engineers as to the alterations of gradient which they have adopted in Cutting 38, having waited to no purpose for information necessary to our reporting upon the same, we are not in a position to advise. But we would press upon the Executive the undesirableness of sanctioning a system of account by which it is proposed, on the part of the

Company, that the full cost of alterations introduced in the Line are not distinctly set forth, but are made to appear less than they really amount to, by the application to them of sums purporting to be saved in other portions of the work.

In the report of the Engineers, dated the 19th July, referring to Cutting No. 38, they state as follows:—

We have entered a stratum of wet shaly clay, which proves on exposure to be of the worst possible description; and, although the excavation is several feet above the level shown in the section, and the slopes have been removed to a ratio of $1\frac{1}{2}$ horizontal to 1 vertical, a serious slip has already occurred, and it is to be feared that more will follow as we get deeper,—the full depth of which is unknown. Under these circumstances we have considered the desirability of raising the gradient to 1 in 50, by which means we shall leave about 12 feet of excavation in the cutting, and the future trouble of maintaining the sides will undoubtedly be diminished, although they will require attention from time to time for some years before their permanent stability can be assured. Against this we have to set the disadvantage of making a gradient of 1 in 50; but for so short a length we do not consider this a serious objection, and it is well within the power of the engines ordered for the Line.

We desire to arrest the attention of the Executive to the admission of the Engineers that, by the method they propose, what they call “attention” will be necessary “from time to time for some years before the permanent stability of the sides can be assured.” As previous correspondence shows, we have not admitted the estimate of the Engineers to be sufficient for the cost of amending the slopes as provided in their original plan, and which it has been found necessary to rectify, but have contended that it would greatly exceed their estimate. That opinion we take this opportunity of reiterating; and we submit that it will not be refuted by the *immediate* outlay approximating rather to the estimate of Messrs. Doyné and Company than to what we have given. Postponement is not diminution of cost, and “attention from time to time for some years” signifies expenditure for some years after present contracts of one kind and another have been completed and settled for.

We have, &c.,

(Signed)

SAML. V. KEMP.
FRED. M. INNES.

To the Honorable the Colonial Secretary, Hobart Town.

311.

*Launceston and Western Railway Company, Limited,
Launceston, 17th August, 1869.*

SIR,

I HAVE already had the honor to acknowledge your letter of the 3rd instant, covering a printed copy of Mr. Kemp's letter of the 5th April, for which I had applied on the 2nd instant.

On the back of this paper is a copy of another letter by Mr. Kemp and Mr. Innes, of the 23rd April, which has not been before the Directory, on the subject of their refusal to unite with the Directors in a Letter of Credit in favour of the London Agents, and which the Board were desirous should be transmitted to London.

The substance of the Resolution, you will see, to be this—“That the refusal of the Commissioners to unite in the Letter of Credit in favour of the London Agents, determined upon as being necessary by the Directors, was an undue interference with the management of the Company's affairs unwarranted by any powers vested in the Commissioners by the Act under which they hold their appointments;” and I respectfully submit that the communication made by Mr. Innes and Mr. Kemp on the 23rd April offers no valid reasons whatever for withholding such approval to the transmission of this credit which had been decided upon as necessary to be at once made by the Directors and one Commissioner.

The statement that “excesses which called for so large a credit on the funds of the Company in London” were incurred without the previous sanction of Directors, had it been strictly correct, would not have been any justification for thus jeopardising the credit of the Company in London, and which the refusal of Messrs. Kemp and Innes clearly involved. The fact is, however, that the orders necessitating this credit had been transmitted with the full approval of the Directors, and the contracts had been taken in a spirit of confidence in the commercial integrity of the Directors, and it was imperative that they should reciprocate this confidence by prompt provision of the necessary funds; and I repeat, there was no valid ground whatever for the refusal of Messrs. Innes and Kemp to this credit then going forward.

The sum originally estimated for expenditure by the London Agents, as you must be aware from the correspondence, amounted to £59,650. This did not include rolling stock, freights, or commissions. Subsequently to this estimate, it became obvious that a considerable saving might be effected by paying these in London, and having the rolling stock built there, and it was calculated

that £30,000 should be provided in addition to the £50,000 already sent. The orders were sent forward, from the first to the last, with the full knowledge and concurrence of the Directors, as already stated.

It was under these circumstances that the resolution complained of by Mr. Innes and Mr. Kemp was adopted. A subsequent communication from London, dated 25th March last, showed that the total credit required was £85,000; namely—£69,733 13s. for contracts taken, and £15,000 freight, &c.=£84,733 13s.; and a further credit of £15,000 had then to be remitted to London, and was so remitted.

These facts, I submit, substantially prove that the resolution of the Directors was justifiable, and that the interference of the Commissioners was calculated to result as indicated in such resolution; and I now submit that an excess of some £8000 on the original estimate of cost offered no excuse for an injury being inflicted on the credit of the Company, and which could not have been sustained by the Company without a direct injury to the credit of the Colony, and of vexatious annoyance to the London Agents, the risk of which was thus incurred.

I have, &c.,
(Signed)

H. DOWLING, *Secretary.*

The Honorable the Colonial Secretary, Hobart Town.

(Copy.)

*Launceston and Western Railway Company, Limited,
Launceston, 23rd March, 1869.*

GENTLEMEN,

I AM instructed, as you are aware from having been present at the Board to-day, to urge upon your attention the importance of an immediate decision being communicated to me on the subject of providing by this Mail to London a further credit in favour of Mr. Terry and Mr. Hemans of £30,000 (thirty thousand pounds).

I respectfully remind you that there can scarcely be room for doubt that, long before any decision of Parliament can be known on the question submitted by the Directors to the Government referring to a further loan, the whole of the contracts, insurance, commissions, and considerable amount of freight, will be overdue in London.

I therefore, on behalf of the Company, beg again to urge that, at least, the nominal credit of £30,000 should be advised at once.

You are aware that the Agents have shown most thorough, and I might say, in view of the shortness of their credit, most unusual confidence in the gentlemen composing this Directory; and I trust you will be of opinion that the present vote of the Directors is but a fair mercantile reciprocation of this confidence.

The credit can affect the public interest only favourably. It can be in no way injurious to leave over the consideration of future local obligations to the period when the Parliament has under consideration the application I have referred to, and to provide at once against the possibility of any default in prompt payments in London. The delay which has already occurred in this matter may have made such a contingency a reality.

As you are aware next Friday is Good Friday, and the London Mail closes Saturday, so I have only to-morrow and Thursday open for arranging the necessary correspondence. I therefore respectfully beg an answer as early to-morrow as possible.

I have, &c.,
(Signed)

H. DOWLING, *Secretary.*

The Railway Commissioners, Launceston.

312.

Railway Commissioners' Office, Launceston, 18th August, 1869.

SIR,

REFERRING to the Letter addressed to your predecessor of the 3rd ultimo, wherein one of us (Mr. Kemp) advised the Government on the subject of the staging for the erection of the iron-work of the Longford Viaduct, we have now the honor, as the Law directs, to report that, the Executive having sanctioned the payment of £2915 for that object, a contract has been made for the same with Messrs. Overend and Robb, and duly submitted to us.

The amount, it will be seen, is £915 above the estimate of the Engineers, an excess arising out of the substitution of a Bridge of 744 tons weight or one of 204 tons weight, as originally submitted to the Commissioners in such estimate.

We further beg to mention, that Tenders having been duly called for by advertisement for this work only two were sent in; viz.—Messrs. Overend & Robb, for £2915, and Messrs. Beadle, Mowall, & Co., Melbourne, £1998. The Tender of the latter was rejected in consequence of their inability to furnish the security demanded by the Directory; viz. £1000 cash, or an approved bond of £2000.

The erection of this scaffolding is progressing satisfactorily, and will, in our opinion, be completed by, or very nearly, the time named in the specification.

We have, &c.,

(Signed)

SAML. V. KEMP,
THEODORE BARTLEY.

The Hon. Colonial Secretary, Hobart Town.

313.

Railway Commissioners' Office, Launceston, 20th August, 1869.

SIR,

As I learn that some misapprehension exists upon the point that I had the honor of addressing to your predecessor on the 5th April last and 3rd ultimo, relative to the further expenditure required by the Company for flattening slopes, &c. I have now the honor to repeat, that the whole of the subscribed and debenture capital of the Company is absorbed by existing engagements, and the Company now seek the authority of the Governor in Council to expend a further sum, which will be an excess beyond the amount of such capital; and if authority is given for such excess it will have to be paid out of the funds so absorbed by existing engagements, and now lying in the Bank to the credit of the Company and Commissioners.

Should the Governor in Council be pleased to sanction the payment of the amount now required by the Company, I trust that by my uniting in signing cheques for such excesses, of which I disclaim the responsibility, that I shall be held harmless for signing for such excesses authorised beyond the sum of £350,000.

And with respect to the proposed expenditure for the alteration of the gradient at cutting and embankments No. 38, respectively, I am not in a position to report thereon until I am furnished with the cost of the extra land required for such alterations; and even when such information is furnished as I require, it will be my duty to point out to the Government that the alterations as proposed in the cutting and embankment will not be properly represented as costing only £350, but in addition thereto the sum saved by the alteration, which viewed by itself is unquestionably not advantageous, and I deprecate the system proposed whereby the saving of a work at one portion of the Line is used as a set off against an excess at another portion of the Line.

And further, as I have already done, in conjunction with Mr. Innes, it would, as affecting the cost, be my duty to insist that the course proposed by the Engineers is one by which outlay is postponed, "attention from time to time for some years" being only a form of expression for recurring expense in future years.

I have, &c.,

(Signed)

SAML. V. KEMP.

The Hon. Colonial Secretary, Hobart Town.

314.

MINUTE PAPER FOR THE EXECUTIVE COUNCIL.

Colonial Secretary's Office, Hobart Town, 21st August, 1869.

SUBMITTED,

THAT the Launceston and Western Railway Company be authorised to expend the sum of £2548 6s. 11d. in flattening the Slopes in the Cuttings numbered 36. 68. 5, 6. 9. 63. 20. 22. 23 to 27, and 29 to 33 inclusive,—this sum being in addition to the sum of £6614 5s. already assented to.

Upon the necessity for the expenditure of the above-named additional sum the Engineers have reported, and such Report has been laid before the Commissioners, who concur in the expenditure, but point out that it will cause an excess over and above the sum of £350,000 provided for the construction of the Railway.

JAMES MILNE WILSON.

315.

BY ELECTRIC TELEGRAPH.

THE Governor in Council approves of the expenditure of Two thousand five hundred and forty-eight Pounds Six Shillings and Eleven Pence (2548 6s. 11d.) for flattening Slopes in Cuttings Nos. 36. 68. 5. 6. 9. 63. 20. 22 to 27, and 29 to 33 inclusive. I will send letter by Monday night's mail.

J. M. WILSON.

H. DOWLING, *Esq., Launceston.*

316.

Colonial Secretary's Office, 23rd August, 1869.

SIR,

WITH reference to your letter of the 21st ultimo, seeking the authority of the Governor in Council for the expenditure of a further sum of £5239 18s. 11d. to be expended as may be required in flattening Slopes upon the Launceston and Western Line of Railway; and, failing to obtain authority for this amount, that a sum not exceeding £2548 6s. 11d. be sanctioned for the above purpose in Cuttings numbered 36. 68. 5. 6. 9. 63. 20. 22 to 27, and 29 to 33, inclusive, I have the honor to inform you that the Professional Commissioner having signified his concurrence in such expenditure, so far as relates to the engineering necessity for the works, while at the same time exonerating himself from any responsibility on account of such expenditure being in excess of the amount for which it was reported that the Railway could be opened for traffic, the Governor in Council has been pleased to sanction the smaller amount, namely, £2548 6s. 11d. being expended upon the Cuttings above mentioned.

With regard to the proposed alteration in Cutting No. 38, Mr. Kemp states that he is still awaiting further information before he can furnish his Report to the Government.

I have, &c.,

(Signed) JAMES MILNE WILSON.

H. DOWLING, *Esq., Secretary Launceston and
Western Railway Company.*

ADDENDA TO THE LAUNCESTON AND WESTERN RAILWAY CORRESPONDENCE.

ENCLOSURES accompanying Letter 177, page 61.

*Launceston & Western Railway Engineers' Office,
Launceston, Tasmania, 17th March, 1869.*

DEAR SIR,

WE beg to acknowledge the receipt of your letter, dated 1st instant, enclosing a letter from the Honorable Colonial Secretary of 12th ultimo, and Copy of Commissioners' letter enclosed therein, to which we now beg to reply, so far as they refer to our Department.

The question of the payment for flattening slopes, we understand by your letter of the 2nd instant, has now been disposed of by the decision of the Government, and therefore does not require any remark from us.

We are unable to give any further particulars respecting the approximate estimate of £2000 for staging at the Bridge across the South Esk River at Longford. In order to fix the entire responsibility of the character of this temporary structure on the English Contractor, he is required to provide his own design, to which we shall have to work; and he has been supplied with a section of the River and approaches for this purpose.

This was necessary, that the Company should in no way run the risk of releasing the Contractor from obligations imposed by his Contract. Until, therefore, these drawings have arrived to our hands we can do no more than offer an approximate estimate of the cost.

With reference to the iron work for the Longford Viaduct, we believe we have already furnished to the Board all the information in our possession.

The estimate of 200 tons weight was supplied late in 1867,—long before we had determined upon bridging the River on the principle now adopted. We then thought it might be done with shorter spans, and consequently with very much less weight of iron in the superstructure; but on fuller study of the whole question we considered it desirable to execute it on the present designs, which involve a greater cost for the ironwork, but largely reduced that for piers and abutments.

Mr. Kemp was acquainted with these designs long before the Contract with Messrs. Overend & Robb was let, or any orders sent home for iron work. Under these circumstances it did not occur to us to be necessary to call the attention of the Government to the fact that the work could not be done with the weight before named. If necessary at all, it was clearly the duty of Mr. Kemp to call the attention of his colleagues to this patent fact, that *they* might advise the Government as they thought best.

In our estimate dated 16th July, 1868, we omitted the cost of erection by an oversight; and this accounts for a portion of the discrepancy between that estimate and the Contract that has been let in London. The condition we inserted into the Contract requiring the erection of the ironwork in this Colony by the English builder has, no doubt, added to the amount of this Contract; but it probably will prove in the end to be a great saving. After careful consideration we arrived at the conclusion that this course was the strongest guarantee we could obtain for the excellence of the work; in fact, coupled with the clauses for three months' maintenance, and testing the work at the risk and cost of the Contractor, to be the only safe means by which we could thoroughly fix the responsibility upon him.

It is easy to be seen that if the English Contractor were released from all responsibility, and paid for the work when delivered in England, it would be his interest to go to as little expense and trouble as possible in the preparation of the work; while by the course which has been adopted it becomes his interest to prepare the work in the best possible manner, since by doing so he will the sooner receive the balance due to him, and will save the cost of doing a large amount of work in the Colony at Colonial prices.

Again, the Contract sum is smaller by having included in it the freight and insurance, which were formerly entered under another head of the general estimate.

Taking all the circumstances into account, we respectfully submit for the consideration of the Honorable Colonial Secretary and the Board of Directors, that, with the exception of our omission of the cost of erection, no important error has been made by us; and as to the causes which led to that omission we desire to give the following explanation:—

Our estimate of the cost of materials to be ordered from England was £60,000. This was carefully compiled in Melbourne, and reported to the Secretary on the 16th July, in the bulk sum only. On the same day, after letting the Contract to Messrs. Overend & Robb, we were requested to furnish immediately the details of the amount. We had no notes by us to aid our memory; consequently all we could do was to distribute the amount over the different items to the best of our recollection. This was done very hurriedly; and hence the discrepancies between the various items.

We hope these explanations will prove to the Government that these matters have been laid before them in an unfair and exaggerated manner: and we respectfully submit, that the fair and reasonable way to look at the question is,—our bulk sum estimate of £60,000 for purchases in England has been exceeded at most by about £8000; and a portion of that excess is due to the rise in the price of iron between the time when our estimate was made and the orders were given.

We cannot close this communication without calling attention to a paragraph in Mr. Kemp's letter in which he says:—"The cost of the Viaduct appears to me so exorbitantly high that I fear some egregious mistake has occurred, either by the Surveyors who were employed by the competing Tenderers in England to take out the quantities, or by the Designers of the Viaduct in making it nearly four times heavier than there was any occasion for."

We cannot refrain from characterising this insinuation as it deserves, namely—reckless and untrue: reckless with reference to the London Surveyors, and utterly untrue as regards ourselves. Until we have completed checking the quantities, we cannot say that the London Surveyor has or has not made some mistake; but we can state most positively that no such error as that indicated by Mr. Kemp, or anything approaching to it, has been made; and that the assertion that this Bridge could be constructed with one-fourth of the material must spring from one of two causes,—either that Mr. Kemp is ignorant of the requirements of such a structure, or that he has attempted to mislead the Government.

For ourselves, as the Designers, we may be permitted to state that we are perfectly and minutely conversant with all the principles and practice which guide the designing of such structures,—that this design has been prepared with the greatest attention to economy consistent with efficiency,—and that there is no unnecessary material shown on our drawings. A reference to the Minutes of the Institution of Civil Engineers of London will show that one of us at least has taken a prominent part in designing and superintending the construction of works of this character during the last 22 years, and has received high commendation from the late Mr. Robert Stephenson and other eminent professional men for his successful labours in this department of engineering science. Considering this fact, and the slur that Mr. Kemp has attempted to cast on our professional knowledge, we think we are entitled respectfully to ask the Government to demand from him the authority upon which he has ventured on so bold an opinion; and, if he has done so on *his own* authority alone, what experience he has had which would enable him to form any sound opinion upon such a question: in fact, whether he has ever *designed and carried out* such a work; and if so, when, and where?

We are willing and anxious that the Government, or the Directors, should submit this design to any competent Engineer in England, who has made this question his special study, and obtain an independent opinion on its merits.

We are, &c.,

(Signed)

DOYNE, MAJOR, & WILLETT.

HENRY DOWLING, *Esq.*, Secretary.

Melbourne, 12th September, 1868.

LAUNCESTON AND WESTERN RAILWAY.—LONGFORD VIADUCT OVER SOUTH ESK.

DEAR SIR,

WE now send you tracings from the detailed drawings of the Bridge over the South Esk at Longford, and a description and specification of the work as we wish it to be executed.

You will perceive that we have determined to place the responsibility of the erection of the iron work upon the Contractor whom you may employ to execute it in England. This we do because experience in these Colonies has proved that when the responsibility is divided in this respect it is almost impossible to ensure a satisfactory result, and the expenditure in erection is greatly increased. We have separated from the risks of the Contractor all those items of expenditure which it would be difficult for him to estimate the value of,—such as carriage of materials from the Port to the site of the Bridge, the construction of staging, Port and Wharf Dues, &c.; and we have appended a Schedule of the prices of the labour which now obtain in Melbourne, from which place he will have to draw almost all skilled labour, such as rivetters, fitters, &c.

We shall so construct the staging as to allow of travelling gearing being erected to span the whole of the iron work, and run upon rails outside of it, for the purpose of carrying the materials to the points required, and lifting them into their places. The timber work for these travellers can be obtained by the Contractor at Launceston; but he should send from England all the iron work and gearing which he will require for them. Any omissions, however, in this respect can be supplied in Melbourne, where there are very good workshops, but at a higher rate than they can be sent from home.

The cost of timber in bulk and scantling in Tasmania may be taken at about the same as Baltic and American pines in London; and the cost of labour upon it can be estimated from the Schedule we send. Iron shafts, bolts, &c., will cost here about 5*d.* per lb. on the work.

Rolling Stock.

It has been decided to build the bodies of all the Carriages and Trucks at Launceston, but to get out the whole of the iron work for the *under framing* of both Carriages and Trucks, and that for the sides of the Trucks, from England.

We enclose a tracing showing the general character of the Passenger Carriage we intend to use. We shall vary the details of the bodies of these as we find necessary, but we wish to have the under framing of all alike.

Please to select good patterns of Trucks, high-sided for cattle and light goods, medium and low-sided, and break-vans. Send us drawings of them; and order for early shipment the following materials for their construction:—

Ten (10) sets of iron work for Passengers' Carriages (as per our drawing), including wheels and axles, bearing springs, drawbars and buffer springs, angle straps, drawbars and drawbar screws, buffers, and all other parts of the iron work shown or necessary for the completion of the under-framing and running parts of the Carriages.

Iron work complete for three (3) break-vans. Breaks of sufficient power to control (with the assistance of the Engine) ten (10) Passenger Carriages on gradients of 1 in 70.

Six (6) high-sided Trucks (iron work only complete).

Eighteen (18) medium-sided Trucks (iron work only).

Eighteen (18) low-sided Trucks (iron work only).

All the wheels of the foregoing are to be three feet six inches in diameter (3ft. 6in.).

All are to be fitted with spring buffers and spring drawbars. But if you think it desirable to use for the break-vans and goods trucks any other plan of buffers than that we have shown for the Passenger Carriages, be good enough to substitute that pattern which you think best suited for them.

Considering the radius of our curves some sixteen (16) chains, we think the length of bearing between the wheels should in no case exceed ten feet six inches (10ft. 6in.), that may be adapted generally for Passenger Carriages and break-vans; but you may diminish this distance for goods trucks so as to adapt it to the patterns you most approve.

All goods trucks are to be fitted with lever breaks worked by weights on the arms, so that a steady pressure can be applied coming down the inclines without keying the arms down. These weights should slide on the arms and be fixed by set screws at any point required.

Please to ship all these materials in sets, properly marked.

Locomotives.

Referring to your letter of May —, we think it better to have but one type of Engine; and to save dead load, that should have no tender but must carry its own fuel and water—the latter in *side* tanks so as to keep the centre of gravity as low as possible. Thus constructed we think four (4) driving wheels coupled will give sufficient adhesion to work all our traffic *as a rule*; and on special occasions we may require an assistant Engine going up the long incline (1 in 70) between the 4th and 12th miles. We append a memorandum of the rates of speed which the Engine should be capable of maintaining over the different sections of the Line with a gross load of 100 tons behind her. In designing them we leave to your judgment the settlement of all the details, merely calling your attention to the desirability of giving as much steam space, wheel diameter, and cylinder room as the adhesion of the wheels to the rails will justify,—that is, that you provide us with the most powerful Engine you can under the conditions specified. If it can take a heavier load than we have named with four driving wheels, so much the better.

The question of Bogies, Bissels, or other systems of compensation for the running wheels we leave entirely to be settled by you.

The fuel we shall use will be almost exclusively wood. The Colonial woods are quick burning, and get steam fast; but the fire-boxes should be so constructed as to enable us to use coal in all or part if desirable.

The Engines to have screw breaks and steel tyres. The usual duplicates of the chief working parts to be sent with them. Also lamps and complete sets of drivers' tools, and other details usually supplied. The spaces in the packing cases should be filled up with cotton waste.

We should wish two (2) Engines to be put in hand at once, and leave the selection of the manufacturer entirely with you.

Locomotive Power.—Rates of Travelling.

Launceston to 4 miles—nearly level and straight; running time	8 minutes.
4 miles to 7 miles—rise 1 in 70; minimum curves 16 chains; running time.....	9 „
7 miles to 11 miles—rise 1 in 70; curves 16 chains; running time.....	12 „
11 miles to 14 miles—1 in 70; curves 20 chains radius; running time	9 „
14 miles to 18 miles—fair running time.....	8 „
18 miles to 45 miles—fair running time	54 „
	<hr/>
	100 minutes.
Stoppages—5 Stations, 3 minutes.....	15 „
5 Stations, 4 minutes	20 „
	<hr/>
	135 minutes.
	= 2 hours 15 minutes.

We do not intend at present to provide any heavy shop tools, but all necessary fitters' tools should be sent for the erecting shop.

Order also lamps for the Passenger Carriages, and six (6) sets of head and tail lamps for the Trains; twenty-five (25) signal lanterns for guards and level crossing keepers, and any other such matters as you may deem desirable.

We have endeavoured, as you request, to be as explicit as possible in all these matters; but if you should find any vagueness in the instructions, or omissions in details, be good enough to fill them upon your own judgment without referring back to us, as the loss of time in doing so would be most injurious to the interests of the Company.

Mode and Time of Payment.

For the South Esk Bridge we suggest that the payments should be made in three equal instalments,—the 1st, one month after the acceptance of the order; the 2nd, when the work has been passed by you and put on board ship; and the 3rd, one month after the Engineer in Tasmania has given his certificate that the whole Contract has been executed to his satisfaction. But in this also we leave you, in conjunction with the Commercial Agent, to act as you think best, taking care that sufficient security is held.

For the mode of payment for all other materials we presume you will be guided by the precedents established in similar cases.

Spark Arresters.

Scarcely any of those that have been sent out here have proved satisfactory,—they impede the draught so much; but we wish the Engines to be provided with the best you can find, as in this dry climate the use of them is a very important consideration.

We are, &c.,

(Signed)

DOYNE, MAJOR, & WILLETT.

G. W. HEMANS, Esq., 1, Westminster Chambers,
Victoria-street, London, S. W.

SCHEDULE of Rates of Labour, per day of 8 hours.

Carpenters, 9s. 9d. per day.

Blacksmiths, 12s. 11d. ditto.

Riveters, 8s. 9d. ditto.

Fitters, 11s. 3d. ditto.

Locomotive Department:—Ordinary Labourers, 6s. 8d. for 8 hours.

Permanent Way:—Ordinary Labourers, 6s. 6d. for 10 hours.

LIST of Enclosures.—South Esk Bridge.

- 1 Tracing of General Elevation and Plan of Iron Work for one Span.
- 1 Ditto, Cross Sections.
- 1 Ditto details of Struts, Ties, and Section of longitudinal Strings of Main Girders.
- 1 Ditto details of Pendulum motion.
- 1 Tracing of Passenger Carriage.
- In all 5 Drawings.

(Copy.)

LONGFORD VIADUCT.—BRIDGE OVER THE SOUTH ESK.

This Bridge consists of two abutments and one central pier of brickwork, connected by wrought iron "Warren" continuous girders, having a clear bearing between the points of support of about 200 feet for each span. (See Drawings.)

The continuous girders will be fixed on a cast-iron bed-plate on the central pier, and will move on each abutment on "Doyme's pendulum expansion motion,"—a descriptive model and paper on which can be seen on application to the Secretary Institute, C.E. The Bridge will be for a single Line of 5 feet 3 inch gauge.

The pier and abutments will be built by the Company, and the main part of the staging on which the iron work will have to be erected will also be built by the Company.

The whole of the iron work and the materials and tools for its erection will be carried at the cost of the Company from the wharves at Launceston to a convenient point close to the site of the Bridge. All port charges and duty will also be defrayed by the Company.

The Contract to be let in England will include the construction of the whole of the wrought and cast-iron work of the superstructure and bed plates and expansion motions, and the shipment, insurance, and landing of the same at Launceston—whether they may be shipped direct to that port or have to be transhipped at Melbourne—and the erection of them in their places at Longford. Also the necessary blocking up of the work on the staging erected by the Company, and all tools, tackles, materials, and labour of every description necessary for the perfect completion of the work specified, to the full satisfaction of the inspecting Engineer in England and that of the Company's Engineer in Tasmania; and the painting of the whole work with three coats of metallic paint, in oil, to be approved by the inspecting Engineer in England. Also the cost of sending out a competent Engineer or Foreman to take charge of the work, who shall have been made perfectly acquainted with all its details during construction at the works in England, and shall represent the Contractor as his Agent, for whose acts the Contractor will be held responsible.

Under the Contract for the general work, the Railway is to be opened for Traffic on the 16th day of March, 1870; and the Contractor for this iron work must be bound to complete the whole of it on or before the 1st day of January, 1870, so as to give time to the Company to lay the permanent way on the Bridge, and to work ballast waggons and other materials for the completion of the local Contract over it.

The Contractor will also have to maintain in perfect order and repair, to the satisfaction of the Company's Engineer in Tasmania, the whole of the work executed by him up to the date named for the opening of the Railway for Traffic, and at his own cost to submit it to such tests as the said Engineer may direct, and such as are usual in such cases in England.

Any failure on the part of the Contractor to complete the work in the specified time will entitle the Company to deduct or set off from or against the Contract price as and by way of liquidated damages, and not as in the nature of a penalty, the sum of £10 per working day. But in the event of the loss of materials at sea, or the failure of the Company to perform its part of the Contract, the Contractor shall be allowed such extra time as in the opinion of the Engineer of the Company in Tasmania should be allowed to him.

In this Contract the word "Company" shall mean the Board of Directors of the Launceston and Western Railway Company (Limited); "The Engineer" shall mean any Engineer who may from time to time be appointed by the Company to supervise the works or buildings; and the "Contractor" shall mean the Contractor or body of Contractors who shall undertake to execute the Contract.

All materials shall be the best of their respective kinds; and all works of every description throughout are to be executed conformably to the several drawings and details prepared, or that may

be prepared for that purpose, in the best and most substantial and workmanlike manner, to the satisfaction of the Engineer; and should any work not be so executed, it shall be immediately altered and amended at the cost of the Contractor.

No punched holes to be allowed in any part of the work. All must be accurately drilled, and the rivets must fit the holes tight when cold, so as to require to be driven home hard when heated. As far as it is practicable, in the opinion of the Company's Engineer in Tasmania, the whole of the rivetting must be done by machines, to be approved by the Inspecting Engineer in England.

The Drawings show generally the forms and dimensions of the different portions of the work; but the Contractor will have to complete all minor details in a workmanlike manner to the entire satisfaction of the Inspecting Engineer.

Whenever joints occur in any of the plates or bars forming the different girders, the strength is to be made up by covering plates to the full section shown on the Drawings.

All cast iron must be of the best cold-blast grey metal, and the castings must be straight and exact to shape and dimensions, clean and sound, and entirely free from air-holes and flaws of every description.

Great attention must be paid to the execution of all ornamental castings; the arrisses must be left sharp, and the several parts neatly and accurately jointed and fitted.

The cast-iron bed-plates are to be of the dimensions shown on Drawing No. 24, and are to be of the quality specified.

The pendulum expansion motions are to be constructed in the following manner:—A cast-iron circular bed-plate, eight (8) feet in diameter and three and a half inches thick, is to have cast upon it five vertical jaws or ribs three and a half inches thick and nine and a half inches apart, running longitudinally on the plate; through the upper portion of these jaws a turned steel pin three inches in diameter is to pass, and is to be fitted in brass bearings. From this pin steel links are to be suspended between the jaws; they are to be three inches square at the centre, and the eyes formed and the holes bushed as shown on Drawing No. 24, figure 22.

The links are to hang touching the jaws, leaving a space of three and half inches to admit the jaws of the upper or girder-plate between them. The upper plate on which the girder rests is to have four jaws similar to those on the lower, but projecting downwards. These are to be placed between the links, and through the lower portion of them and the lower eyes of the links a steel pin is to pass, and is thus to be suspended to the upper pin. When the upper pin passes through the jaws of the lower plate and the lower pin through those of the upper, they are to be fitted in bored brass-bearings so as to allow them to revolve freely: but when the upper pin passes through the jaws of the upper, and the lower through those of the lower plate, they are to do so by means of slot-holes, curved to a radius of one foot four and a half inches from centre to centre. The upper and lower plates are to have strengthening ribs cast on them, as shown on the Drawing.

The surfaces of the jaws and links, when they come in contact with one another, are to be truly planed to a perfect fit, only a sufficient space left between them to ensure free action under the motions of the girder.

The working surfaces in the interior of the jaws, on the sides of the links, and the steel pins are not to be painted, but are to be preserved against rust by the most approved process.

All brasses are to be made of the best hard gun metal, the composition to be subject to the approval of the Inspecting Engineer.

The steel used in the pins and links of the pendulum expansion motion is to be of the best quality of spring steel.

The whole of the iron work is to be painted before it leaves the Manufactory, and when it is quite free from rust, with one coat of red oxide of iron in oil; and subsequently when in its place, with three coats of metallic paint to be approved by the Inspecting Engineer—all rust and dirt being first perfectly removed from the surface. The finishing coat is to be of any tint the Engineer may approve, and each of the coats is to be laid on at such a period of the year as he may direct.

The Company will lend to the Contractor all iron rails which in the opinion of the Company's Engineer in Tasmania he may reasonably require for his travellers to run upon, or for any other purpose connected with his work; but the Contractor will be bound to return them to the Company in perfect order, or to pay such damages as the said Engineer may consider to be a fair compensation for any injury the Company may sustain for loss or damage done to such rails while in the custody of the Contractor.

All staging erected by the Company, and all other materials supplied by it for the use of the Contractor, are to be the permanent property of the Company, and will be removed by the Company when the proper time arrives. All materials provided by the Contractor are to remain his property, and are to be removed by him from the Company's premises when required to do so by an order from the Engineer.

(Signed) DOYNE, MAJOR, & WILLETT.

(Copy.)

Melbourne, 13th October, 1868.

DEAR SIR,

LAUNCESTON AND WESTERN RAILWAY.—LONGFORD VIADUCT: BRIDGE OVER SOUTH ESK.

WE now send you duplicates of all the documents sent to you by the last Suez Mail; viz., four drawings of the ironwork for the South Esk Bridge at Longford, and two letters describing the same, and one tracing of a passenger carriage. In addition, we now send a tracing of the section across the South Esk River at the point where the Bridge will cross. We have removed the site of the Bridge from that shown on the plans you have to about 200 yards lower down the stream, where we obtain better foundations, and cross the river with one span, the other acting simply as a flood opening.

Since we last wrote, we have thought it desirable that the Contractor for the ironwork should make a design for the staging he would like us to erect for him,—his doing so may prevent mistakes. He should show the manner in which he intends to erect his travellers, and give every other detail necessary to enable us to have the work as complete as possible by the time the ironwork arrives. Please to obtain this information from him, and send it to us. He needs only to show the timber work from the ground to the formation level: we will see that the piles are driven to a sound foundation.

We are, &c.,

(Signed) DOYNE, MAJOR, & WILLETT.

G. W. HEMANS, *Esq.*, 1, *Westminster Chambers*,
Victoria-street, London, S.W.