

Despatches.

It will, however be convenient that you should be in possession, in the utmost practicable detail, of all the provisions which have been established, either by positive Statutes, or by standing orders of both Houses of Parliament for the more effectually preventing the evils and securing the advantages incident to the creation of new lines of Railway in this country. I subjoin a list of the various documents of this nature which accompany this Despatch. You will of course find in them much which could not be applied to the circumstances of the Colony under your Government. But you will also find much which will greatly abridge the labour of drawing up any Railway Acts and much which embodies in a small space the results of long and laborious investigations and of very costly experiments.

But whatever may be the utility or inutility of such details, I revert to the more general topic which has been already mentioned.

1st. Then it is necessary that it should be expressly stipulated in the formation of every Railway Company, that the Legislature shall be free by any future enactments to repeal, alter or amend any part of the original grant without being responsible on that account, to provide compensation or indemnity to the Shareholders. It is, of course, assumed that in the exercise of this reserved authority, the Local Legislature will always respect the obligations of justice and sound policy. But to attempt once for all to enact a law of this kind which is thenceforward to remain unchangeable unless the concurrence of the Shareholders can be obtained or purchased, would be to subject society at large to all the hazards of what must, at first, be a precarious and doubtful experiment.

2nd. You will regard it as an indispensable preliminary to the enactment by Her Majesty of a Railway Bill, that of the proposed Capital one-tenth at least should have been actually invested in good and available securities for the prosecution of the work.

3rd. Every Railway Bill ought to contain provisions for the conveyance of the Royal Mails. The object of such provisions should be to secure moderation in the charges of conveyance, and to afford the utmost possible facility for the effectual discharge of this branch of the public service. Reference may be made on this head to such sections of the Imperial Railway Acts as relate to it.

4th. Every such Bill should also contain all necessary provisions to insure the prompt and punctual conveyance of Her Majesty's Forces, whether belonging to the Regular Army or to the Militia, and of all Policemen, Constables, or others, travelling on Her Majesty's service. Rules of this nature will be found in the accompanying Acts of Parliament.

5th. In the contingency of Electrical Telegraphs being established on any line of Railway, provision should be made for a proper controul and superintendence of them, according to the terms or spirit of the section of the Act of Parliament on that subject.

6th. The Statute 7th and 8th *Victoria*, chap. 85, sect. 1, contains a provision respecting the revision of the scale of Tolls on Railways, and the fixing a new scale in cases where after 21 years the profits shall have exceeded 10 per cent. The principle of this clause, with the substitution of 15 per cent. for 10, and of seven years for three, as the basis of the average to be calculated, ought, I apprehend to be adopted in every Colonial Railway Act.

7th. The second section of the same Act contains provisions for the purchase if it shall be thought fit, by the State, after a certain lapse of time, and on the terms there prescribed of any Railway. In substance such a provision should form a part of any Act which may be passed in the Colony under your Government.

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8th. The fifth section of the same Statute contains a provision for the keeping and the inspection of the accounts of Railway Companies, which, with the necessary variations of form, should, I think constitute an integral part of every Railway Bill which may be passed in any British Colony. It is however material that you should observe with respect to the three last provisions, that they are not intended to rule affirmatively by anticipation the questions to which they relate, or in any manner to prejudge the policy of the purchase of any Railway by the state. They have been prompted by the belief that the Railway system is still in a great degree an infant system, and that it is impossible accurately to predict the accompaniments and effects of its maturity, or to measure the exigencies which it may create. It has therefore been thought wise to take the best general guarantee of which the circumstances will admit by keeping the field open for the free exercise at a future day, of the discretion of the Legislatures, and to prevent the growth of any notion of constructive or prescriptive claim on the part of the Companies to retain without reference to public interests, as they may hereafter stand, their original position.

9th. You will find in the accompanying Acts various provisions which have the public safety for their immediate object. Some modifications of them will, of course, be requisite to meet peculiar local exigencies, but enactments of this kind very carefully considered, are essential to all good legislation on the subject.

10th. In those Colonies in which Representative Assemblies exist and where the population is numerous there will, I trust, be an adequate security both for the protection of private rights, and for preventing any improper favour being shewn to the interests of persons possessing peculiar local influence. In other Colonies the security against abuses may be less perfect and the duty of vigilance on the part of the Executive Government to prevent them, may be the more urgent. It is a duty, for the effective discharge of which, the Governor of every such Colony will consider himself as peculiarly responsible.

Such appear to me to be the main general principles or provisions which ought to be embodied in any Railway Act which may be passed in the Colony under your Government.

You will perceive that my general object in framing them has been to leave the freest scope to private and associated enterprize by the avoidance of all minute interference, and at the same time to take some simple securities for testing the solidity of projects—for guarding against risk to life—and for guaranteeing to the public service from the first, a fair share of the advantages of the construction of any Railway, and to the State as the representative of the public the means of dealing with future contingencies. But I do not venture to insist even on these provisions as absolutely indispensable, in every Colony and in every Railway Act. I am too well aware of the diversity of circumstances prevailing in the various dependencies of the British Crown, to attempt so to fetter the discretion of the local Governments, or so to impede the free exercise of the discretion of Her Majesty's confidential Advisers. The practical purpose which these Rules may serve is as follows:—It will not be necessary to reserve for the signification of Her Majesty's pleasure any Railway Law which satisfies all these conditions. On the other hand, any Railway Law framed in neglect or disregard of them must be so reserved. In transmitting any Railway Law for the signification of Her Majesty's pleasure, you will distinctly point out to what extent these Rules have been followed or neglected, and what are the reasons which, in any such case of neglect, are supposed to justify or to have occasioned it. On the other hand, it may happen that in par-