

NEW
BRUNSWICK.

sum equivalent to the outlay incurred by the Company in making that portion of the line; and, with this view, that the accounts relative to its construction should be kept in such a manner as to afford the means of apportioning the outlay accordingly.

The Commissioners proceed to consider certain provisions of this Act, which appear to them to call for remark.

In the 1st section, provision is made for submitting the Company's bye-laws to the Governor of the province for his approval; but no power is reserved (as in the Imperial Act for the regulation of Railways 3 and 4 Vict. c. 97, s. 9) of disallowing the bye-laws at any future time after they shall have come into operation. And this power appears to be necessary for the completeness of the controul over the bye-laws intended to be vested in the Governor, who would otherwise have no power of suspending the operation of a bye-law that was found to be objectionable.

By section 5, the Directors are authorized, until the Railway is completed, to pay interest to the shareholders on the amount of the calls paid up by them. In former Reports on New Brunswick Railway Acts, containing a similar provision, the Commissioners took occasion to observe, that provisions of this kind were at one time frequently inserted in English Railway Acts; but in the Session of 1847 a resolution was passed by both Houses of Parliament (which has since been adopted as a Standing Order) requiring the insertion in every Railway Bill of a clause prohibiting the payment of interest out of capital; and it might therefore be worthy of consideration whether the reasons that led to that resolution were equally applicable to the colony.

By section 28, it is provided that the Act shall not be revoked, altered, or amended without the consent of the Company. This is inconsistent with the first recommendation in Mr. Secretary Gladstone's Circular Despatch of the 15th of January, 1846, and the clause there referred to as proper to be inserted in all Colonial Railway Acts, viz.:—"That nothing herein contained shall be construed to except the Railway by this Act authorized to be made from the provisions of any general Act relating to Railways which may be passed during the present or any future session of Parliament." A clause of this kind is invariably inserted in English Railway Acts.

Section 38, after providing for the level crossing of roads, authorizes the Company, "if they shall deem it more conducive to the public safety" to substitute a bridge over or under the Railway for the level crossing. The Commissioners would suggest that a matter of so much importance to the public should not be left entirely to the discretion of the Company, but that power should be reserved to the Governor of the province, or some other public officer, of requiring the Company to make the alterations which the increase of traffic on the roads, arising from that on the Railway, may hereafter render necessary, although at present a level crossing may be allowed without danger.

Section 55 gives the Company the power of levying tolls for the conveyance of passengers and goods. But the Act does not provide any scale of maximum charges for such conveyance. And this defect does not appear to be remedied by the power of revising the tolls, and the option of purchasing the railway reserved to the Government by the 55th and 57th sections.

The exercise of those powers is dependent upon the event of the Company's profits exceeding a certain rate per cent. on their capital. In former communications addressed to the Colonial Office, the Commissioners have stated that, although such provisions may have been introduced into Colonial Railway Acts for the purpose of thus intimating the possibility of future revision and purchase, yet, in their opinion, it may be questionable whether they can have any other practical effect.

The provisions in section 61, with respect to the conveyance of troops, appear to be defective in not specifying the terms and conditions of conveyance, as provided by the corresponding enactments of the Imperial Act, 7 and 8 Vict. c. 85, s. 12.

The 59th section adopts the provisions of the 13th section of the Imperial Act, 7 and 8 Vict. c. 85, with regard to the power of the Government to establish a line of electrical telegraph on the Railway, but does not contain any clause similar to the 14th section of that Act, for providing that the telegraph, subject to the prior right of use by the Government, shall be open to all persons, without favour or preference, and at equal charges.

In the absence of any general legislation on the subject of railways in this colony, it is necessary that every New Brunswick Railway Act should comprise within itself the whole of the provisions that may be considered requisite for the protection of the public interests. Provision is made by the present Act for the conveyance of mails and troops, for laying down an electrical telegraph on the line of the railway, and for making returns of traffic and accidents. But of the other matters which in this country have been made the subject of general legislation, with a view to the public safety and convenience, the Commissioners would particularly observe that the Act does not contain any provisions similar to those of the Imperial Acts relating to cheap trains, the appointment of inspectors, and the opening of the railway after notice and inspection, and the construction of bridges over roads.

The Commissioners are desirous to draw the attention of Lord Grey to these variations from the course pursued in legislating upon railways in this country, leaving it as a matter entirely for his Lordship's consideration what degree of importance is to be attached to them with reference to the local circumstances of the colony, and whether any correction may be called for in the way of supplementary legislation.

The object of the Act No. 2062, is to afford the Company incorporated by the first Act the aid of the public credit of the colony in raising part of the money required for making the railway. This is proposed to be done by authorising the Governor of the province, as soon as the shareholders have paid up capital to the amount of 10,000*l.*, to take shares in the Company to the like amount, and pay for them in debentures for that amount, the payment of the interest and principal due on such debentures being guaranteed out of the revenue of the