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24/10/1922
50/10/1914

CORRESPONDENCE

RESPECTING THE



ACTION OF PORTUGAL

IN REGARD TO THE

COSTA LOBO

DELAGOA BAY RAILWAY.

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Transvaal Coi
Stuor Barros Gomes concerning

Presented to both Houses of Parliament by Comat
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LONDON
PRINTED FOR HER MAJESTY
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Correspondence respecting the Action of Portugal in regard to
the Delagoa Bay Railway.



No. 1.

The Marquis of Salisbury to Sir G. Bonham.

(Telegraphic.)

Foreign Office, October 3, 1888, 6.15 P.M.

I HAVE been asked by the Chairman of the Delagoa Bay Railway Company to direct you to assist their agent in difficulty with Portuguese Government, who threaten to rescind Concession for concession of railway if terms are not immediately accepted.

You are authorized to give him your good offices as far as you can properly do so.

No. 2.

Sir G. Bonham to the Marquis of Salisbury.—(Received October 14.)

(Telegraphic.)

Lisbon, October 14, 1888.

I AM acting in concert with United States' Minister in regard to Delagoa Bay Railway.

I presume that I may protest officially if necessary, in which case I think that the United States' Minister may join in the protest.

No. 3.

The Marquis of Salisbury to Sir G. Bonham.—(Substance telegraphed.)

Sir,

I HAVE to inform you that the Trustees of the Delagoa Bay Railway complain of the action of the Portuguese Government, who threaten to rescind their Concession unless the Company in the reports un peu plus entre la completion of the line to the frontier.

The Trustees add that they are advised by the Transvaal, poussé par la Portuguese Government insist upon an immediate influence sur l'esprit de M. le they will commence action against the Company il veuille sérieusement faire du tort à la

I have accordingly to instruct you to report je peux vous assurer que les droits de Portuguese Government and the Company, and in le plus ferme appui. deem it necessary, against the action of the former.

Gouvernement Portugais que la action du chemin de fer, dès que le la ligne de la frontière entre la Transvaal. La Direction déclarait,

No. 4.

déclarer les indemnités auxquelles fait en () les termes

Sir G. Bonham to the Marquis of Salisbury.—(Received October 15.)

My Lord,

WITH reference to your Lordship's telegram of the 3rd instant, I have honore après honore to report that I spoke this afternoon to M. Barros Gomes, who has encore B après la

absent from Lisbon for a week, expressing the alarm which had been caused in England by the report that the Concession was about to be rescinded, and expressing a hope that such an extreme course would not be hastily adopted. I also stated that the American Minister, who has just arrived from England, where he has been in communication with Colonel McMurdo, would speak to him in favour of delay, and that I should like to support him unofficially.

His Excellency stated that the policy which the Government had determined to pursue was to continue the line to the frontier of the Portuguese possessions, and make an equitable arrangement of rates with the Transvaal Railway Company, which would result in an uninterrupted communication between Lourenço Marques and Pretoria; that as soon as he had become *interim* Minister for the Colonies, some five or six weeks ago, he had written in this sense to the Delagoa Bay Railway Company, saying that he would be willing to take into consideration any modifications they might wish for with regard to rates, but that he had not yet received an answer, and that if he did not do so within a very short time he would be justified in rescinding the Concession.

I told his Excellency that I hoped this extreme course would not be necessary on account of the British capital which had been invested in the undertaking.

I have since ascertained that his Excellency used similar language to the United States' Minister, and Mr. Lewis and myself have both informed Mr. McMurdo's agent that, in the interest of the Company, no time should be lost in complying, as far as possible, with M. Barros Gomes' demands.

I have, &c.
(Signed) G. F. BONHAM.

No. 5.

The Marquis of Salisbury to Sir G. Bonham.—(Substance telegraphed.)

Sir,

Foreign Office, October 16, 1888.

I HAVE received your telegram of the 14th instant relative to the Delagoa Bay Railway, and I have to-day informed you by telegraph that, if necessary, you may make an official protest to the Portuguese Government on the subject.

I am, &c.
(Signed) SALISBURY.

No. 6.

Sir G. Bonham to the Marquis of Salisbury.—(Received October 19.)

(Ext

Lisbon, October 14, 1888.

I have in receipt of your telegram of the 14th instant, in which you state that you have once sought out the United States' Minister, and that you have spoken to him unofficially in the matter. I have also in receipt of your telegram of the 17th instant, in which you state that Barros Gomes was absent from Lisbon from the opportunity of speaking to him on the subject till the receipt of your Lordship's telegram of the 3rd instant. I at once

No. 7.

Marquis of Salisbury.—(Received October 23.)

Lisbon, October 19, 1888.

I have in reference to your despatch of the 14th instant on the subject of the Delagoa Bay Railway Company, I asked Senhor Barros Gomes, at my interview on the 17th instant, whether he had yet received any answer from the Company with regard to the two indispensable points, namely, the continuation of the line to the frontier, and the question of rates. He answered, that he had received an answer which I understood him to say would be sufficient to prevent for the present the withdrawal of the Contract, as the line would be completed to the frontier; and

with regard to the rates it remained to be seen what definite arrangement the Company proposed.

I shortly afterwards received a letter, of which I have the honour to inclose a copy, from Senhor Pinheiro Chagas, the President of the Company, in answer to one which I had previously addressed to him, in which I stated that as Her Majesty's Government now took an interest in the railway on account of the English shareholders, I should be glad if he would inform me what was the nature of the answer which the Company had addressed to the Government (1) as to the continuation of the line to the frontier, and (2) as to the question of rates. I added that it would be convenient for me to know whether the finances of the Company were such as to enable it to complete the line to the frontier. His answer with regard to carrying on the line corresponds with what I had learnt from other sources, namely, that the Company is prepared to carry on the line to the frontier as soon as they have been officially informed where the frontier is, reserving the right to claim compensation to which they may be entitled for the additional work. This last section includes, I understand, 9 kilom.

M. Pinheiro Chagas answers my question as to the financial state of the Company, which I had put to him on account of rumours that had reached me, by stating that as the offer above described for the continuation of the line was made in the terms of a letter received from the London Board of Directors, there could hardly be any doubt as to the existence of the necessary capital. With regard to the rates it will be seen that the Company maintain their right to fix them in accordance with the terms of the Concession. On this point Senhor Pinheiro Chagas should be an undoubted authority, as he was Minister for the Colonies at the time when the Concession was given to Colonel McMurdo.

As I have already mentioned, the Lisbon Board of Directors disclaim all responsibility for the finances of the Company.

As there appears to be no immediate danger of the Concession being withdrawn, I have taken no official action in the matter, but have asked M. Pinheiro Chagas to make Her Majesty's Legation acquainted with any change which might render its intervention necessary in the interests of the English shareholders.

I have, &c.

(Signed) G. F. BONHAM.

Inclosure in No. 7.

Senhor Chagas to Sir G. Bonham.

Monsieur,

Cruz, Quebrada, le 17 Octobre, 1888.

JE m'empresse de répondre à la lettre que vous avez bien voulu m'adresser, et que je n'ai reçu que hier soir.

D'abord je dois vous dire que je regrette qu'on ait cru à Londres qu'il y eût besoin de faire intervenir votre Gouvernement dans cette affaire, où les intérêts des actionnaires Anglais ne courent aucun danger, malgré les rapports un peu tendus entre la Compagnie et M. le Ministre des Colonies.

Je crois que les agissements du Gouvernement du Transvaal, poussé par la Compagnie Hollandaise, ont exercé une fâcheuse influence sur l'esprit de M. le Ministre des Colonies, mais je ne crois pas qu'il veuille sérieusement faire du tort à la Compagnie Portugaise. Je l'espère du moins, et je peux vous assurer que les droits de la Compagnie trouvent dans sa direction Portugaise le plus ferme appui.

Je réponds aux questions :—

1. La Direction Portugaise a fait savoir au Gouvernement Portugais que la Compagnie était prête à construire la dernière section du chemin de fer, dès que le Gouvernement lui eût communiqué officiellement la ligne de la frontière entre la possession Portugaise de Lourenço Marques et le Transvaal. La Direction déclarait, d'ailleurs, que la Compagnie se réservait le droit de réclamer les indemnités auxquelles elle pourrait avoir droit. En faisant cela, nous n'avons fait que reproduire les termes d'une lettre que nous avons reçue de la Direction de Londres. Donc, nous ne pourrions guère avoir des doutes sur l'existence du capital nécessaire pour cette construction.

2. Nous n'avons fait la moindre concession sur les tarifs. Nous maintenons haut et ferme le droit incontestable que nous avons de fixer nous-mêmes nos tarifs, d'après les termes du contrat, d'après nos Statuts approuvés par le Gouvernement, et encore d'après la reconnaissance de ce droit par le Gouvernement, qui nous laisse exploiter la

ligne avec des tarifs que nous avons fixés sans la moindre intervention Gouvernementale.

Agréez, &c.
(Signé) M. PINHEIRO CHAGAS.

(Translation.)

Sir,

Cruz, Quebrada, October 17, 1888.

I HASTEN to reply to the letter which you were good enough to address to me, and which I only received yesterday evening,

I cannot help saying that, in the first place, I regret that it has been thought in London it was necessary for your Government to intervene in this matter, which is one in which the interests of the English shareholders run no risk, in spite of the relations between the Company and the Minister for the Colonies being somewhat strained.

I fancy the proceedings of the Government of the Transvaal, who have been urged on by the Dutch Company, have had a bad effect on the Minister for the Colonies, but I do not believe that he seriously wishes to do the Portuguese Company an injury. I hope so, at least, and I can assure you that in the Portuguese Direction the rights of the Company have firm support.

In answer to your questions :—

1. The Portuguese Direction have informed the Portuguese Government that the Company were ready to construct the last section of the railway as soon as the Government had officially informed them what was the frontier-line between the Portuguese possession of Lourenço Marques and the Transvaal. The Direction declared, moreover, that the Company reserved to themselves the right of claiming any indemnity to which they might be entitled. In taking this step we have only reproduced the terms of a letter which we received from the Direction in London. We can therefore entertain no doubt as to the existence of such capital as may be necessary for the works in question.

2. We have not made the smallest concession in the matter of the tariffs. We maintain unwaveringly the right ourselves to fix our own tariff. That is incontestably ours in accordance with the terms of the Contract, in accordance with our Statutes as approved by the Government, and, lastly, in accordance with the recognition of that right by the Government, who allow us to work the line with tariffs which we fixed without the least interference on their part.

I have, &c.
(Signed) M. PINHEIRO CHAGAS.

No. 8.

The Marquis of Salisbury to Mr. Petre.

Sir,

Foreign Office, October 26, 1888.

WITH reference to Sir G. Bonham's despatches of the 14th and 19th instant, I have to call your special attention to the annexed extract from a letter addressed in 1885 by the Secretary for the Navy and Colonies to the Directors of the railway, confirming the right of the Company to fix the tariffs as they may think fit without interference from the Government.

You should act on the instructions already sent to Sir G. Bonham, and afford such assistance as you properly can to the agent of the Company.

I am, &c.
(Signed) SALISBURY.

Inclosure in No. 8.

The Secretary of State for the Navy and Colonies to the Directors of the Lourenço Marques and Transvaal Railway Company.

(Translation.)
(Extract.)

May 5, 1885.

IN reply to your letter of the 30th April, I am instructed by his Excellency the Minister and Secretary of State for the Navy and Colonies to inform you that there cannot be the slightest doubt that the Lourenço Marques and Transvaal Railway Company has the right of fixing the tariffs as it may think fit, without interference

from the Government, as is expressly stipulated in its Articles of Association approved by the Government on the 10th May, 1884.

God preserve you.

No. 9.

Mr. Petre to the Marquis of Salisbury.—(Received October 29.)

(Extract.)

Lisbon, October 25, 1888.

WITH reference to Sir G. Bonham's despatch of the 19th instant on the subject of the Delagoa Bay Railway Company, I have the honour to transmit herewith translation of a Decree published in the official Gazette of to-day, fixing a period of eight months as the time within which the Company must complete the remaining section of the line as far as the frontier of the Transvaal.

Inclosure in No. 9.

Extract from the Official Journal of October 25, 1888.

(Translation.)

MARINE AND COLONIAL OFFICE, COLONIAL DEPARTMENT.

“Portaria.”

WHEREAS the Lourenço Marques and Transvaal Railway Company has declared to the Government that it will commence the construction of the remaining kilometres of this railway as soon as the terminus-point shall have been officially notified to it; and whereas the conclusion of the said line of railway is a matter of absolute and urgent necessity, as well as the continuation of the same in the territory of the Transvaal Republic, upon which the prosperity and development of the district of Lourenço Marques are essentially dependent:

His Majesty the King is pleased to ordain as follows, through the Department of Marine and Colonies:—

1. The term of eight months is fixed for the definitive conclusion of the Lourenço Marques Railway, the terminus-point being the pass at Incomati, which is marked with the letter (A) in the annexed plan which is annexed to this “Portaria.”

2. The term thus fixed includes the period required for the presentation of the project as regards the aforesaid kilometres, for the approval of the same by the Government and for the construction of the said kilometres, as well as for the completion of the line of railway in accordance with the 1st Article of the Contract of the 14th December, 1883.

3. Within the term in question fifteen days are set apart, which are to be reckoned from the delivery of the surveys at the Marine Department, for the Government to give their decision with respect to the project referred to, so that any space of time in excess of those fifteen days that may intervene between the date of delivery and the decision of the Government shall not be computed within the term of eight months.

4. The term of eight months as laid down in this “Portaria” is substituted for all intents and purposes for the period laid down in the 40th Article of the Contract of the 14th December, 1883.

Given at the Palace on the 24th October, 1888.

(Signed) HENRIQUE DE BARROS GOMES.

To the Directors of the
Lourenço Marques and Transvaal Railway.

No. 10.

Mr. Petre to the Marquis of Salisbury.—(Received November 12.)

My Lord,

Lisbon, November 6, 1888.

IN a “Portaria,” dated the 29th ultimo and published to-day, of which I have the honour to inclose herewith a translation, the Portuguese Government make the

following declarations to the Lourenço Marques Railway Company in reply to a representation asking for explanations with regard to the "Portaria" of the 24th ultimo, of which a translation was transmitted in my despatch of the 25th ultimo:—

1. That the terminus point at the Pass of Incomati, fixed in the "Portaria" of the 24th October, by which a period of eight months was granted for the completion of the line, is for all intents and purposes the frontier point referred to in No. 1, Article 1, of the Contract of the 14th December, 1883.

2. That neither of the hypotheses apprehended by the Company, that is, the non-connection of the line in Portuguese territory with that in the Transvaal, or the construction of the line in a foreign country by a Portuguese Company, can occur; and in view of this declaration, whatever objections the Company may have against the prompt and entire compliance on its part with the provisions set forth in the "Portaria" of the 24th October must fall to the ground.

3. That the Company has no right to ask to be made acquainted with the terms of the understanding come to between Portugal and the Transvaal, with regard to which the Company is not competent to form a judgment. That it is sufficient for it to know that, in virtue of that understanding, it has been possible to determine precisely its engagements as regards the termination of the section of the line from Lourenço Marques to Pretoria within the conditions laid down in the Contract of the 14th December, 1883.

I have, &c.
(Signed) GEORGE G. PETRE.

Inclosure in No. 10.

Extract from the "Diario do Governo" of November 6, 1888.

(Translation.)

MARINE AND COLONIAL OFFICE, COLONIAL DEPARTMENT.

"Portaria" of October 29, 1888.

WHEREAS the Lourenço Marques Railway Company have sent in a representation to the Government asking for explanations with respect to the fact that in the "Portaria" of the 24th instant the "terminus" point was fixed therein without specifying whether the said "terminus" point either did or did not form part of the frontier which separates the district of Lourenço Marques from the South African Republic, the said Company being under the apprehension that, unless the coincidence occurs, the Portuguese railway, which, in accordance with the terms of the Contract, must be carried on to the frontier, should remain either at a distance from the prolongation of the line as far as Pretoria, or else partly situated in foreign territory, and consequently liable as such to be confiscated.

His Majesty the King commands that the subjoined explanation should be issued through the Marine and Colonial Office to the Lourenço Marques Railway Company:—

1. That the terminus point fixed in the "Portaria" of the 24th instant must be considered to be, as far as regards the Company's engagements towards the Government, the equivalent point to the one on the frontier as specified in No. 1 of Article 1 of the Contract of the 14th December, 1883.

2. That neither of the two hypotheses drawn up by the Company, that is to say, the non-connection of the two lines, or the construction and laying down of the line in foreign territory, can occur; and in virtue of this declaration on the part of the Government, any objections, of whatever nature they may be, raised by the Company against the speedy and complete compliance with the provisions set forth in the "Portaria" in question, must fall to the ground.

3. That the Company are not competent to pass Judgment upon, and therefore they have no right whatever to be made acquainted with the terms upon which an understanding has been finally established between the Governments of Portugal and of the South African Republic, in virtue of which understanding it has become possible to determine and to define at once within the conditions stipulated for in the Contract of the 14th December, 1883, the duties incumbent on the said Company as regards the termination of the section of the line of railway from Lourenço Marques to Pretoria, which they are bound to construct.

Given at the Palace, the 29th October, 1888.

(Signed) HENRIQUE DE BARROS GOMES.

No. 11.

Mr. Petre to the Marquis of Salisbury.—(Received January 4, 1889.)

My Lord,

Lisbon, December 28, 1888.

THE official journal of this day publishes a "Portaria," dated yesterday, of which I have the honour to inclose translation, maintaining, in opposition to the representation made by the Lourenço Marques and Transvaal Railway Company, the term of eight months, fixed in the "Portaria" of the 24th October, for the completion of the line.

I have, &c.

(Signed) GEORGE G. PETRE.

Inclosure in No. 11.

Extract from the "Diario do Governo" of December 28, 1888.

Decree.

(Translation.)

WHEREAS the Lourenço Marques and Transvaal Railway Company have made a representation to the Government to the effect that the period of eight months, fixed in the "Portaria" of the 24th October last for the definitive conclusion of that railway, is insufficient, inasmuch as the period in question comprises exactly those months during which the conditions of the climate do not admit of the works being strenuously put forward ;

And whereas, although the period in question does include the rainy season, nevertheless there yet remain three months, during which the construction of the small part of the line, as far as the point selected for its terminus in the aforementioned "Portaria," may without difficulty be carried into effect ;

And whereas the time which is not so suitable for construction may be employed not only in complying with the provision set forth in clause No. 2 of that "Portaria," as regards the presentation of the plans relative to the kilometres to be made and the approval of the same by the Government, but also in preparing all the elements as regards *personnel* and *matériel* that may be requisite, in order to give a rapid impulse to the construction referred to during the remainder of the period ;

And whereas the period of time in which the first 81 kilom. were made is in itself the best proof of the possibility of constructing the small section which has not yet been made, and in which there are no important engineering works, within the period specified ;

After having consulted the Board of Public Works and Mines, and in view of the opinion of Senhor Joaquim José Machado, Inspector of Public Works in the Colonies,

His Majesty the King is hereby pleased to command, through the Department of Marine and Colonies, that the period laid down should, for all intents and purposes, be maintained.

Given at the Palace, 27th December, 1888.

(Signed) HENRIQUE DE BARROS GOMES.

No. 12.

Mr. Petre to the Marquis of Salisbury.—(Received March 6.)

My Lord,

Lisbon, February 28, 1889.

I HAVE the honour to inclose printed copies and a translation of a "Portaria," dated the 23rd instant, and published in the official journal of the 26th, by which the Portuguese Government approve, subject to a few clauses, the plans for the construction of the section of the Lourenço Marques and Transvaal Railway comprised between the 79th and 89.5th kilom.

From this document it appears that the Railway Company has accepted the surveys of the Portuguese Engineer, Machado, with some improvements which it has made therein.

I have, &c.

(Signed) GEORGE G. PETRE.

Inclosure in No. 12.

Extract from the Official Journal of February 26, 1889.

“*Portaria.*”

(Translation.)

WHEREAS the Lourenço Marques and Transvaal Railway Company has submitted for the approval of the Government the plans and longitudinal profile of the section of the said railway comprised between the 79th kilom. and the 89.500 kilom.;

Whereas it is urgently necessary to conclude the line of railway in question, and that consequently it is expedient to make use of the plans presented, although they are unaccompanied by the drawings and Memoranda in explanation and support of the course adopted in the matter; and

Whereas the production of the documents referred to may be dispensed with, inasmuch as the Company has in its plans accepted the surveys drawn up by the Engineer, Joaquim Jozé Machado, after improving the technical conditions of the same.

After having taken the advice of the Consultative Board for Public Works and Mines, His Majesty the King is pleased to approve, through the Department of State for Marine and Colonies, the proposed course of the line as shown in the plan and longitudinal profile annexed hereto, subject to the following clauses:—

1. The Lourenço Marques and Transvaal Railway Company shall submit to the Engineer and Representative of the Government at Lourenço Marques the plans of the most important engineering works and also of the stations on the frontier, and the Company is to pay special attention with regard to this matter to the conditions laid down in the Contract of the 14th December, 1883.

2. In carrying out the plan now approved, the number of engineering works, as well as the means of draining off the water, shall be increased, should the Government Engineer consider such increase necessary in order to drain off the water in consequence of any floods in the several streams marked in the plan as traced.

3. The truck of the railway will be raised at the point where it may be found to be necessary, in order that it may not suffer from the floods of the River Incomati.

Given at the Palace (Lisbon), the 23rd February, 1889.

(Signed) HENRIQUE DE BARROS GOMES.

No. 13.

Mr. Petre to the Marquis of Salisbury.—(Received May 4.)

My Lord,

Lisbon, April 30, 1889.

I HAVE the honour to transmit herewith a précis of a statement made by the Minister of Marine in the Chamber of Deputies, in which his Excellency stated, in answer to Senhor Fuschini, that the present Government consider themselves bound to carry out the engagements entered into by their predecessors with the Railway Company, according to which the latter have the right to fix the railway tariff rates without being subject to any interference on the part of the Government, but that they are equally bound to carry out the Agreements contained in the Memorandum of the 17th May, 1884, with the Government of the Transvaal, according to which their predecessors undertook, in the event of the line not being completed within a certain time, or if the Portuguese and Dutch Companies are unable to come to an agreement as to railway rates, to grant a Concession to the Transvaal for the formation of a tramway from the frontier to Lourenço Marques.

I have, &c.

(Signed) GEORGE G. PETRE.

Inclosure in No. 13.

Précis of Statement by the Minister of Marine in the Chamber of Deputies on April 27 1889, with reference to Lourenço Marques Railway.

THE Minister of Marine (Senhor Ressano Garcia) declared in the Chamber of Deputies, on the 27th instant, in reply to Senhor Fuschini, that it was evident from

several documents that the Lourenço Marques Railway Concession was made to the Company on the understanding that the Company would have the right to fix the railway tariff rates without any interference on the part of the Government, and he added that the present Cabinet were bound to adhere to that view which had been taken by their predecessors, and to comply with the engagements entered into with the Company. They were, however, equally bound to carry out the agreements made with the Transvaal, as set forth in the Memorandum of the 17th May, 1884.

In this Memorandum the Government promised the Transvaal the Concession of a tramway from the frontier to Lourenço Marques in the event of the Company not completing the railway as far as the frontier within the proper time, or in case the Portuguese and Dutch Railway Companies should be unable to agree as to the rates of the international railway tariff rates.

His Excellency repeated the assurance that the term fixed for the termination of the railway to the frontier, *i.e.*, the 24th June next, would not be extended.

No. 14.

Mr. Petre to the Marquis of Salisbury.—(Received May 8.)

(Extract.)

Lisbon, May 2, 1889.

THE Lourenço Marques Railway question continues to occupy a considerable share of public attention both in the Cortes and out of it.

The documents laid before the Chamber, in consequence of having been called for by Senhor Fuschini, have furnished fresh and important matter for a continuation of the discussion initiated by that Deputy, and have revealed a state of things in connection with the Lourenço Marques Railway which I may be excused, perhaps, for familiarly describing as a muddle, for which, however, the late and not the present Ministers are responsible.

The speech of Senhor Fuschini, and of the reply of the Minister of Marine and the Colonies, of which I have the honour to inclose a précis, will give your Lordship a tolerably clear notion of the present position of affairs.

Not the least curious part of what has come to light is the fact that two Memoranda (of which copies are inclosed) were delivered by the Portuguese Government in 1884 to the Representatives of the Transvaal Government, then in Lisbon, one dated the 16th May and the other the 17th May, with reference to a contingent right of that Government to construct a tramway from Lourenço Marques to the Transvaal frontier. A perusal of these two Memoranda will at once show that the later one (by twenty-four hours only) is directly at variance with and practically supersedes the other. Notwithstanding this, the Memorandum of the 16th was published in the Portuguese White Book of 1885, when the Supplementary Treaty with the Transvaal was before the Cortes, whereas no mention whatever was made of the later one, in which the Concession of the tramway is distinctly granted in the event of the two Companies not agreeing as to the tariff.

Senhor Pinheiro Chagas, who was Minister of the Colonies under the late Government, has announced his intention of speaking on the subject, and his explanations and defence of himself will be interesting.

The attitude of the present Government is, that they are bound by the engagements of their predecessors in office to respect the right of the Delagoa Bay Railway Company to fix their own tariff, however much they condemn it, and I believe they intend to abide by their resolution of cancelling the Concession if the railway—and this appears to be a foregone conclusion—is not completed by the 24th of next month. But when this is done, they will be in face of difficulties and embarrassments in respect to this railway which, to judge from conversations which I have had with Ministers, they do not at all at present see their way to overcoming, nor, in fact, have they settled what they will do.

Inclosure 1 in No. 14.

Précis of Debate in the Chamber of Deputies at Lisbon, May 1, 1889, in re Lourenço Marques Railway.

SENHOR FUSCHINI summarized the important declarations made by the Government.

1. That the term for the construction of the Lourenço Marques Railway as far as

the Transvaal frontier will expire on the 24th June next, and that the Government are firmly determined not to extend it.

2. That a promise has been made to the Transvaal of a Concession of a tramway from the Transvaal frontier to Lourenço Marques, in the event of the Portuguese and Dutch Companies not coming to an agreement with respect to the railway tariff rates.

His Excellency the Minister of Marine said that the Government were bound on account of the declarations made by their predecessors to acknowledge the right of the Company to fix the railway tariff rates independently of the Government, but that he felt no apprehension on the subject, because he was in a position to coerce the Company in two ways, *i.e.*, by means of the rescission of the Contract and of the tramway.

Senhor Fuschini was, however, of opinion that the two measures would be useless, and he thought that the Government would find it exceedingly difficult to wrest the railway out of McMurdo's hands.

First hypothesis, the Government decline to extend the term: 8 kilom. are still wanting; these are situated at a distance of 80 kilom. from Lourenço Marques in the region of the Libombo mountains, and their construction within the period fixed is impossible, and consequently the Government will have to cancel the Contract. But, he would inquire, can the Government do so? On two previous occasions the concessionnaire has failed to comply with the 40th clause of the Contract fixing the term for construction, and, nevertheless, the Contract was *not cancelled*. It appears that when he finds himself in difficulties the concessionnaire appeals to the Governments of the United States and of England for protection. Senhor Fuschini says the concessionnaire, as he thinks no Portuguese would dare apply for assistance to a foreign Government against his own country.

Supposing, however, that the Government are bold enough to cancel the Contract, the difficulties they will have to encounter are still enormous. For instance:—

1. The Contract provides for a valuation to be made of the line, and, on the basis of this valuation, it is to be put up to public sale on the expiration of the term of six months under the same conditions, one of these being the right to fix the railway tariff rates independent of any control on the part of the Government. If the line is sold, the concessionnaire will receive the amount of valuation, and the surplus, if any, will go to the State; but should there be no purchaser the line will revert to the State without any compensation to the concessionnaire.

On comparing these two clauses the inevitable conclusion is, that there must be a bidder; even McMurdo himself would bid, if necessary, against the Portuguese Government.

Senhor Fuschini thought, in view of certain documents which he read, that the question of rescission would give rise to litigation, even if the Government were to allege the ground of *force majeure* for the rescission of the Contract.

As regards the second measure—the tramway—Senhor Fuschini said:—

In May 1884 a Deputation from the Transvaal Republic came to Lisbon, and an Agreement, in addition to the Treaty of the 11th December, 1875, was come to on the 17th May, as embodied in the Memorandum for the Concession of the tramway from Lourenço Marques to the frontier, which Senhor Fuschini argued was in flagrant contradiction with the Memorandum of the previous day, which, although cancelled by the later Memorandum (which had only now been published) appeared in the White Book of 1885.

Senhor Fuschini would refrain at present from discussing the irregular manner in which the two Memoranda had been exchanged, as well as the doctrine about international railway tariff rates; but he must remark that he believes the Minister of Marine is entirely mistaken if he thinks that he will be able to control the Company and overcome all the difficulties.

According to the 20th Article, section 2, of the Concession of the 14th December, 1883, the Government are not at liberty, within the Lourenço Marques territory, and within a limit of 100 kilom. on either side of the railway, to construct or to grant any other line of railway from the Lourenço Marques coast to the Transvaal frontier in competition therewith.

Now, it is stated in the Memorandum that the whole of the conditions of the Contract will be respected, so that if the said tramway is granted 100 kilom. to the south, it will lie outside the Portuguese possessions. Senhor Fuschini maintained that the non-publication and concealment of the Memorandum of the 17th May, 1884, was intended to deceive the Transvaal and the concessionnaire. It was a splendid instance of Chinese diplomacy.

Senhor Fuschini then put the following questions:—

1. Why did Senhor B. Gomes, Minister for Foreign Affairs, and then Minister of Marine, consult the Law Officers of the Crown on the 25th August, 1888, with respect to the Company's right to fix the railway tariff, considering that they held the opinion expressed by Senhor R. Garcia, that the Company had such a right?

2. Have the Governments of the United States or of Great Britain interfered either officially or officiously in the matter of the Lourenço Marques Railway?

3. Has any proposal been made for the purchase of the railway in question?

Senhor Fuschini would also call upon the Government to consult the Law Officers, whether it is lawful for the Government to grant certain rights in any reformed Statutes, of which rights no mention had been made either in the original Contract or in the first Statutes?

The Minister of Marine (Senhor Ressano Garcia) replied with respect to the contradictions between the two Memoranda and the irregularity of the publication of the cancelled Memorandum, that, in deference to his predecessors, he would abstain from making any comments.

Moreover, Senhor Pinheiro Chagas had already given notice of a formal discussion on this subject, and then would be the proper time to treat this question; he would endeavour to remove every difficulty in the way of this discussion, in order that it might take place as soon as possible.

He would take the opportunity to correct the version given of his speech. He had never said that the right of the Company to fix the railway tariff rates was just and fair, and that it was a natural consequence of the wording of the Contract. Such was not his opinion; he had been incorrectly reported in the newspapers, as the shorthand notes would prove. He thought that the chief defect in the Contract was that no mention had been made in the Contract about the railway rates; and he would add that the power subsequently accorded to the Company and which it now enjoys with regard to those rates represents, and may shortly entail, the ruin of that most important possession of Portugal.

With respect to the first question, he had to say that the Marine Department were unanimous in their opinion as to the right of the Company. Senhor B. Gomes had consulted the Law Officers merely because a Committee of Engineers summoned to report as regards the fiscal supervision of the line by the Government had expressed a different opinion.

As regards the intervention of any foreign Governments, he declared that he could not answer. In his Department there were no papers on this point, but he was not aware whether there were any in the Foreign Department.

No proposal had been made for the purchase of the line.

In answer to Senhor Castello Branco, who requested him to explain clearly what he meant when he stated that the Concession accorded to the Company with regard to the railway tariff rates would endanger our East African Colony, the Minister of Marine said that the Concession referred to would be a danger to our Colony at Lourenço Marques.

Senhor Castello Branco: Do you mean its safety?

The Minister rejoined: Its prosperity.

Inclosure 2 in No. 14.

Memorandum de 16 de Maio de 1884.

Memorandum de 17 de Maio de 1884.

(Publicado no "Livro Branco" de 1885).

(Apresentado só hontem na Camara dos
Senhores Deputados.)

* * * * *

MAIS que le tramway soit construit avec la condition essentielle de pouvoir transporter des marchandises et des voyageurs, si les deux Compagnies n'arrivent pas à une entente sur les questions des tarifs. C'est ce qu'on peut faire assurément lorsque les deux Gouvernements se voient forcés d'intervenir, mais ce qu'on ne peut pas promettre parce qu'une telle con-

LE Gouvernement Portugais s'engage à accorder une Concession pour la construction d'un tramway, qui relie Lourenço Marques à la frontière du Transvaal, pour le transport du matériel du chemin de fer de la frontière du Transvaal à Pretoria, à la Compagnie concessionnaire de ce même chemin de fer, si la Compagnie de Lourenço Marques ne finit pas son chemin avec la rapidité nécessaire pour assurer le

dition ferait du tort incontestablement à la Compagnie Portugaise qui, jusqu'à présent, a rempli tous ses engagements. Le Ministre de la Marine croit qu'une semblable condition rendrait les capitaux tellement méfiants que ça pourrait lui créer de graves difficultés. Certes, si la Compagnie Portugaise voudrait faire une arme de combat, arme aveugle et absurde, de ses tarifs, le Gouvernement Portugais aurait lui, aussi, cette arme, comme il a beaucoup d'autres pour la mettre à la raison. Alors il pourrait accorder la Concession d'un tramway, il pourrait encore employer beaucoup d'autres moyens. *Mais déclarer dans un Mémoire ou dans un document officiel que le tramway sera une nouvelle épée de Damocès, toujours suspendue sur la tête du concessionnaire, voilà ce qu'il me semble tout à fait déloyal. Donc, le Ministre ne le fera pas.*

* * * *

Certes le Gouvernement Portugais n'hésitera pas à accorder ce tramway, qui à Lourenço Marques fera toujours une sérieuse concurrence au chemin de fer si la Compagnie qui exploitera cette dernière ligne montre des dispositions pour imposer au commerce du Transvaal des Tarifs absurdes, *mais il ne peut pas sous peine de déloyauté, infliger dans un document officiel une marque de défiance à la Compagnie tout dernièrement organisée, qui compte parmi ses Directeurs un des hommes les plus remarquables de notre pays, un ancien Ministre qui faisait partie, encore il y a peu de temps, de l'actuel Cabinet. Cette exigence est tout à fait nouvelle dans l'histoire des chemins de fer. Jamais, au grand jamais, on n'a voulu imposer à un pays de semblables conditions.*

(Translation.)

Memorandum of the 16th May, 1884.

(Published in the "White Book" of 1885).

* * * *

BUT it is essential the tramway should be so constructed as to be able to carry merchandize and passengers if the two Companies are unable to come to an understanding on the question of tariffs. So much can certainly be done when the two Governments see themselves obliged to interfere, *but no promise can be made, because such a condition would undoubtedly injure the Portuguese Company, which up to now has carried out all its engagements. The Minister of Marine thinks that a condition of that kind would make capital distrustful to an extent which would land him in serious diffi-*

commencement des travaux du chemin de fer du Transvaal.

Le Gouvernement Portugais s'engage de même à permettre que ce tramway soit destiné au transport des marchandises et des voyageurs dans le cas où les deux Compagnies concessionnaires n'arrivent pas à une entente au sujet des tarifs généraux pour le trafic international.

Il est bien entendu qu'il est du ressort des deux Gouvernements de faire les conditions raisonnables, qui peuvent servir de base à toute entente, et qu'il faut pour l'exécution de cette clause le mutuel accord des deux Gouvernements sur la question des tarifs internationaux.

Il est bien entendu aussi que dans les concessions et dans l'organisation des Compagnies concessionnaires, on respectera toutes les conditions des Lois Portugaises sur de pareils sujets, ainsi que les conditions du Contrat du 14 Décembre, 1883.

Memorandum of the 17th May, 1884.

(Presented the preceding day to the Chamber of Deputies.)

THE Portuguese Government engage to grant a Concession for the construction of a tramway to unite Lourenço Marques to the Transvaal frontier for the transport of the matériel of the railway from the frontier of the Transvaal to Pretoria to the Company which has the Concession of the railway in question in the event of the Lourenço Marques Company not finishing its line with such speed as may be necessary for assuring the beginning of the works of the Transvaal Railway.

The Portuguese Government engage to allow this tramway to be used for the transport of merchandize and passengers in the event of the two Companies to whom a Con-

culties. Certainly, if the Portuguese Company wanted to turn their tariff into a weapon, a proceeding which would be at once useless and absurd, the Portuguese Government on their part could make use of the same weapon, as could they likewise of many others, for the purpose of bringing them to reason. In that case they could grant a Concession for a tramway, and could besides have many other means at their disposal. *But to declare in a Memorandum or in an official document that the tramway will be a new sword of Damocles, always suspended over the head of the concessionnaire, would be, in my opinion, most dishonest. And, such being the case, the Minister will not do it.*

* * * *

Certainly the Portuguese Government will not hesitate to grant their tramway, which will always be a serious competitor of the railway at Lourenço Marques, if the Company which is to work this latter should appear disposed to impose any absurd tariff on the commerce of the Transvaal, *but they cannot, at least without acting dishonestly, show in an official document a want of trust in a Company which has just been started, which numbers among its Directors one of the most remarkable men in the country, an ex-Minister, who was but a very short time ago in the present Cabinet. This demand is altogether new in the history of railways. Never, never, has an attempt been made to impose such conditions on a country.*

cession has been granted not being able to arrive at an understanding on the subject of the general tariffs for the traffic between the two countries.

It is to be understood that it is in the power of the two Governments to make reasonable conditions which may serve as a basis for any understanding, and that before the clause in question can be carried out the two Governments must come to an understanding on the question of the tariffs to be imposed.

It is also to be understood that both with regard to the Concessions themselves and the organization of the Companies to whom they have been granted, all the provisions laid down on such subjects by the Portuguese law will be observed, as well as the conditions of the Contract of the 14th December, 1883.

No. 15.

The Marquis of Salisbury to Mr. Petre.—(Substance telegraphed.)

Sir,

Foreign Office, June 3, 1889.

WITH reference to your despatch of the 2nd ultimo, I have to state that I have received a letter from the Delagoa Bay Railway Company, urging Her Majesty's Government to intervene for the protection of their interests.

I have to request you to do all you can to induce the Portuguese Government to grant the Company an extension of the time allowed for the completion of the new section of the line, beyond the 24th instant, the date at present fixed.

With this object you should point out to Senhor Barros Gomes that the English Company, whose pecuniary interests are alone involved in the present Concession, are prepared to undertake that the extension shall be completed with all reasonable dispatch, and to leave the question of compensation to be settled by arbitration hereafter. You should state that, under these circumstances, the arbitrary confiscation of the British capital invested in the Concession, which would result from its threatened annulment, would appear to Her Majesty's Government to be altogether without justification.

I am, &c.
(Signed) SALISBURY.

No. 16.

Mr. Petre to the Marquis of Salisbury.—(Received by telegraph, June 6.)

My Lord,

Lisbon, June 6, 1889.

I HAVE just received a letter from Senhor Barros Gomes in answer to mine, strongly urging the Portuguese Government to grant a prolongation of the term for the completion of the Lourenço Marques Railway. His Excellency says that the explicit declarations made by the Government in the Cortes, that the term would not be prolonged beyond the 24th June, make it impossible for them to do what is asked of them; but that if the Company can come to terms, in the interval, with the Dutch Company as to the tariff in accordance with the plan already proposed by the Government, and which the Special Commission of Engineers to which it was referred pronounced to be fair in all respects, there would then be a reasonable ground for prolongation.

I have, &c.
(Signed) GEORGE G. PETRE.

No. 17.

Mr. Petre to the Marquis of Salisbury.—(Received by telegraph, June 8.)

My Lord,

Lisbon, June 8, 1889.

IN a letter just received, Senhor Barros Gomes suggests another alternative for the settlement of the Delagoa Bay Railway question than the one which I reported to your Lordship in my despatch of the 6th instant. It is that the Company should consent at once to the entire remodelling of the Contract, or Concession, on condition of their financial interests being secured. The Government, however, meanwhile, on the 24th instant, to take possession of the line pending the negotiations which would have to take place, and which would be lengthy.

I am too much in the dark as to the real position of the Company's affairs, or as to the reasons which have apparently prevented them from carrying out the stipulations of the Contract as regards the completion of the few remaining kilometres of the line, to be able to say whether they ought to accept such a proposal, but the other alternative appears to me to be far preferable, as nothing else, I am convinced, can prevent the forfeiture of the Concession.

I have, &c.
(Signed) GEORGE G. PETRE.

No. 18.

Mr. Petre to the Marquis of Salisbury.—(Received June 10.)

My Lord,

Lisbon, June 5, 1889.

AS soon as I received your Lordship's despatch of the 3rd instant on the subject of the Delagoa Bay Railway, being confined to the house by indisposition, and not being able therefore to call on M. de Barros Gomes to talk the matter over with his Excellency as I should otherwise have done, I wrote to him privately, urging very strongly that the Government should grant a prolongation of the Contract term for executing the concluding 8 kilom. of the line sufficient in their opinion for the work to be done, and which the Company pledged themselves to do, leaving compensation for future arbitration. I added that I could not bring myself to believe that the Government would use their power to take a step which would virtually entail the confiscation of such a large amount of British capital sunk in the construction of the line in question.

I said also that the debates in the Cortes had shown the confusion in which the whole matter was involved, and that really the simplest solution, as it was the easiest way out of the difficulty in which the Government was placed, was to do what I was instructed by your Lordship to propose on behalf of the Company. I begged his Excellency to let me know the decision of the Government with as little delay as possible, but I have not yet received a reply from him.

My despatches have shown the nature of the difficulties in which the Government

were placed in connection with the Lourenço Marques Railway, and likewise that the Company had full warning of the consequences of not attempting at least to complete the remaining portion within the term, which was itself a prolongation.

In endeavouring, therefore, to do the best in my power to save the British capital involved by obtaining a further short prolongation, I have not thought it expedient to assume that the Portuguese Government are not within their right, but I have appealed to them on other grounds, and I rely chiefly upon its being the easiest solution of their difficulty.

In connection with this subject, I have the honour to inclose a short summary of some observations by Senhor Fuschini in the Chamber of Deputies yesterday, eliciting a brief answer from Senhor Barros Gomes.

I have, &c.
(Signed) GEORGE G. PETRE.

Inclosure in No. 18.

Summary of Proceedings in the Chamber of Deputies, Lisbon, on June 4, 1889.

(Translation.)

SENHOR FUSCHINI read yesterday, in an official paper of the Government, the news that the personnel had been appointed to carry out the working of the Lourenço Marques Railway, the selections for these appointments having been made from among the Minho and Douro Railway officials. They were to serve out there on account of the Government until the adjudication of the line to a new Company.

Now the adjudication of the line would give rise to grave difficulties derived from the primitive Contract.

Three or four weeks ago he had applied for the publication of several documents concerning this question, only four or five had been published, and without these documents he was not in a position to express his views, as he could not quote the official statements.

His notice of question, given some time ago, and to which the Minister of Marine had declared his readiness to reply, had not yielded any result whatever, not even as regards the publication of the documents.

It would appear that the Government wanted to cancel the Contract and to work the railway until they granted a new Concession. Now Article 42 laid down the several cases in which the Contract could be rescinded, as well as the mode of proceeding in the matter; and in the respective paragraph it was laid down that the adjudication of the Concession should be made under the same conditions.

In the event of the adjudication being thus made, it would follow that the principle as to the liberty of fixing the tariff rates—a principle which was at present contested—would become unquestionable, as it would be one of the bases under which tenders would be invited.

In this manner a doubtful point would be converted into an unquestionable right of the future concessionnaires, who, under the circumstances, were sure to be the present Company.

He would therefore put the question to the Minister of Finance, whether, in the new programme inviting tenders for the adjudication of the Contract and Concession, the clause as to the right of fixing the tariff rates of the railway would be inserted or not?

He (Senhor Fuschini) had presented to the Chamber the original document upon which the alleged right to fix the railway tariff rates is based—a right about which the statement has been made that it may eventually lead to the utter ruin of the Colony of Lourenço Marques.

The document in question is half a sheet of paper written in pencil, with a few interlineations written in ink.

He wanted a brief and clear answer to his question.

He wished the Government to tell him simply whether it was their intention or not to insert in the programme inviting tenders for the Concession the clause as to the right to fix the railway tariff rates.

He was not going to drop the matter, he would not allow himself to be overcome by any tricks either in or out of the Cortes, and furthermore he will not be intimidated by any individual or collective threats, wherever they may come from.

The Minister of Finance *ad interim*, and Minister for Foreign Affairs (Senhor

Barros Gomes), had only to state in reply to Senhor Fuschini that the Government will carry out the Contract.

The Government will consult their Law Officers, and will act in the matter in such a manner as to prevent any detrimental effects from accruing to the interests of the State.

No. 19.

Mr. Petre to the Marquis of Salisbury.—(Received June 17.)

My Lord,

Lisbon, June 12, 1889.

THE Castle Mail Company's steamer "Hawarden Castle," which left Lisbon for the Cape the day before yesterday, took out seventy-seven Portuguese railway officers and employes of different kinds, sent by the Government to take charge of the Delagoa Bay Railway. The Director left a week previously.

I have, &c.

(Signed) GEORGE G. PETRE.

No. 20.

The Marquis of Salisbury to Mr. Petre.

(Telegraphic.)

Foreign Office, June 21, 1889, 4.30 P.M.

DELAGOA BAY Railway.

I have to direct you to press very earnestly for extension of time for three months from 24th June; this is necessary for repair of the damage done by floods

No. 21.

The Marquis of Salisbury to Mr. Petre.—(Substance telegraphed.)

Sir,

Foreign Office, June 24, 1889.

WITH reference to my despatch of the 3rd instant, on the subject of the Delagoa Bay Railway, I have to inform you that the Law Officers of the Crown, to whom the correspondence on the subject has been referred, have reported that, in their opinion, the Portuguese Government have no right to cancel the Concession or to forfeit the line already constructed. The question of the non-completion of the 8 kilom. by the date named (24th June) should, they consider, be dealt with by arbitration under Article 53 as a question touching the execution of the Contract, subject to the other provisions of the Contract.

They observe, however, that there does not appear to be, at present, any distinct refusal to refer the matter to arbitration, and I have consequently to request that you will ascertain whether the Portuguese Government do distinctly decline arbitration. Should they do so, and take steps to cancel the Concession and forfeit the line, the Law Officers are of opinion, in the present state of the facts, that Her Majesty's Government would be justified in intervening diplomatically in order to prevent such action.

You should accordingly inform Senhor Barros Gomes that if the Government refuse to grant the extension of time for completion of the line in compliance with the request already made by you, and decline to submit the questions at issue to arbitration, this would, in the opinion of Her Majesty's Government, be, on their part, a very serious step.

I am, &c.

(Signed) SALISBURY.

Mr. Petre to the Marquis of Salisbury.—(Received by telegraph, June 25.)

My Lord,

Lisbon, June 25, 1889.

I WAS unable to see the Minister for Foreign Affairs on the 22nd, as he did not come to the Ministry that day, being engaged in the Cortes and elsewhere, but I left a Memorandum containing the substance of your Lordship's telegram of the 21st instant, which I had received late the previous evening. This was forwarded immediately to his Excellency. Sunday intervening, I did not see him until yesterday afternoon, when he told me that the Lourenço Marques Railway question had been carefully and maturely considered by the Government, and that their own repeated declarations in the Cortes and considerations of public interest obliged them to take the course which they had decided upon of declaring the Concession forfeited, and of taking possession of the line as soon as they received from Lourenço Marques the formal notification, by telegraph, of its non-completion. He added that a Decree would be probably published to-morrow to that effect.

Senhor Barros Gomes then informed me that Mr. Secretary Blaine had telegraphed to the United States' Minister here, instructing him to inform the Minister for Foreign Affairs that the United States' Government were desirous that the Company should be granted an extension of time to complete the line, and he then showed me the answer which he had written to the American Acting Consul here, Mr. Lewis having already left, and the new Minister, Mr. Loring, not having yet arrived. It was to the same effect as that which he had previously given to me, and which was reported in my despatches of the 8th instant.

I saw it was useless to attempt to induce the Portuguese Government to reverse the decision upon which they had even already partially acted; but I observed to Senho Barros Gomes that they were pursuing a course which exposed them to very serious embarrassments, and that by using what they claimed to be their right, they would still be faced by the same difficulties and complications. For example, if they pushed matters to extremities, and ultimately put up the railway after valuation to public auction, they would not necessarily get rid of the right of the purchaser or purchasers to fix the Tariff. He said that the Government had carefully weighed all the objections, and had arrived at the conclusion which they had long since publicly made known.

His Excellency added, however, that he thought it was quite possible for the Company, to which no hostility whatever was entertained, to come still to a satisfactory arrangement which would save their financial interests. He did not say whether the result of that would be to restore the railway to the possession of the Company, but I assume that to be the case, and that what is meant is the acceptance of the Tariff approved by the Portuguese Government and a Government guarantee on a portion of the capital of the Company. What that portion should be, as I gather from conversations which I have had with Mr. Walter Seymour, who has been sent out here by the Company at the last moment, and, I am afraid, too late, is, I believe, the real stumbling-block to an arrangement. He appears to have been instructed to ask for a 7 per cent. guarantee on 1,250,000*l.*, composed of 750,000*l.* debentures and 500,000*l.* shares, which, reckoning the railway at 50 miles in length, would certainly make it the most costly of any in the world.

In conclusion, I would observe that I think that the Portuguese Government, notwithstanding their action, so injurious to the interests of the Company, is ready to negotiate terms with them. This is, I believe, also Mr. Seymour's opinion.

I have, &c.

(Signed) GEORGE G. PETRE.

Mr. Petre to the Marquis of Salisbury.—(Received by telegraph, June 25.)

My Lord,

Lisbon, June 25, 1889.

I HAVE the honour to inclose the copy of a note which I addressed and sent this morning to Senhor Barros Gomes in consequence of your Lordship's telegram of the 24th instant, which reached me yesterday evening.

I am inclined to infer, from something which his Excellency said to me yesterday,

that he does not consider that the appropriation of the railway by the Portuguese Government precludes arbitration if the right of cancelling the Contract is contested, but if it had been clearly stated, this is not a contention which I could have left unchallenged, because it involves at all events a temporary prejudgment of the question at issue.

I have likewise written privately to Senhor Barros Gomes on the subject of arbitration as the only way of settling the question.

I have, &c.
(Signed) GEORGE G. PETRE.

Inclosure in No. 23.

Mr. Petre to Senhor Barros Gomes.

M. le Ministre,

Lisbon, June 25, 1889.

I HAD the honour to communicate to your Excellency, on the 22nd instant, an urgent request, made by Her Majesty's Government, that an extension of three months should be granted to Delagoa Railway Company in order to give them time to repair the damage done by the floods.

At an interview which I had with your Excellency yesterday you informed me that the Portuguese Government had decided, on grounds of public interest, to take immediate possession of the line, in consequence of its non-completion, and that, consequently, the request made by Her Majesty's Government, as well as a similar one made by the United States' Government, would not be complied with. Your Excellency likewise said that the modes of settlement and of securing the financial interests of the Company, already communicated to me by your Excellency, would be still open to them.

Since our conversation of yesterday afternoon, I have received a telegram from the Marquis of Salisbury, the substance of which it is of importance that I should communicate to you without delay, with the request that the Portuguese Government will give it their most serious attention.

Her Majesty's Government hold that the Portuguese Government have not the right to cancel the Concession, or to forfeit the line which is already constructed. They maintain that the question arising out of the non-completion of the additional line is referable to arbitration under Article 53, as touching the execution of the Contract.

I am therefore directed to ascertain from your Excellency whether the Portuguese Government will consent to refer the question to arbitration, or whether they distinctly decline to do so. I would observe at the same time that to refuse to grant an extension of time in compliance with the request already made, and also to refuse to refer the question in dispute to arbitration, would be looked upon by Her Majesty's Government as a very serious step on the part of the Portuguese Government.

I avail, &c.
(Signed) GEORGE G. PETRE.

No. 24.

The Marquis of Salisbury to Mr. Petre.—(Substance telegraphed.)

Sir,

Foreign Office, June 26, 1889.

AS Her Majesty's Government are informed that the official Decree of the Portuguese Government cancelling the Delagoa Bay Railway Concession has already been issued, it would serve no useful purpose to continue to discuss the right of Portugal to act as she has done in the matter unless the Portuguese Government themselves again broach the subject. Should they, however, reopen the question, you should inform them that Her Majesty's Government will hold them responsible for any losses sustained, in consequence of their action, by any of Her Majesty's subjects who may have invested their money in this undertaking, relying on the faith of the Concession, and on the full knowledge and approval of the Portuguese Government, of which they were formally assured.

You are doubtless aware that, in the view of Her Majesty's Government, the

Portuguese Government have no right to cancel the Concession ; and, if the question arises, you should be careful to prevent any misconception on this point.

I am, &c.
(Signed) SALISBURY.

No. 25.

Mr. Petre to the Marquis of Salisbury.—(Received by telegraph, June 26.)

My Lord,

Lisbon, June 26, 1889.

IN accordance with what Senhor Barros Gomes told me on the 24th instant would be the case, a Royal Decree appeared in the official journal this afternoon, cancelling the Lourenço Marques Railway Contract.

I have the honour to transmit a translation of the Decree, and also of the Ministerial Report addressed to the King which precedes it. This Report is somewhat lengthy, but it purports to give a complete narrative of the history of the question, and to justify the rescission of the Contract with the Company. I have caused it therefore to be translated in its entirety.

The Decree itself consists of six Articles. It declares the Contract to be rescinded, and directs the Government to cause an immediate valuation to be made of the railway and its materials, and then to put it up for public sale six months later. The interrupted portion of the line already constructed is to be repaired, and the remaining section to be completed without delay, and the whole line is to be opened as soon as possible.

Administrative possession is to be taken of the railway by the Government, including its rolling-stock, buildings, and accessory property and stores, after a careful inventory of the whole. This inventory is to serve as the basis for the valuation. An especial account is to be kept of all expenditure incurred by the Government in connection with the railway, to be deducted ultimately from the purchase-money.

The Governor of Lourenço Marques and the Government Superintendent Engineer are to be invested with full powers in all matters requiring a prompt or immediate settlement in connection with the railway.

I have, &c.
(Signed) GEORGE G. PETRE.

Inclosure 1 in No. 25.

Extract from the "Diario do Governo" of June 26, 1889.

(Translation.)

Report.

Sire,

INASMUCH as the expediency of connecting the district of Lourenço Marques with the Transvaal State by means of a railway had long been acknowledged, your Majesty's Government, by a Contract dated the 14th December, 1883, granted to Edward McMurdo the construction as well as the working during ninety-nine years of a line of railway between the Bay of Lourenço Marques and the Transvaal frontier, the concessionnaire being bound to send an engineer to Lourenço Marques within forty days from the date of the signature of the Contract, in order that he might proceed to examine the plans and surveys already made by the Engineers of the State, and then propose any alterations which he might consider expedient and necessary ;

To submit the result for the approval of the Government within 140 days after the the same date ;

To complete the construction of the railway, including the whole fixed and rolling stock, buildings, accessory properties, and dependencies, within the term of three years after the date of the approval of the plans above referred to ;

And, finally, to keep the said railway and its dependencies during the whole period of the Concession in good working order, the whole of the repairs required for the purpose being effected at his expense.

Accordingly, in January 1884, the engineer Alprovidge commissioned by the concessionnaire to study the railway plans, started for Africa ; but although this Department of State furnished him with the surveys and information in its possession as regards the proposed railway, he appeared at Lourenço Marques with only a copy of the plans of the first section of the line (10 kilom. in length), so that it seemed, judging

from this fact and from others mentioned in the official Reports, that he had proceeded to the place rather for the purpose of complying with a formality required by the Contract than for the purpose of minutely examining the alterations which it might be expedient to adopt.

Upon the expiration of the period of 140 days within which the definitive plan of the line ought to have been presented to the Government, the concessionnaire applied for an extension of the period for sixty days more.

The Government might have at once rescinded the Contract of the 14th December, 1883, because they were authorized to do so by Article 42. They thought proper, however, to grant, on the 2nd May, 1884, the extension applied for, and on the 14th of the same month and year they approved the Statutes of the Portuguese "Lourenço Marques and Transvaal Railway," a Joint Stock Company having its seat in Lisbon, and organized by the concessionnaire in accordance with Article 51, in order to carry out the object proposed in the Contract.

Furthermore, in order to facilitate the rapid progress of the construction of the railway, by a Decree of the 24th May, 1884, the Government, explaining and interpreting, in response to the application on the part of the Company thus constituted, several stipulations of the Contract of 1883, consented that wood or other materials should be substituted in several engineering works for stone, iron, or bricks mentioned in the 14th Article of the Contract, provided that, in consequence of such substitution, the necessary security of the line should not be jeopardized; and they also authorized the Company to submit any alterations of the plans, subject, however, to the limitation that the same would not be approved in the event of the construction being essentially affected thereby, and that the limits allowed for the curves and inclines in the Contract should not be departed from.

At the expiration of the extension of time accorded on the 2nd May, 1884, Edward McMurdo, while endeavouring to justify the fact that the engineer Alprovidge had given him very scanty information as to the alterations which it would be expedient to propose, declared that he had made up his mind to accept the Government plan, subject to a few modifications which were not in any way dependent upon an examination of the plan on the spot.

This declaration, together with the request already made by the Company to be allowed to present any alterations, completely approved that neither the term of 140 days as fixed in the Contract, nor the further extension of sixty days granted later on, had been utilized in the sense of examining, improving, and completing the official plan, which did not go beyond the 81·970 kilom.

In the Decree ("Portaria") of the 30th October, 1884, this plan was approved for the intents and purposes of the Contract, without prejudice, however, to the presentation of the plan of the last portion of the line as far as the frontier, and it was declared, at the request of the Company, that the amount deposited as guarantee—67,500 milreis (15,000*l.*)—might be raised as soon as it should be proved that the sum of 135,000 milreis (30,000*l.*) had been spent, not exclusively in the construction of the railway, as laid down in Article 39 of the Contract, but also in the purchase of fixed and rolling stock, provided such stock should have been brought to Lourenço Marques, and should be intended for the completion of the railway.

By a Decree of the 3rd March, 1885, the Government, in endeavouring to facilitate as much as possible the speedy realization of the important public improvement undertaken by the Company, granted further applications addressed to them by the Company, and not only allowed it to reduce the sum intended for the building of the stations, and increase that for the rolling-stock, and to adopt in the neighbourhood of Lourenço Marques a plan so drawn up as to avoid expensive expropriations, but they also declared that they did not consider it to be absolutely necessary to impose, as regards the railway in question, conditions of a more onerous nature with reference to curves and inclines than those laid down in the Concessions made in the Colony of Natal, where, in this matter, greater exigencies are made than those laid down in the Contract of the 14th December, 1883.

Notwithstanding, however, the condescension of the Government in acceding to every request on the part of the Company, with the high object of promoting the speedy execution of a most important improvement so urgently called for by the public interest, the Company on its side was in no great hurry to begin the works; and, on the 18th November, 1885, it alleged that but very little time remained of the period allowed for the construction of the railway, and asked that it should be extended for another year, in the event of the works being commenced, as he hoped they would be, before June 1886.

The Government acceded to this further request, and published the Decree of the 28th December, 1885, in which they granted the same; and, as they trusted that the Company would carry out its engagements, they did not hesitate to declare shortly afterwards to the Transvaal Government that the works of the Portuguese line of railway would begin in June 1886, their object being to allay the despondency which prevailed in the Republic as regards the probabilities of the construction of the line, and which might induce it to take some step contrary to our interests.

At the end of 1885 the Company asked leave to modify its Statutes in order to facilitate the emission of its debentures, and to increase the powers of the Managing Directors in London, and the Government approved the new Statutes by a Decree of the 7th January, 1886.

As the month of June 1886 was approaching without the Company having taken any steps to commence the works, in accordance with the engagement which it had expressly taken, the Government directed it, in a letter dated the 12th March, to report as soon as possible the probable date of the departure of the personnel and of the materials for the works.

Notwithstanding the urgent nature of this request, the President of the Company only replied on the 18th May, stating that, inasmuch as the Company had not succeeded up to that time in issuing its debentures, it was impossible to begin the construction of the railway, and that it was even out of his power to fix the time when the Company would be able to initiate the works; but that in case it suited the Government to commence the works on the railway, the Directors of the Company would not be opposed to this course, and, on the contrary, would engage to accept, at the price agreed upon, the works that might have been done by the time when the financial circumstances of the Company should have improved.

Considering the want of capital and credit, as acknowledged by the Company, it could be maintained on just grounds that the Government had the right to rescind the Contract at once, the more so that the Company had declared on the 18th November, 1885, that the time at its disposal up to the 30th October, 1887, was too short for the completion of the line, and thus virtually acknowledged that the time that still remained was not enough for the purpose, more than six months having been lost.

Nevertheless, the Government, on the ground that the Contract of 1883 did not expressly fix the time in which the works were to be commenced, considered that the time had not yet come for appealing to a rescission, and that it was their duty to provide as best they could for the public interest, and to carry out the engagements which they had taken, by at once inaugurating the railway works, under the reservation that with respect to the same they would come to an agreement with the Company whenever the latter should prove that it was in a position to undertake the construction of the line.

The works were being regularly carried on on account of the State, when on the 1st February, 1887, a general meeting of the Company was held. It had been convoked for the special purpose, among others, of taking a decision as to the best means that could be adopted in order to carry out, without any great delay, the object for which the Company had been formed, or else to put an end to the entirely irregular situation in which it was placed.

In order to meet this state of things, a proposal of the shareholder Edward McMurdo was voted—this gentleman representing in his individual capacity the great majority of the meeting—to the effect that the Concession should be retransferred to the original concessionnaire, that is to himself, in the event of the Government sanctioning this course.

All these facts and decisions, which were communicated on the 16th of the same month to this Department of State, proved with the greatest evidence that the Company found it absolutely impossible to undertake the construction of the railway and to conclude it within the proper time, which was then reduced to eight and a-half months.

The Government then determined to rescind the Contract, and the Decree for that purpose was actually drawn up, but they yielded once more to the solicitations of the Company, which through the President of the Board of Directors asked on the 3rd March, and succeeded in obtaining on the 5th, that a decision on the matter should be suspended for the precise term of fifteen days, on the ground that at the end of that term it was nearly certain that the Company would be in a position to pay off all its liabilities.

Accordingly on the 17th of that month the President of the Board of Directors wrote again to the Government declaring categorically that the Lourenço Marques

Railway to the Transvaal frontier would be concluded in accordance with, and within the period laid down in, the Contract, and from that time the works were carried on on account of the Company, which repaid to the State the expenses incurred by the Government.

On the expiration, however, of the period fixed for the termination of the railway, the Company applied for an extension of fifteen days only, and the Government replied that such an extension would not be sufficient, inasmuch as the last section of the line close to the frontier had not yet been commenced, the plans for which had not yet even been submitted to the Government, and as 8 kilom. had not been constructed in the part of the line already constructed, and as throughout the whole line the "balastragem" levelling was still undone, and furthermore several bridges and other indispensable works were not yet finished.

The Company then applied for an extension of three months more, which was granted in the "Portaria" of the 19th November, 1887; and on the 26th of the same month the Government Overseer allowed the first 80·5 kilom. of the line to be provisionally opened, under the express reservation, as notified to the Company, that the permission thus granted would not affect either the obligation of the Company to continue the line to the frontier and to finish the whole of the works laid down in the Contract of 1883, or the rights of the State as derived from the non-completion of the railway within the term laid down in the Contract.

Unfortunately, the line of railway shortly after it was opened was interrupted, as it stood in need of important repairs, which were proceeded with very slowly. The Company likewise continued to neglect the last section near the frontier, on the ground that the boundaries between the two countries had not yet been defined.

Under these circumstances the Government issued the "Portaria" of the 24th October, 1888, in which they fixed the term of eight months for the definitive termination of the railway, the terminus to be at the Incomati Pass, as marked in a plan annexed to the said "Portaria," and with an express declaration that the said term would be substituted for all intents and purposes for the one laid down in the 40th Article of the Contract of the 14th December, 1883.

The Company, no doubt, alleged that this period was not sufficient for the construction of the last section of the railway to the frontier, but its representations were not attended to as stated in the "Portaria" of the 27th December, 1888, in consequence of the reports made by the proper Departments.

To-day the term laid down in the "Portaria" of the 24th October, 1888, for the definitive termination of the line of railway expires; and during the eight months which have elapsed since that date nothing was done by the Company beyond the 80·5 kilom.—as it appears from the official Reports—except cutting three rocks situated between the 80·6 and the 81 kilom., fill up some embankments at that point, and clear up the wood as far as the 83 kilom.; and it was only on the 12th instant that the contractor for the construction appeared on the spot in order to begin to mark the course of the line between the 80·5 and 83 kilom.

The section of the line comprised between the point of departure and the 80·5 kilom., although nineteen months have elapsed since permission was given for its provisional opening, is not yet in a position to be definitively opened to the public; but, on the contrary, as it was partially destroyed by the rains in January last, it has not yet been repaired so that it can be worked, and there is an interruption of 12 kilom. in spite of the summons addressed to the Company to effect the necessary repairs promptly.

Consequently, the Company have neither definitively concluded the section of the line as far as the 80·5 kilom., the opening of which had only temporarily been allowed, nor have they promptly repaired the line damaged by the rains in this section, nor have they completed the section near the frontier.

The Company endeavours to explain these shortcomings, stating that the term of eight months fixed in the "Portaria" of the 24th October, 1888, included the rainy and the feverish season, during which it was impossible, without imminent risk to the lives of the workmen, to undertake the necessary works for the conclusion of the line.

The reasons alleged cannot, however, be accepted as cases of *force majeure*, because out of the period of eight months referred to in the "Portaria" of the 24th October, 1888, it is only the smaller part of that period that may be looked upon as rather unfit for the purpose of carrying on the works on account of the rains, while during several months the said works might have been prosecuted on a large scale had the necessary personnel and materials for the works been dispatched to Lourenço Marques beforehand. Contrary to all expectations, the personnel and materials only reached

that port in the middle of this month, too late to effect the works which ought to have been finished on the 24th instant.

The whole of these facts have given rise to a state of things which the Government could not allow to continue without endangering public interests of the highest importance, and without rendering useless the very important sacrifices which have been made in order to endow Lourenço Marques with all the elements of progress and civilization, so as to enable this possession to utilize the exceptionally favourable conditions which Nature has bestowed upon it.

The Government cannot be accused of any animosity against the Company, to which, as shown above, they have so often condoned its non-compliance with the Contract, and which has not returned the good-will displayed towards it by making use, as it ought and could have done, of the last term fixed, and which was more than sufficient to enable it to finish the works, had the necessary elements been furnished for the purpose.

Upon these grounds the Government consider it to be their duty to make use of the power conferred upon them, in virtue of the 42nd Article of the Contract, to rescind the said Contract should the Company not conclude the construction of the railway, including the fixed and rolling stock, in the terms and within the periods laid down, and likewise to make use of the right conferred upon them, in virtue of the 44th Article, to cause the necessary repairs to be proceeded with, and to seize the whole of the Company's receipts until the reimbursement in full of the total expenditure incurred.

I have accordingly the honour to submit to your Majesty's approval the following draft Decree.

(Signed) FREDERICO RESSANO GARCIA.
Marine and Colonial Department, Lisbon,
June 25, 1889.

Inclosure 2 in No. 25.

Extract from the "Diario do Governo" of June 26, 1889.

(Translation.)

Royal Decree.

IN view of the Report made to me by the Minister and Secretary of State for the Marine and Colonial Department;

Having consulted the Councillor and Attorney-General to the Crown, the Consultative Board for the Colonies, and the Council of Ministers;

I hereby decree:

Article 1. In virtue of the power held by the Government, in conformity with the provisions set forth in Article 42 of the Contract of the 14th December, 1883, for the construction and working of a railway from the port of Lourenço Marques to the Transvaal frontier, the said Contract is declared to be rescinded.

Art. 2. The Government will at once cause a valuation to be made of the aforesaid railway, as well as of the whole of the works already made and of the materials supplied, and as soon as this valuation is concluded they will put up to public auction, during a period of six months, the line of railway from Lourenço Marques to the Transvaal frontier, in accordance with the paragraph of the said Article 42 of the Contract.

Art. 3. The repairs of that portion of the line, the working of which is now interrupted, the construction of the section comprised between the 80.5 kilom. and the frontier, as well as the completion of the various sections, shall at once be proceeded with, in order that the railway throughout its whole extent may be definitively opened to the public as soon as possible.

Art. 4. In order to carry out the provisions set forth in the preceding Article, the Government shall take possession administratively of the railway, as well as of the whole fixed and rolling stock, buildings, accessory properties, dependencies, and stores, such possession to be preceded by a minute and scrupulously accurate inventory, which is to be carried out under the direction of the proper local authority, in the presence of the representative or representatives of the Company, or else in their absence, should they disobey the intimation which is to be given to them for that purpose.

§ 1. This inventory shall serve as a basis for the valuation referred to in the 2nd Article of this Decree.

§ 2. The proceedings of the inventory shall be carried out in such a manner so as not to hinder the commencement and prosecution of the necessary works for repairing and completing the line.

Art. 5. The whole of the expenditure incurred by the Government is to be duly noted in a special account, in order that the amount may be deducted in due time from the price obtained by public auction for the line.

Art. 6. With a view to a prompt and speedy enforcement of the provisions set forth in this Decree, the Government will delegate to the Governor of the District of Lourenço Marques and to the engineer in charge of the fiscal supervision of the railway, in all things that may require a prompt and immediate settlement, the whole of the powers and such functions as may belong to them, either in virtue of the provisions of the Contract of the 14th December, 1883, of those contained in this Decree, or of the general Laws of this country that may be applicable to the case.

The Minister and Secretary of State for the Marine and Colonial Department shall accordingly carry this Decree into effect.

(Signed) THE KING.

At the Palace, June 25, 1889.

(Countersigned) FREDERICO RESSANO GARCIA.

No. 26.

Mr. Petre to the Marquis of Salisbury.—(Received by telegraph, June 27.)

My Lord,

Lisbon, June 27, 1889.

I HAVE the honour to inclose the translation of a note which I received last evening from Senhor Barros Gomes, in answer to the note which I addressed to his Excellency on the 25th instant, by your Lordship's instruction, contesting the right of the Portuguese Government to cancel the Lourenço Marques Railway Concession, and asking whether they agreed or refused to submit the matter to arbitration, as provided for by clause 50 of the Contract.

Senhor Barros Gomes informs me, in reply, that the Government accept arbitration, and he admits that, according to the terms of Article 50 of the Concession, the Government are bound to do so if the Company appeal to it, against their action in rescinding the Concession, as they have done by the Royal Decree of which a copy is inclosed in my preceding despatch.

The Portuguese Government, however, do not admit that arbitration, if proposed, ought to have the effect of suspending meanwhile the sequestration of the line, and in support of this contention his Excellency appeals to the frequent publicity which has for a long time past been given to the intentions of the Government, and to the Ministerial declarations in the Cortes, and to the absence of any protest or representation on the part of the Company until quite recently.

The Minister for Foreign Affairs refers, as still possible, to the alternative arrangements which he had previously communicated to me, and which I reported in my despatch of the 8th instant. He also repeats the disclaimer of any hostility towards the Railway Company on the part of the Government, and I believe this to be the case, for they have no interest in being hostile to it.

In conclusion, my attention is drawn with some emphasis to the distinction between the Delagoa Bay Railway Company and the Lourenço Marques Railway Company, with which latter the Contract was made, and which is Portuguese, and has its seat in Lisbon, whereas the other is an English Construction Company.

The Government, he says, can only recognize or treat with the Lourenço Marques Company.

This is no doubt technically true; but as regards the question at issue it has no particular practical importance.

I have, &c.
(Signed) GEORGE G. PETRE.

Inclosure in No. 26.

Senhor Barros Gomes to Mr. Petre.

(Translation.)

Your Excellency,

Foreign Department, Lisbon, June 26, 1889.

IN a note which your Excellency addressed to me yesterday, and which begins by summarizing the explanations exchanged between us since the 22nd instant with reference to the application, supported by Her Britannic Majesty's Government, for the granting to the Delagoa Bay Railway Company of an extension of three months' time, your Excellency acquaints me with a further telegram from Lord Salisbury, in which the right of the Portuguese Government to rescind the Contract concerning the Concession of the Lourenço Marques Railway and to take possession of the line is contested, and in which it is asserted that the contingencies which are now taking place, and upon which the Portuguese Government base their proceedings, come under the provisions of the clause No. 50 of the Contract, and therefore constitute a matter for arbitration to which that Article alludes. In compliance, therefore, with the instructions received from your Government, you inquire whether the Portuguese Government consent to accept arbitration, or whether they positively decline to accept it.

In reply to Excellency's note, I beg, in the first place, in deference to Lord Salisbury, to assure your Excellency that His Majesty's Government, firmly convinced as they are that the whole of their proceedings are based upon the provisions contained in the Contract of the Concession, neither decline, nor can they decline, to refer the matter to arbitration, should the Lourenço Marques and Transvaal Railway Company think proper to appeal to that course against the acts of the Government, in accordance with Article 50 of the Contract. I had already made this declaration to your Excellency, adding, however, that in the event of such a contingency, which I did not know whether it would take place or not, it could never have a suspensory effect upon the action of the Government, whose decisions had long been known, inasmuch as they had been publicly stated in both Chambers of Parliament, and by more than one of the members of the Government, without any protest or complaint on the part of the Company, except a mere Petition of recent date asking for a further extension of the term, and putting forward certain alleged grounds of *force majeure* in support of the said application.

His Majesty's Government have constantly, and for a long time, acted towards the Company with a toleration which might be described as excessive, were it not to be accounted for by reason of the natural interest felt in this country with respect to the construction of the Lourenço Marques Railway; such a toleration, however, would necessarily have to come to an end. The very strong reasons which called for it at present are summarized in the Report which precedes the Decree of Rescission, which document contains likewise an account of all the various acts of condescension and toleration on the part of the Government towards the Company. I will not, therefore, mention them in this note.

I will, however, repeat the declaration which I have on several occasions made, both in writing and verbally, to your Excellency, that we have no hostile animus against the Company. Should the latter appeal to arbitration, we shall accept it, as we are bound to do by the terms of the Contract.

On the other hand, it might still be possible for an agreement to be come to between the Government and the Company, which agreement might be based either on the acceptance of the draft of international tariff communicated some time ago by the Government to the Company, or on an entire remodelling of the Contract of the Concession, so as to secure a due protection, within the limits of equity, to the interests owning the capital actually disbursed in the construction of the line.

I must not conclude without calling your Excellency's attention to the fact that in yesterday's note, with reference to the extension of the term, allusion is made to the "Delagoa Bay Railway Company." The Portuguese Government do not officially recognize as interested in the matter in question any other body than the Joint Stock Limited Liability Company, having its seat in Lisbon, called "The Lourenço Marques and Transvaal Railway Company." It is true that this Portuguese Company made a Contract with another English Company, called "The Delagoa Bay and East African Railway (Limited)," for the construction of the line. As regards the fulfilment of the conditions of the Contract between the two Companies, they are mutually responsible to each other; but as regards the fulfilment of the clauses of the Contract for the Concession the only Company which is responsible to the Portuguese Government,

and the only one which can be officially recognized by the Portuguese Government, and with which they have to treat, is the Portuguese Company.

Your Excellency will certainly not fail to agree as to the expediency of this remark in view of the allusion, which is not very clear, made in your note of the 25th instant to the "Delagoa Bay Railway Company."

I avail, &c.
(Signed) BARROS GOMES.

No. 27.

Delagoa Bay Railway Company to the Marquis of Salisbury.—(Received June 28.)

My Lord,

28, *St. Swithin's Lane, London, June 28, 1889.*

I HAVE the honour to hand your Lordship herewith a few copies of a short statement detailing the main facts in the history of this Company.

I have, &c.
(Signed) W. J. HORN, *Secretary.*

Inclosure in No. 27.

History of the Delagoa Bay Railway Concession.

THE history of the Delagoa Bay Railway from the time of the granting of the original Concession to its late unjustifiable forfeiture by the Portuguese Government may be summarised as follows, all that is stated here being based upon Portuguese statements contained in Portuguese official documents.

On the 14th December, 1883, the Portuguese Government granted a Concession to Colonel Edward McMurdo for the construction of a railway from Lourenço Marques to the Transvaal frontier. At that time the condition of the Transvaal was widely different from what it is now. Then the existence of gold in payable quantities was almost unknown, the commercial and agricultural interests of the country were in a most depressed condition, and the Treasury of the Transvaal was absolutely depleted.

The construction of such a railway without a cash subvention appeared almost a hopeless task, and there can be no doubt that had the Portuguese Government been asked for it, it would readily have accompanied the Concession with a money subvention. Colonel McMurdo had a faith in the future of the Transvaal which events have since fully justified, but which was then shared by but few. Instead of asking for a cash subvention, he agreed to construct the line without any pecuniary assistance from the Portuguese Government, provided that, as a consideration, he received from that Government two guarantees, viz.:—

1. That the Government should allow no line of railway to be built in competition; and

2. That the Company to be formed to carry out the Concession should have the absolute and uncontrolled right to fix tariff rates.

These demands were conceded by the Portuguese Government, and a special provision was inserted in the Concession to the following effect:—

"Article 20, par. 2. The Government will not be empowered within the territory of the district of Lourenço Marques, and upon a strip of land of less than 100 kilom. in width on each side of the line belonging to the Company, to build or allow any other railway which, running from the coast of the district of Lourenço Marques to the Transvaal, may compete with this line.

The geographical result of this clause was that no competing line could be constructed within Portuguese territory.

The absolute right of fixing tariffs was conceded by the Government as a part of the Statutes of the Lourenço Marques and Transvaal Railway Company, a Portuguese Company, which, under the requirements of the Concession, was formed to take such Concession over and build the railway.

On the formation of this Company, Colonel McMurdo proceeded to obtain the necessary capital for the construction of the line. He was met, however, by a rumour emanating from Amsterdam, to the effect that, in violation of this Concession, the Portuguese Government had made a promise to the Transvaal Government of a steam tramway on the same course as the railway, to be used for the carriage of goods and

passengers. The persistency with which the existence of this tramway promised was affirmed prevented Colonel McMurdo from obtaining the advances which had been promised him in Germany and Holland, and delayed the construction of the road for some months.

In order to set this doubt at rest, an application was made by the Directors of the Lourenço Marques Company upon the 30th April, 1885, to the Minister of Marine and Colonies at Lisbon by the following letter, a copy of which is taken from the official documents lately published by the Portuguese Government:—

(Copy.)

Sir,

As it has become known to us that the Consul of the Transvaal Republic continues to allege that in virtue of a Convention between the Portuguese Government and the Government of that Republic the right to construct a tramway from the port of Lourenço Marques to the frontier of the Transvaal belongs to the latter, in opposition to what is stipulated in the Contract of Concession of the 14th December, 1883, and as we are further informed that it is asserted in London that the Directorate of the Lourenço Marques and Transvaal Railway has not the power to fix the tariffs for the working of this railway, which is, however, stipulated both in the Contract and in the Statutes of the Company approved by the Government, and as these assertions place excessive difficulties in the way of the issue of the bonds for the construction of the railway, which was on the point of being contracted for, and as it is absolutely necessary to clear up these two points officially, both in order to be able to commence the execution of the works as soon as possible and to avoid future doubts, we respectfully beg your Excellency to be good enough to declare to us, for the proper purposes, that the construction of the tramway to which we refer has not been conceded to the Transvaal Republic, and likewise that it is within the exclusive competence of the Directorate of the Company to fix the tariffs for the working of its railway.

God preserve your Excellency.

Lisbon, Chamber of the Directorate, April 30, 1885.

(Signed)

A. DE SERPA PIMENTEL,
J. PIRES DE SOUSA GOMEZ,
J. BURNAY,

The Directors of the Company.

To his Excellency the Minister and Secretary of State
of Marine and the Colonies.

A true copy:

(Signed)

FRANCISCO JOAQUIM DA COSTA E. SILVA.

*Office of Secretary of State of Marine and Colonies,
April 27, 1889.*

To this the following reply was received:—

(Copy.)

Gentlemen,

In reply to your letter of the 30th April, his Excellency the Minister instructs me to inform you as follows: The tramway to which you refer was only conceded to the Government of the Transvaal on the hypothesis that the concessionaire of the Portuguese Railway delayed the construction to such an extent as to prejudice the construction of the line from the frontier to Pretoria, rendering thereby difficult the transport of the materials necessary for the construction of the latter line.

The issue of the loan, which was stated to be intended for the construction of the railway in the territory of the Transvaal Republic, having failed, and you having stated that the works of the line from Lourenço Marques to the frontier are shortly to commence, the fact which could give rise to the Concession becoming effective with all its consequences has disappeared.

In all the negotiations with the Transvaal Republic on this subject, the rights established in the Contract of the 14th December, 1883, have always been respected, and in no case could the Concession of the tramway referred to prejudice the concessionaire.

With regard to the second point of your letter, I am directed by the said Minister to inform you that there cannot be the least doubt that the Lourenço Marques and Transvaal Railway Company has the right of fixing its own tariffs as it may deem fit without the intervention of the Government, as is expressly set forth in the Statutes approved by the Government on the 10th May, 1884.

God preserve you.

(Signed) FRANCISCO JOAQUIM DA COSTA E. SILVA.

*Office of Secretary of State of Marine and Colonies,
May 4, 1885.*

To the Directors of the Lourenço Marques and
Transvaal Railway Company.

Believing the tramway difficulty solved by this definite declaration on the part of the Portuguese Government, Colonel McMurdo succeeded in making a Contract with bankers at Brussels, by which money for the construction of the line was to be furnished on terms extremely advantageous to him. Before the completion of this Contract further statements again came from Amsterdam that, in spite of the solemn declaration of the Portuguese Government, there did exist a secret Agreement between the two Governments, by which a tramway had been conceded, both for the carriage of railway materials for the construction of the Transvaal line and also for ordinary goods and passengers. The Brussels bankers became satisfied that the Portuguese Government was not acting in good faith, and that such Concession did actually exist; and they therefore refused to carry out their Contract.

Applied to once more by the Lourenço Marques Company for a definite and distinct declaration which would for ever put an end to the assertions as to a tramway, the Portuguese Ministers, in the name of the King, issued the following solemn declaration:—

Translation of a Decree by the King of Portugal, as published in the Government Gazette of July 16, 1886. Colonial Department, 3rd Section.

His Majesty the King, to whom has been sent official documents, dated 8th July, from the President of the Lourenço Marques and Transvaal Railway, stating the difficulties the said Company found in issuing their debentures, and asking, with the object of overcoming such difficulties, that certain declarations be officially made, it is declared to the President of the said Company:—

I. That the Lourenço Marques and Transvaal Railways Company, whose articles were approved by Decree of the 7th January this year, which Company was formed pursuant to Article 51 of the Contract of the 14th December, 1883, has in virtue of and in the terms of Article 20 of the said Contract the exclusive right to the construction and working of the railway from Lourenço Marques to the Transvaal, so that legally the Concession to which the Contract refers may be understood to be in force.

II. That no other Concession exists for the construction and working of any sort of means of communication whatever across the Lourenço Marques district.

III. That no promise of Concession of such a nature has been made by the Government of His Majesty of which the terms or conditions can be interpreted as contrary to any of the stipulations of the said Contract of the 14th December, 1883.

At the Palace, July 15, 1886.

(Signed) HENRIQUE DE MACEDO.

Will it be believed that every one of these circumstantial and explicit official declarations were absolutely false, and that the secret arrangement between the two Governments, the supposed existence of which had twice prevented the building of the railway, had an actual existence? It was not until a very recent date that the Company became aware of this fact through a declaration made in the Portuguese Cortes by a Portuguese Minister.

The circumstances attending the issue of this Memorandum of Concession are extremely curious. In reply to a request from the Transvaal Minister at the Hague that a tramway Concession should be given, the Portuguese Minister of Marine and Colonies, on the 16th May, 1884, sent to the Transvaal Minister a Memorandum, from which the following is an extract:—

“But that the tramway can be constructed under the essential condition of being

able to carry goods and passengers, should the two Companies not come to an agreement on the question of tariffs, is what can be very safely done when the two Governments see fit to intervene; but it cannot otherwise be allowed, because such a proceeding will undoubtedly be prejudicial to the Portuguese Company, which, up to the present, has performed all its obligations. The Minister of Marine is persuaded that such a proceeding would upset the raising of capital in such a way as to possibly create serious embarrassments.

“Certainly, if the Portuguese Company is desirous of making open war in demanding an arbitrary and absurd tariff rate, the Portuguese Government would possess this weapon, amongst others, for forcing the Company into submission. It could then grant this Concession of a tramway, and could even use other means. But to declare in a Memorandum, in an official document, that the tramway may become a new sword of Damocles to be for ever flourished over the head of the concessionnaire, this is what appears to be altogether disloyal. The Minister, therefore, will not do it.”

From this it might be concluded that the Portuguese Government was prepared to concede a tramway, provided it were only used to carry the material for building the line from Pretoria to the frontier; but, as to goods and passengers, no; for that would be an act of disloyalty to the Portuguese Company.

This document is dated the 16th May, 1884, but on the 17th May, 1884—that is, on the following day—the sword of Damocles was flourished, and a Memorandum of Concession was given to the Transvaal Government, which was not published, the tenour of which is as follows:—

“The Portuguese Government agrees to concede the construction of a tramway which shall join Lourenço Marques to the frontier of the Transvaal for the conveyance of material for the railway from the Transvaal frontier to Pretoria, should the concessionary Company of the railway denominated Lourenço Marques fail to finish its line with the rapidity necessary for insuring the commencement of the works of the Transvaal Railway.

“The Portuguese Government equally engages that the tramway may be used for the transport of goods and passengers in case the two concessionary Companies do not come to settlement in respect to general rates for international traffic.

“It is distinctly stipulated that the two Governments are at liberty to propose and offer reasonable terms which may serve as a basis for any agreement, and that the mutual consent of the two Governments upon the question of international rates is necessary.

“It is also laid down that in all matters connected with the Concessions, and in the organization of the Companies, respect shall be had unto the dispositions of the Portuguese law relating to such matters, as also to the terms of the Contract of the 14th December, 1883.

“*Lisbon, May 17, 1884.*”

It will be seen that the terms of this Secret Convention, which had twice produced such disastrous results, are a direct violation of the McMurdo Concession, and are just what the Government had over and over again declared them not to be.

In the beginning of the year 1887 this (the English) Company was formed for the purpose of taking over the shares and bonds of the Lourenço Marques Company, and of constructing the railway. The plans indicating the length of the line to be constructed had, in accordance with the terms of the Concession, been submitted to the Portuguese Government, and approved by them, the length of the line shown therein being about 81.97 kilom., to a point marked upon the plan “Frontier.”

The Company complied with all the requirements of the Portuguese Government, and built even a more substantial line than was required by the Government specifications, and this was duly opened for traffic.

The Company had of course raised the necessary funds only for the completion of the extent of line indicated, and for no more. It may be imagined, therefore, how great was their astonishment when they learned that on the 24th July, 1887, during the construction of the railway, a plan had been presented to their resident engineer at Lourenço Marques by the Portuguese official engineer, Major Machado, showing no frontier-point, but accompanied by a letter which intimated that the Portuguese Government claimed a further length of 9 kilom. to be constructed.

The frontier up to this day has never been fixed, and the Portuguese Government admit that the Transvaal Government has refused on its side to fix a frontier so as to

retain in its hands a means of coercing this Company to agree to a tariff rate with the Netherland Company. The following is a quotation from an official Report published by the Portuguese Government, and which is dated the 23rd November, 1888:—

“The Transvaal Government, imagining, probably, that the Portuguese Company was purposely placing difficulties in the way of an agreement as to tariffs, seized upon such means as were at its disposal, in order to compel the Portuguese Government to adopt some decision which could easily conduce to the realization of the aims of the Transvaal Government. There was a question of the delimitation of the frontier in order to fix the extreme point of the construction. The engineers of the two countries did not arrive at an agreement, and, although on the part of the Portuguese Government there was no desire to uphold the line traced by Major Machado, it is certain that the Transvaal made use of that fact to delay the attainment of any agreement, the Engineer Machado stating in a telegram of the 10th January, 1888, that the Transvaal Government would reply to the proposal presented with regard to the delimitation of the frontier when the agreement as to the tariffs was arrived at. It is clear that it desired to reserve that weapon in order to put pressure on the Portuguese Government.

“On the 28th June, 1888, the Minister of Foreign Affairs sent the following telegram to the Portuguese Legation at the Hague:—

“Transmit Blokland following Resolution—Portuguese Government is prepared to exact from the Company—

“1. Immediate presentation of surveys and construction last section line to frontier.

“2. And simultaneously agreement tariffs requested by Transvaal, if Transvaal Government on its side undertakes (1) to fix frontier according proposal and Convention already formulated; (2) to establish terms second part Memorandum 17th May, 1884, previous Agreement with Portuguese Government as to table international tariffs which must be adopted by Portuguese Company. If latter refuses adoption proposal Government will then concede tramway, and by preference canal to Transvaal Concessionnaire Company.’

“Referring to the proposals of this telegram, the Representative of the Transvaal (Blokland), in a despatch of the 14th July, said that his Government is disposed to assist in the delimitation of the frontier proposed by the engineer Machado if the Portuguese Government undertakes to concede as speedily as possible, and not later than the 1st December next, either the railway at present conceded to the Portuguese Company, or a steam tramway from the Bay of Lourenço Marques to Komatipoort, if before that time the Portuguese line should not be finished to the frontier or the Agreement should not be made between the two Companies as to the junction of their lines, and as to the tariffs, under the auspices of the two Governments in conformity with the Memorandum of the 17th May, 1884.” (*Vide* document No. 1 published by Portuguese Government.)

The subsequent action of the Portuguese Government would indicate that it had adopted the first of the two alternatives indicated in Von Blokland’s despatch, and had determined to purchase peace with the Transvaal Government by undertaking to concede to them as “speedily as possible” the railway at present conceded to the Portuguese Company, and upon which hundreds of thousands of pounds of English capital have been expended.

The first part of the scheme by which the demand of the Transvaal Government was complied with was the issue of a Decree, under date the 24th October, 1888, arbitrarily fixing the period of eight months for the extension of the line to a point 8 kilom. from the existing terminus.

It was at once pointed out that this period included the whole of the rainy season, during which work could not proceed, and that consequently it could not be completed by the 24th June, 1889.

As a matter of fact, floods occurred in January and February, which not only proved that the alignment originally proposed was unfeasible, but that any work done up to that time must have been futile.

The Company’s Engineer wrote on the 9th April as follows:—

“On Sunday, the 7th instant, I proceeded from Komati Station as far as kilom. 89.

“On arriving at about kilom. 83 I found the way blocked by débris left by the flood. Up to that point the ground appeared much as it was before the flood.

“I therefore climbed up the hill-side and proceeded over the hills for about 3 kilom., when I was again able to descend and keep along the line of survey as far as kilom. 89.

“From this point I returned, having seen enough to enable me to say with certainty that the line, if carried along Mr. Fowler’s survey, can never withstand the force of the floods, as, judging from the débris left in the trees and on the hill-sides, the whole of the survey has been from 10 to 15 feet under water. A great amount of large boulders and trees has also been brought down the water-courses which run into the river.”

These same floods also caused very serious damage to the open portion of the line, destroying several large bridges, and completely closing the line for a distance of nearly 20 kilom.

There was some difficulty in finding a suitable contractor to undertake the construction of the extension, but in February the Company made arrangements with Mr. Sawyer, an engineer of repute and experience, to carry out the work departmentally, on behalf of the Company.

Rails and other materials, including bridges, were then put in hand; a second engineer was specially engaged for the work, and left England early in March. Mr. Sawyer himself sailed on the 5th April.

This has been a very late season, and fair weather had not actually commenced even at the end of May, up to which time there was much sickness, and effective work was practically impossible.

However, work on the extension was actually commenced on the 21st May, and a telegram dated 12th June reports that great progress had already been made, besides which the line had been reopened as far as the original terminus.

In reply to an inquiry as to when the rails could be laid through to the new frontier, the engineer wires, “About the end of September,” adding, in explanation of the delay, that, owing to the fact that the proposed line had been submerged in the recent floods, a relocation had been necessary, entailing much additional work and expense.

This Company has taken the opinion of the most eminent English counsel—Sir Horace Davey, Q.C., M.P., Sir Henry James, Q.C., M.P., Sir Charles Russell, Q.C., M.P., Mr. E. M. Underdown, Q.C., and Mr. A. R. Kirby. These gentlemen are unanimously of opinion that, all the terms of the Concession having been complied with, the Portuguese Government has not the power of forfeiture which it claims to exercise; that even if the Company is liable to construct the extension, the question of their liability would be a matter for arbitration within the arbitration clauses in the Concession; that the period fixed for the work of extension is unreasonable, and the rainy season and the storms above referred to constitute a case of *force majeure*.

The considerations thus expressed by counsel have been over and over again pressed on the Portuguese Government, not only by the Company itself, but by the British Foreign Office and by the Secretary of State of the United States’ Government. Both Governments have requested a delay of about three months for the completion of the road, and it has been pointed out that by such an extension of time no one can possibly be injured.

In defiance of all these protests, and without a shadow of justification, the Portuguese Government has summarily forfeited the Concession, a deed to which the modern history of civilized Governments affords no parallel. For their action there has been but one motive, viz., the desire on the part of both Portugal and the Transvaal Governments to nullify British influence in Delagoa Bay. Because Portugal is a weak Power she relies on the chivalry of two English-speaking Governments, which makes them reluctant to lay a mighty hand on a feeble opponent. It remains with the British people and the British Government to say whether feebleness is to be a protection for fraud, and whether Great Britain is to remain passive while a treacherous and deadly blow is struck at her most valuable political and commercial interests.

(Signed) W. J. HORN, *Secretary*.

Delagoa Bay and East African Railway (Limited),
28, St. Swithin’s Lane, London, June 27, 1889.

No. 28.

Delagoa Bay Railway Company to the Marquis of Salisbury.—(Received July 2.)

My Lord,

28, *St. Swithin's Lane, London, July 2, 1889.*

WE beg to inclose, for your Lordship's information, copy of two telegrams received from the Directors in Lisbon of the Portuguese Company, who nominally hold the Concession.

By the Articles of Association, of which your Lordship already has a copy, there must be three Directors in Lisbon who are of Portuguese nationality, as well as other officials.

It will be obvious to your Lordship that the circumstances which have obliged the resignation of the actual Directors will render it impossible to find others who would take their place.

The result of this will be that for practical purposes the Portuguese Company will, by the resignation of the Portuguese Directors, cease to exist.

My Directors cannot doubt that the Portuguese Government will utilize this fact, if possible, to the detriment of our Company, and they therefore beg to lay the matter before your Lordship so that any steps which it may be desirable to take to anticipate any such action may at once be taken.

If your Lordship is of opinion that my Directors should take any step they will be happy to do so.

I have, &c.
(Signed) W. J. HORN, *Secretary.*

Inclosure 1 in No. 28.

Directors of Portuguese Company to Delagoa Bay Railway Company.

(Telegraphic.)

Lisbon, June 30, 1889, 3.50 P.M.

TELEGRAMS confirm engineer's resistance, and probable intervention English forces. Our political position does not allow our directing a Company in complete revolt against Government. Company's complaints and protests ought always go to Law Courts. We regret state affairs, but impossible for us to continue; we should only harm Company, and same time fail in duty as Portuguese. Be pleased to replace us.

Inclosure 2 in No. 28.

Directors of Portuguese Company to Delagoa Bay Railway Company.

(Telegraphic.)

Lisbon, July 1, 1889, 3.25 P.M.

INDISPENSABLE convoke general meeting to receive resignations Directors and Fiscal Committee, and elect others; please name day.

No. 29.

Mr. Petre to the Marquis of Salisbury.—(Received July 3.)

My Lord,

Lisbon, June 28, 1889.

ON the receipt of your Lordship's telegram this afternoon, I addressed a note to the Portuguese Minister for Foreign Affairs, of which I inclose herewith a copy, informing his Excellency that the British Government will hold the Portuguese Government responsible for losses sustained by the Delagoa Bay Railway in consequence of the rescission of the Contract.

I have, &c.
(Signed) GEORGE G. PETRE.

Inclosure in No. 29.

Mr. Petre to Senhor Gomes.

M. le Ministre,

Lisbon, June 27, 1889.

WITH reference to the Royal Decree cancelling the Concession to the Lourenço Marques Railway Company, which was published in the "Official Journal" of the 26th instant, and of which Her Majesty's Government is cognizant, I am directed by the Marquis of Salisbury to inform your Excellency that Her Majesty's Government will hold the Portuguese Government responsible for any losses which may be sustained in consequence of their action by the British subjects who invested their money in the railway on the faith of the Concession, and with the knowledge and approval of the Portuguese Government.

As your Excellency will have understood from my recent communications, verbal and written, the view of Her Majesty's Government, to which they adhere, is that the Government of His Most Faithful Majesty have not the right of cancelling the Concession.

I avail, &c.
(Signed) GEORGE G. PETRE.

No. 30.

Mr. Petre to the Marquis of Salisbury.—(Received July 3.)

My Lord,

Lisbon, June 29, 1889.

A CONVERSATION took place in the Chamber of Deputies on the day following the publication of the Decree cancelling the Lourenço Marques Railway Concession between Senhor Fuschini and Senhor Ressano Garcia, the Minister for the Colonies, of which I have the honour to inclose, herewith, a summary.

The action of the Portuguese Government meets with the approval of all parties here in the Cortes and the press, and in this Senhor Fuschini joins, but he asks the important and significant question, what do the Government understand by the "same conditions" under which the line is to be put up for sale, and whether these conditions include the right of fixing the railway tariff. If so, he says, the Company has only to overbid the valuation by a trifling sum to re-enter into possession of the line with the same rights which it possessed before.

Herein lies, and has lain all along, the difficulty which the Government in spite of their action have to face, and your Lordship will see, by what Senhor Garcia says in reply, that they are not prepared to answer the question or sure of their ground.

I have, &c.
(Signed) GEORGE G. PETRE.

Inclosure in No. 30.

Précis of Report of Sitting of the Chamber of Deputies, Lisbon, on the 27th June, 1889.
(Translation.)

LOURENÇO MARQUES RAILWAY.

SENHOR FUSCHINI said that the Government, by publishing yesterday the Decree cancelling the Contract for the construction of the Lourenço Marques Railway, had fulfilled the promise they had made, and had at the same time complied with the duty incumbent upon them of protecting the legitimate interests of the State. But in order that the step taken may be complete, it is requisite that the meaning of the Decree should be clearly explained with reference to the 42nd Article and its paragraph of the Contract of the Concession.

The point is this. According to the Contract, in the event of its rescission, the line of railway has to be put for sale in public auction under the same conditions in which it existed. So that the Contract having been cancelled by order of the Government, the valuation of the line is made, and the same will serve as a basis for the tenders to be sent in for its purchase at public auction. If tenders are sent in, the best offer is accepted, and the amount is handed over to the late Company, and the expenditure incurred by the Government is reimbursed to it; and should there be no

tenders, the line reverts to the State, and the Company will not have the slightest right to compensation.

What is the meaning of putting up the line to public auction under the same conditions? Does it mean that the programme will specify the whole of those conditions, including the right of freely fixing the railway tariff rates? If so, the Company will have every inducement to tender either in its own name, or through some one else, in order to establish its right, which is at present contested. The result will be that the Company will overbid the valuation by a trifling sum, and the Government, after deducting the expenditure, will deliver the balance and the line to the Company, which will thus regain possession with the right of fixing the railway tariff rates.

It is therefore absolutely necessary that it should be clearly and expressly declared in the programme that the fiscal supervision, as regards the said rates, appertains to the Government.

In his (Senhor Fuschini's opinion) the Government ought to put up the line for sale under the conditions of the Contract of 1883, because as the Contract has no reference whatever to tariff rates, it is evident that the general law in force with respect to this matter will be applicable to the case.

If this course is not followed, the State will continue to suffer the same evil arising out of the alleged right of fixing the railway tariff rates on the part of the future Company, which may possibly be the old Company itself, or a delegate of the same.

The Minister of Marine and Colonies (Senhor F. Ressano Garcia) replied that the reason why the Government put up the Lourenço Marques Railway to public auction instead of keeping it in the possession of the State—as it would be more expedient in the public interest that they should do—was that the Contract obliged them to take this course. It was well that this should be clearly understood.

The question put to me by Senhor Fuschini as to whether the clause respecting the right of freely fixing the railway tariff rates is of so delicate a nature, that he thinks that the illustrious Deputy with his good sense and judgment, will see that it is necessary that he should be very careful as regards the answer he gave to it. Moreover, the matter is not pressingly urgent, because until the valuation is completed, which will take some time, the line will not be put up to public auction. In the meanwhile, the Government will consider the matter, and consult the proper Departments. He could, however, assure the illustrious Deputy that the Government would act in the matter in such a manner that while respecting the rights of every one concerned they would not fail above all things to uphold the rights of the State.

The proceedings of the Government would be in accordance with the rectitude and energy of which they had given proofs when they published the Decree for cancelling the Contract for the construction of the Lourenço Marques Railway.

No. 31.

The Marquis of Salisbury to Mr. Petre.

Sir,

Foreign Office, July 4, 1889.

I APPROVE the note addressed by you to the Portuguese Government in regard to the affairs of the Delagoa Bay Railway Company on the 25th ultimo, copy of which was inclosed in your despatch of that date.

I am, &c.
(Signed) SALISBURY.

No. 32.

Mr. Petre to the Marquis of Salisbury.—(Received July 6.)

My Lord,

Lisbon, July 2, 1889.

I HAVE the honour to inclose herewith the translation of a note which I have received from Senhor Barros Gomes in reply to my note of the 27th ultimo, of which a copy was inclosed in my despatch of the 28th ultimo.

His Excellency maintains that the Lourenço Marques Company, being Portuguese and having its seat in Lisbon, has all the necessary means for protecting its interests

under the Laws to which it is subject, and by the terms of its Contract. He says that the Portuguese Government hope that Her Majesty's Government, in their justifiable defence of British interests, will no longer feel any apprehension that those interests will suffer in consequence of the decision of the Portuguese Government.

I have, &c.
(Signed) GEORGE G. PETRE.

Inclosure in No. 32.

Senhor Barros Gomes to Mr. Petre.

(Translation.)

Your Excellency,

Foreign Department, Lisbon, July 1, 1889.

I HAD the honour to receive the note which your Excellency addressed to me on the 28th June last* with reference to the Decree which cancelled the Contract between the Government and the Portuguese Lourenço Marques Railway Company.

As directed by Her Britannic Majesty's Principal Secretary of State for Foreign Affairs, your Excellency informs me that your Government will hold us responsible for any losses that may be sustained, in consequence of the decision taken by the Portuguese Government, by the British subjects who invested their capital in the railway on the faith of the Concession, and with the knowledge and consent of the Portuguese Government.

Your Excellency adds that, in the opinion of the British Government, with which they had acquainted me, and to which they still adhere, the Portuguese Government had no right to cancel the Concession.

In reply, I beg to call the attention of your Excellency and of your Government to the fact that, inasmuch as the Company is a Portuguese Company, that it has its seat in Lisbon, and that it is, for all intents and purposes, subject to the laws of Portugal, the Company will find sufficient protection in those laws, in which, as well as in the several clauses of the Contract, it possesses the necessary means in order to enforce its rights.

The Directors of the Company have so far acknowledged this that, although they have protested against the decision taken by the Government, they declared that they would send orders to their agents at Lourenço Marques not to offer any resistance to the taking possession of the railway by the Government, who were about to do so. It is true that, in spite of this, in the beginning an attempt at resistance was made, but it was easily overcome, and the authorities at Lourenço Marques are already in full and peaceable possession of the railway.

The Government of His Most Faithful Majesty therefore trust that Her Britannic Majesty's Government, although they may, on just grounds, take up the protection of the interests of British subjects, will no longer feel any apprehension that those interests will suffer any loss in consequence of the decision which Portugal found it necessary to take, after she had made every concession that was compatible with her dignity and with the national interests of the highest order.

I avail, &c.
(Signed) BARROS GOMES.

No. 33.

Mr. Petre to the Marquis of Salisbury.—(Received July 6.)

My Lord,

Lisbon July 2, 1889.

THE Portuguese Directors of the Lourenço Marques Railway Company, having protested against the action of the Government, have resigned. The newspaper "Correio da Manhã," of which Senhor Pinheiro Chagas, the late Minister and Chairman of the Company, is the proprietor and editor, published yesterday an article, of which I inclose a translation, explaining the reasons which induced the Directors to resign.

The Lourenço Marques Railway was also the subject of an interpellation yesterday in the Chamber of Deputies by Senhor Lopo Vaz, to which the Minister of the Colonies replied to the following effect.

He said that the Government continue to act with energy and firmness to cause

* N.B.—The date was June 27.

Portuguese sovereignty, and at the same time the rights of individuals, to be respected. With regard to the telegram mentioned by Senhor Vaz (alluding to a Havas telegram published here, stating that the Head of the Police at Lourenço Marques had fired on an English engine-driver), it had no official character, and was entirely untrue. From information which he had received it appeared that a few rails had been torn up near the principal station, to stop the passage of trains which the Company's representative wished to continue in spite of contrary orders. No acts of personal violence had occurred. Three employés of the Company had been arrested, but, at the date of the telegram giving this information, they had been released.

With respect to diplomatic notes, he had to state that verbal communications had passed between the British Minister and the Minister for Foreign Affairs, and that there had also been an exchange of notes between the American and British Ministers and the Minister for Foreign Affairs. The latter maintained the legality of the action of the Portuguese Government, and endeavoured to show that the information on which the notes of the two Ministers were based was incorrect.

It is undoubtedly singular, but it shows the strength and unanimity of public feeling here on this subject, although its manifestations hitherto both in the press and the Cortes have been temperate, that at the close of Senhor Ressano Garcia's reply, above reported, Senhor Pinheiro Chagas, who was until yesterday one of the Portuguese Directors, and, as a Minister, the original granter of the Concession, should get up in his place and say that he entirely concurred in the observations of Senhor Lopo Vaz, and that the Lourenço Marques Railway question had reached a point at which all parties must join in strengthening the hands of the Government for the maintenance of the national rights.

Yet Senhor Chagas two days ago was a Director of the Company, and responsible for its acts, and as such had protested against the action of the Government as illegal.

I have, &c.

(Signed) GEORGE G. PETRE.

Inclosure in No. 33.

Extract from the "Correio da Manhã" of July 1, 1889.

(Translation.)

THE Portuguese Directors of the Company, who had already notified to the Government their determination to appeal to the Court of Arbitration, and had communicated their intention to do so to London, were extremely surprised to learn, although it was rather vaguely, what had taken place at Lourenço Marques. They knew that Mr. Sawyer, the Company's Engineer, is a gentleman of very great prudence, who was for a long time engaged in work in the Portuguese Colonies, so much so that he made the Mormugão Railway, and his relations with the Portuguese authorities have always been good. In any case, the Directors could no longer continue to discharge their functions as soon as their employés, who were in the employment of a Portuguese Company, considered themselves entitled to claim the protection of England, if it be true that they actually did so. Consequently, they sent in their resignations in a body, and it is likely that the Directors who were appointed as substitutes will take their places, and that probably the orders they may issue will be more faithfully carried out.

The present Directors, however, could not continue in office as soon as they found that they were not able to make the Company pursue the course which they thought it ought to adopt, that is to say, a peaceful and respectful protest against any arbitrary proceedings on the part of the Portuguese Government, and an appeal to the Courts of Justice against any illegal measure that might be adopted by the Government.

No. 34.

Mr. Petre to the Marquis of Salisbury.—(Received July 6.)

My Lord,

Lisbon, July 2, 1889.

WITH reference to my foregoing despatch, I have to add that a similar interpellation was made in the Chamber of Peers yesterday on the Lourenço Marques Railway question, to which the Minister for Foreign Affairs replied. Senhor Barros Gomes said that the Decree cancelling the Contract was in course of execution. Some

difficulties had arisen in the beginning in consequence of the action of the employes of the railway, but that these difficulties had now ceased, and the agents of the Company themselves admitted that they ought not to persist in that course. There had been verbal and written communications on this question, and the Government had endeavoured to show that reason and justice were on their side. As to the purport of the negotiations which had taken place, he thought it expedient not to enter into any further explanations.

Subsequently a motion of Senhor Carlos Testa expressive of confidence in the Government with reference to the settlement of this question was withdrawn at the request of Senhor Barros Gomes himself, who considered that the motion of Senhor Antonio de Serpa, which had been passed some days ago by the House, rendered this unnecessary.

No. 35.

Mr. Petre to the Marquis of Salisbury.—(Received July 8.)

My Lord,

Lisbon, July 3, 1889.

THE Minister for Foreign Affairs spoke to me to-day in a very conciliatory tone on the Lourenço Marques Railway question. He said, what he had frequently told me before, that the Portuguese Government entertained, and had been actuated, by no hostile feeling whatever towards the Company, and that, although they considered that the public interest as well as their own solemn declarations in the Cortes had left them no option but to cancel the Concession and take administrative possession of the Railway, they were still ready, and even desirous, to come to an amicable arrangement with the Company which would avert the necessity of the further steps indicated in the Royal Decree and in the Concession itself. On my asking his Excellency what kind of arrangement he considered possible, and whether it was one which would exclude the present Company from the future possession and working of the line, he said no, but one which would establish the Tariff question on the basis already approved by the Portuguese Government, in return for a Government guarantee on the bonds, upon what amount would be a matter for negotiation, but the Portuguese Government could not, he said, in any case guarantee interest upon shares of the nominal value of 500,000*l.* on which not one farthing had been paid.

Senhor Barros Gomes added that, although he considered an arrangement of this nature possible and desirable, some little time must be allowed to elapse before it could be taken in hand, in order to allow the feeling which had been aroused here by the violent language which had been used in England towards Portugal at public meetings and in the press to calm down, and allow of a temperate examination of the question on both sides.

I did not attempt to discuss with Senhor Barros Gomes the legality or illegality of the course which had been pursued by the Portuguese Government for, as I observed to his Excellency, he was in full possession of the view held by Her Majesty's Government, but I told him I thought his Government had committed a great tactical error in not complying with your Lordship's request that they should fix a period themselves, not longer than was absolutely necessary, for the completion of the few remaining miles of the line upon which work was actually proceeding at the time. By doing so the Government would have avoided the embarrassments which they would now have to face, and, at the same time, have insured the completion of the line. I said that the plea of *force majeure* put forward by the Company, appeared to me to be an irresistible one in their favour. His Excellency replied that it would undoubtedly be so if it were true, but he could positively assure me that the plea would not hold water for a single moment. The Government, he said, were in possession of proofs furnished by the Reports of their local engineer and of Captain Machado, that there were no serious obstacles to proceeding with the work during the greater portion of the eight months allowed, and that it was only within the last month that any attempt at commencement had been made.

Before leaving Senhor Barros Gomes I told him I should be glad to have some positive assurance from him that the report which obtained credence in many quarters of the connivance of the Portuguese Government in the designs attributed to the Transvaal Government to get possession or control of the line, and of all that had occurred being the result of a previous understanding with that Government to get rid of British influence and control, was untrue. I said, as far as I was personally

concerned, it would take a great deal to convince me that his Excellency had allowed himself to be a party to any such designs or mode of proceeding. I repeated what I had been told as a fact privately a few days ago, that the Transvaal Government had a very large sum of money at the present moment in the hands of Messrs. Lewis and Marks, bankers, of Pretoria, for the purchase of the railway.

Senhor Barros Gomes said that there was no truth whatever in the report of connivance or plot, or foundation for the belief. He admitted that Portugal and the Transvaal had a common interest in the rapid completion of the railways in their respective territories, and that they were agreed as to the Tariff, but that the understanding began and ended there, and that there was certainly no desire on the part of Portugal that the Lourenço Marques Railway should get into the hands of the Boers, although, of course, if it was ever put up for sale, they could not be prevented from bidding for it.

To sum up the question, he said, what the Portuguese Government would desire most if they had their own way in the matter, would be that the railway should be wholly Portuguese, but, dealing with facts as they found them, they thought that an arrangement with the present Company which satisfactorily settled the Tariff question would be the best solution.

I have, &c.
(Signed) GEORGE G. PETRE.

No. 36.

The Marquis of Salisbury to Mr. Petre.

Sir,

Foreign Office, July 9, 1889.

I APPROVE the note addressed by you to Senhor Barros Gomes on the 27th ultimo, copy of which was inclosed in your despatch of the 28th, respecting the seizure of the Delagoa Bay Railway by order of the Portuguese Government.

I am, &c.
(Signed) SALISBURY.

No. 37.

Mr. Petre to the Marquis of Salisbury.—(Received July 15.)

My Lord,

Lisbon, July 10, 1889.

IN the Chamber of Peers yesterday a question was put to the Government by Senhor Hintze Ribeiro, an ex-Minister, and practically the leader of the Opposition in the Upper House, respecting statements which had been published abroad as to attempts being made by a Syndicate to take advantage of the rescission of the Contract with the Lourenço Marques Railway Company to get possession of the railway. He said he trusted that the Government would keep aloof from any financial or speculative proceedings of that kind, and would strictly limit their action to upholding Portuguese authority and the real colonial interests of the country and those only.

The President of the Council disclaimed any connection on the part of the Government with any such financial combinations or negotiations if they existed.

I have, &c.
(Signed) GEORGE G. PETRE.

Inclosure in No. 37.

Extract from the "Jornal do Commercio" of Lisbon of July 10, 1889.

(Translation.)

Report of Proceedings in the Chamber of Peers on July 9, 1889.

SENHOR HINTZE RIBEIRO said that the Government had, by their own act, cancelled the Contract for the construction of the Lourenço Marques Railway. Several protests and complaints have since been made against the decision taken by

the Government, especially on the part of the English capitalists interested in the concern.

The Chamber understands that, in view of the complaints made, and of the manner in which the said complaints were brought forward, the question before us is one which concerns the dignity of the country, and it behoves us to give the Government the force which they require, in order to maintain their resolution as well as the rights of the nation.

He had, however, recently seen in a foreign journal a long discussion, and a detailed account as to a Syndicate which is endeavouring to interfere in the matter, and to utilize the rescission of the Contract with a view to speculation; that is to say, it is endeavouring to form a Company that may, in consequence of the rescission of the Contract, take charge of the railway.

At this moment, when public attention, not only in Portugal, but also in England, Germany, Holland, Belgium, and in the United States is turned to this matter, it is absolutely necessary, in order to maintain the authority of the Portuguese Government, that they should keep themselves above all suspicion, as well as aloof from any financial proceedings or speculations, and wholly unconnected with any other interests but the real colonial interests of Portugal.

In this sense, the Government will certainly meet with support on the part of all public men in the country. (Hear, hear.) That support will extend to everything that relates to the maintenance of the moral authority of the Portuguese Government against any claims on the part of any foreign Governments, and that may tend to secure the honour of this nation.

No prurient rivalry exists; but, at the same time, it is necessary that the action of the Government should be altogether proper, impartial, and just, and that they should have the interests of the country in view and no others.

He calls the attention of the Government to the article referred to in order to afford an opportunity to the President of the Council to declare in clear terms that the Portuguese Government maintain the rights of this country, having only in view the interests of the Colonies, but that, at the same time, while adhering to the act which cancelled the Contract, they keep entirely aloof from other people's interests.

It is his wish that, upon a matter of this kind which is intimately connected with the dignity of this country, the action of the Government may be wholly in accordance with the views which he had set forth.

Senhor Jozé Luciano de Castro (President of the Council) said that he felt thankful to Senhor Hintze Ribeiro for giving him the opportunity to declare that the Government have absolutely nothing whatever to do with the proceedings and with the combinations between any persons that may be willing to interfere in the matter with a view to any negotiations relating thereto.

On the part of the Portuguese Government, there neither is nor can there be any other intention than to maintain the rights of this country, and to cause the terms of the Contract to be strictly observed.

If any persons are engaged in carrying on any negotiations on behalf of certain interests, the Portuguese Government have nothing to do with such negotiations.

It is possible that some persons may make statements which are not entirely in accordance with truth, but, as to the Government, they have absolutely and completely nothing to do whatever with any combinations on the part of any such persons, as well as with the Syndicate alluded to in the journal quoted by Senhor Hintze Ribeiro.

No. 38.

Mr. Petre to the Marquis of Salisbury.—(Received July 15.)

My Lord,

Lisbon, July 11, 1889.

THE Ministerial newspaper, the "Novidades," published yesterday evening an article, of the chief portion of which I inclose a translation, with reference to the question put by Senhor Hintze Ribeiro in the Chamber of Peers yesterday.

It is of importance, because it is either written or inspired by Senhor Barros Gomes, and it defines very clearly the actual position taken up by the Government in regard to the Lourenço Marques Railway question. It is quite in accordance with what his Excellency said to me on the 3rd instant, as reported in my despatch of that date.

Although the language of a portion of the press here is bitter and hostile towards England, it cannot be said that its general tone is violent. Latterly, the Ministerial papers have consoled themselves with reproducing leading articles published in German, Dutch, and French newspapers on the Lourenço Marques Railway question favourable to Portugal. An article on the subject in the Madrid newspaper the "Imparcial," of yesterday, which is reproduced here, has, however, somewhat disturbed the complacency produced by the general chorus of foreign approbation. Although not by any means espousing the cause of England in this dispute with Portugal, the "Imparcial" severely criticizes the general policy, colonial and internal, of the Portuguese Government, more especially their seeking a German instead of a close Spanish alliance. Criticisms coming from the sister-country are peculiarly unpalatable here.

I have, &c.
(Signed) GEORGE G. PETRE.

Inclosure in No. 38.

Extract from the "Novidades" of Lisbon of July 10, 1889.

(Translation.)

THE PORTUGUESE GOVERNMENT AND THE LOURENÇO MARQUES RAILWAY.—The article published a few days ago in the "Manchester Guardian," and which gave rise to the question put by Senhor Hintze Ribeiro in the Chamber of Peers, is made use of by some Portuguese newspapers as a basis for their criticisms and inquiries. It appears to these papers that the matter is involved in mystery, and therefore they are anxious to get further information as to the attitude of the Government and the mode of proceeding which they propose to follow.

The categorical and firm reply of the President of the Council to the question put by Senhor Hintze Ribeiro must have done away with any doubts, if there were still any. We shall accentuate still further the meaning of that reply by saying that it is to be regretted that certain Portuguese political personages, although acting solely on their own account, should, by mixing themselves up in the matter and thus affording a pretext for the rivalry and conflict between various private interests, weaken and misrepresent the aspect of the question. In the actual state of things, there is no room for any Portuguese Syndicate other than that which is personified in the Portuguese Government as the representative of the highest national interests. No other. Whoever offers an opportunity of discussion regarding any other Syndicate, whether it be to our own countrymen, whom we ought to keep united in the same patriotic idea, or to foreigners, whom we ought to keep at a respectful distance by means of the haughtiness to which our rights entitle us and by the sense of justice with regard to our cause, renders a very bad service to his own country.

This seems to us to be quite clear, as the Government in cancelling the Contract did not seek to injure the interests of a Company, so likewise, in their further proceedings, it will not be their object to protect the private interests of anybody, and accordingly we feel convinced that the settlement of the question which would be most acceptable to the Government, would be that which would admit of the Lourenço Marques Railway remaining in their possession, in order that they should not have to give it up to any private Company, although the predominating elements of the latter should happen to be Portuguese. We propounded this opinion before the conflict arose, and at present we have further motives for adhering to it. The arrangement which the Government ought to wish for, as they undoubtedly do, is that the line should remain in the hands of the State. There are interests of so grave a nature connected with the arrangement referred to, that no private Company can without danger become the guardian of the same and insure their being duly respected.

Such a settlement would also have the advantage of calming down and dispelling certain apprehensions or mistrusts of an international character, whether real or feigned. Some people fear we shall give up the line to the Transvaal; and others, that we may wish to deliver it into the hands of the Germans. Now what the Portuguese Government sincerely wish is not to give it up to anybody but to keep it themselves. If an agreement could be come to in this sense with the parties interested, we should feel no hesitation to advise the Government, with a view to facilitate it, to take the diplomatic engagement that the State would never alienate its ownership of the line as well as the working of it.

The Government cannot entertain towards the Lourenço Marques Railway Company

any special animosity beyond that which arises out of the position in which it has placed itself. On our part, after providing for the national interests, we frankly say that, in equity, we consider that the Company is better entitled to our preference than any other Company that might be formed. It would even appear to us that, saving that reservation duly secured as it ought to be, there should be no objection to come to an arrangement with that Company. We greatly prefer the first solution, that is to say, for the line to remain in the hands of the Government, but, failing that, an agreement with the Company, after duly securing the interests of the State, would likewise be an acceptable solution.

(The letter signed by Mr. W. J. Horn, Secretary of the Delagoa Bay and East African Railway Company (Limited) and dated the 5th July, and which was published in the London newspapers is transcribed. It is stated in the letter that the Company asked for arbitration before the seizure of the Lourenço Marques Railway by the Portuguese Government, but that now the Company consider arbitration impossible, the Company has placed itself in the hands of Her Majesty's Government, &c.)

The Portuguese Government never made any Concession to this Company, and never had any relations with it, and consequently cannot recognize it as a legitimate party to the suit, whether it should present itself in person or under the guidance of the British Government. The Delagoa Bay Railway Company is, as far as we are concerned, non-existent. It cannot either accept or decline arbitration, because even the Portuguese Government themselves are not in a position to grant it should they ask for it. The Concession was made to the Lourenço Marques Railway Company, a Portuguese Company for all intents and purposes, and the only one with which the Portuguese Government have been in correspondence.

The Directors of the Company have tendered their resignations, and it is stated that the majority of the shareholders residing in London have determined to accept their resignations, and to deliver up the property and books of the Company in Lisbon to the British Consul here. This cannot be. The Company, besides being a Portuguese Company, has its seat or domicile in Lisbon. The general meeting of the shareholders must be held here. There are no orders from London to be complied with, and the British Consul has no business to interfere in a matter which is, in all things, to be proceeded with in accordance with the Portuguese laws and by the Portuguese Courts; and any acts that may be performed contrary thereto, and in a tumultuous manner, must be considered as null and void as far as regards the official representation of the Company. We exhort the Government to refuse absolutely to yield upon this point. Let us not in the least give up the assertion as to the Company being a Portuguese Company, because this is the best protection we can have of our interests. We have entered into a Contract with a Portuguese Company, having its seat in Portugal, and subject to the Portuguese laws and to the Portuguese Courts of Justice.

We cannot either recognize any foreign Companies that may have become engrafted in that Company, or admit any foreign intervention in a question of internal policy and administration which, as such, we reserve for us to deal with. As regards this point we cannot yield our rights; and let our reply, to those who may ask us to substitute equity instead of our rights, be that our yielding the strict letter of our rights must be met by a corresponding surrender of the clauses which, by a vicious interpretation, have been rendered injurious and dangerous to us. By this means the exigencies as to using equity will be mutual on each side; if they should be put forward on one side only, they cannot be attended to.

No. 39.

Mr. Petre to the Marquis of Salisbury.—(Received by telegraph, July 15.)

My Lord,

Lisbon, July 15, 1889.

I HAVE informed your Lordship that an application had been made by the Secretary of the Delagoa Bay Railway in London to Her Majesty's Acting Consul here to take charge of all papers, &c., in the Lisbon office of the Lourenço Marques and Transvaal Company, and that Mr. O'Donnell had asked me for instructions on the subject. I stated that I had no reason to think that the Portuguese Government would interfere in the matter. In this, however, I was mistaken. Senhor Barros Gomes informed me privately yesterday that Senhor Chagas, the Chairman of the Portuguese Board of Directors, had written officially to the

Minister of Marine and the Colonies to notify to the Government that his resignation and that of his colleagues had been accepted by the London Board. Senhor Chagas added—what Senhor Barros Gomes styled the surprising statement—that he was drawing up instructions for the non-convocation of a general meeting, and that no steps would be taken to re-elect new Directors in the place of those who had resigned, because he had written to the British Consul at Lisbon to take charge of the archives and property (“valcurs”) of the Company.

Senhor Barros Gomes said that he did not believe for a moment that your Lordship had sanctioned this application to Her Majesty’s Consul, which had been made in consequence of instructions received from London, but that, in order to avoid the possibility of any additional complication being introduced into this question, he thought it right to let me know that the contingency which the resignation of the whole of the Board of Directors in Lisbon had created was foreseen and provided for by Portuguese law, and that the Tribunal of Commerce was the body legally constituted to act in such cases,

I told Senhor Barros Gomes that I had been made aware of the application to the Acting British Consul, who had referred the matter to me for instructions, and that I had written to your Lordship on the subject.

I think that unless the papers, &c., up to the present time in the hands of the nominally Portuguese Company here, can be shown to be the exclusive property of the English Company, there can be no doubt that the Tribunal of Commerce has a legal right of custody, and would be bound to enforce its claim.

I have, &c.

(Signed) GEORGE G. PETRE.

No. 40.

Mr. Petre to the Marquis of Salisbury.—(Received July 17.)

My Lord,

Lisbon, July 13, 1889.

I HAVE the honour to inclose herewith the copy of a letter which I have received from Mr. O’Donnell, Acting British Consul here, asking instructions as to whether he is to comply with a request made to him by the Secretary of the Lourenço Marques and Transvaal Railway Company to take charge of all the papers, records, &c., belonging to the Company in the Lisbon office, the Portuguese Directors having resigned.

Owing to the circumstance of the Company being technically Portuguese, I hesitate in giving my instruction to Mr. O’Donnell on the subject without previous reference to your Lordship. At the same time, I have no reason to suppose that the Portuguese Government would interfere in the matter.

I have, &c.

(Signed) GEORGE G. PETRE.

Inclosure in No. 40.

Acting Consul O’Donnell to Mr. Petre.

Sir,

Lisbon, July 12, 1889.

I HAVE the honour to forward to you herewith two letters in original which I have received from Mr. W. J. Horn, containing a request that all papers, records, &c., in the Lisbon office of the Lourenço Marques and Transvaal Railway Company should be placed in the custody of the Consul.

As the Company in question is Portuguese, and therefore subject to the laws of Portugal, and as there is a question pending owing to the rescission by the Portuguese Government of the Concession granted to the Company; and as, moreover, the Consular instructions in regard to the deposit of such documents in the Consular Office are discretionary on the part of the Consul, I intended replying to Mr. Horn that I declined to take charge of the above-mentioned records and papers, subject to instructions from Her Majesty’s Secretary of State for Foreign Affairs.

This, however, appearing to me to be rather a delicate question, I have the

honour to refer the matter to you, and to beg you to give me instructions on the subject.

I have, &c.
(Signed) CHARLES O'DONNELL.

No. 41.

Mr. Petre to the Marquis of Salisbury.—(Received July 18.)

My Lord,

Lisbon, July 15, 1889.

SENHOR CANDIDO DE MORAES, whose letter to the "Pall Mall Gazette," in answer to a letter which appeared in the "Times" some time ago, signed "One who knows," with reference to a Portuguese Syndicate for the purchase of the Delagoa Bay Railway, has made the English public acquainted with his name and proceedings, has written a letter to the "Novidades" defending himself from the accusation of having acted in connivance with the Portuguese Government in forming a Syndicate for the above-named purpose before the time had expired within which the Company was bound to complete the line.

Senhor de Moraes is a member of the House of Peers, and a supporter of the Government, but the Ministerial paper prefaces the insertion of his letter by distinctly stating that the Government considers its action weakened by the intervention at the present time of any Portuguese Syndicate.

I have the honour to inclose a translation of Senhor de Moraes' letter, and of the editorial comments, which may be considered as semi-official.

I have, &c.
(Signed) GEORGE G. PETRE

Inclosure in No. 41.

Extract from the "Novidades" of July 13, 1889.

(Translation.)

LOURENÇO MARQUES AND THE PORTUGUESE SYNDICATES.—We have received from our friend and worthy Peer, Senhor João Candido de Moraes, the following letter.

No doubt the complaints made by Senhor Candido de Moraes against those who have maligned his intentions, and have also by that means attacked the Government, do not refer to us. We have never entertained any doubts as to the loyal intentions of Senhor Candido de Moraes, and the straightforwardness of his proceedings, which are not in any way connected with the intentions and acts of the Government. Nevertheless, this does not prevent us from persisting to hold the opinion which we have already expressed. In the present state of the question we think that the resistance on the part of the Portuguese Government to foreign exigencies may be affected and weakened by the intervention of any Portuguese Syndicate that may make its appearance for the purpose of inculcating and defending any private interests, when it is expedient that only the voice of the interests of the nation should be heard.

We may be in error, and from that point of view we have not the slightest hesitation in bearing witness to the truth of the letter published by Senhor Candido de Moraes in the "Pall Mall Gazette." Still we continue to hold the same opinion; and we continue to believe that the best solution of all would be for the line to remain in the hands of the Government. The other arrangements talked of are attended with certain dangers and drawbacks which we propose to explain in due time.

Senhor Candido de Moraes' letter is as follows:—

"My dear friend,

"During my short stay in London, the 'Times' published a long letter signed by 'One who knows,' in which reference was made to a combination between the Portuguese, German, and South African Governments, in virtue of which I was promoting the purchase of the property of the Lourenço Marques Railway, for a political purpose. This version was adopted by some journals who are friendly to the Delagoa Bay Railway Company and its instruments, and I thought it expedient to dispel the intrigue. For this purpose I published in the 'Pall Mall Gazette' a letter of which the following is a translation:—

(The letter to the "Pall Mall Gazette," dated the 3rd July, is inserted here.)

"This statement was received as being the truth by the whole British press, including the papers hostile to Portugal.

"It was necessary to come here in order to find any one that would doubt it. As far as I am concerned, I don't mind, my only regret is that in a matter of such importance the Government should be slandered, at whose side every one ought to be on this question, and that amidst the vagaries of our internal politics people should forget that our newspapers are read in the city, and that the arguments made use of by them would be directed not against the honour of the Government or my own, but against our own country.

"I believe that the letter which I transcribe is a reply to their remarks.

"Now I beg leave to put a question: how could I have guessed that anybody would feel aggrieved because I organized a Syndicate for the purpose of bidding at a public auction, in the event of its taking place at all, and that the inconvenience to which I had given rise should have induced them to abuse me and the Government?

"The English press begin to look upon the case of the Delagoa Bay Railway Company as a bad one, and to call it by an ugly name which I will not repeat. At this moment papers reach me which either contain statements to that effect, or imply it in the reserved manner common to the English press. It now remains to be seen whether there is anybody here who will favour the success of the said ugly attempt.

"The only disadvantage attaching to my Syndicate is that it is known; there are other Syndicates that are unknown to the public, and which I do not denounce to the public indignation, and I merely state that there are various Syndicates in this country for the same purpose, also composed of Portuguese subjects, and holding Portuguese capital.

"I would ask you to consult the Government and its Representatives in London, and to ascertain, by every means in your power, whether I have in any way prejudiced the question, or whether I have failed to show my good faith as a Portuguese and as a partisan, and, if so, censure my conduct. Do not make me responsible because a competitor *en herbe* complains at my being one too, and chooses to display his ill-humour by violent abuse of myself and of the Government whom he has never spared.

"Pray excuse this trouble, and allow me to remain, &c.

(Signed)

"JOAO CANDIDO DE MORAES.

"Lisbon, July 11, 1889."

No. 42.

The Marquis of Salisbury to Mr. Petre.—(Substance telegraphed.)

Sir,

Foreign Office, July 19, 1889.

WITH reference to your despatch of the 15th ultimo in regard to the application made by the Secretary of the Delagoa Bay Railway Company to the Acting British Consul at Lisbon to take charge of all the papers, &c., of the Company in the Lisbon office, I have to inform you that the Consulate should take no action in the matter.

Should the papers be deposited with the Acting Consul he should not decline to receive them, but should take charge of them until a demand for their restitution be made to him by some Portuguese authority legally entitled to claim them.

I am, &c.

(Signed)

SALISBURY.

No. 43.

Admiralty to Foreign Office.—(Received July 25.)

Sir,

Admiralty, July 23, 1889.

I AM commanded by the Lords Commissioners of the Admiralty to transmit, for the information of the Marquis of Salisbury, extracts of a letter dated the 3rd instant, received from the Commander-in-chief at the Cape of Good Hope, reporting—

1. The departure of Her Majesty's ships "Peacock" and "Bramble" for Delagoa Bay;
2. The proceedings of Her Majesty's ship "Stork;"

3. The orders given to Lieutenant and Commander Balfour, of the "Stork;" and
 4. In regard to the state of affairs at Delagoa Bay.

I am, &c.

(Signed) EVAN MACGREGOR.

Inclosure in No. 43.

Rear-Admiral Sir W. Hurn-Grubbe to Admiralty.

(Extract.)

"*Raleigh*," at Simon's Bay, July 3, 1889.

2. IN compliance with the orders contained in your telegram of the 29th ultimo, the "Bramble" and "Peacock" sailed for Delagoa Bay on the 30th ultimo, the naval yard being opened on that day (Sunday) for the special purpose of provisioning and coaling both those ships.

3. The "Stork" arrived at Port Elizabeth on the 24th June, and sailed the next day for Durban and Delagoa Bay. She arrived at the former place yesterday, having been compelled to put in to East London through stress of weather.

I gave Lieutenant and Commander Balfour explicit orders as to his proceedings at Delagoa Bay, having received a telegram from Her Britannic Majesty's Acting Vice-Consul at that place, asking that a man-of-war might be sent to protect British lives and interests; and I purpose reporting specially on the subject of Delagoa Bay when I hear from the officer commanding the above ship as to the situation at that place.

From what I could hear and read in the local papers at Port Elizabeth, Acting Vice-Consul Knee's telegram to me, that lives were in danger, &c., was highly coloured. Mr. Knee is Traffic Manager of the railway, as well as Acting Vice-Consul at Delagoa Bay.

* * * * *

No. 44.

Acting Vice-Consul Knee to the Marquis of Salisbury.—(Received July 29.)

My Lord,

Lourenço Marques, June 28, 1889.

I HAVE the honour of reporting to your Lordship the circumstances under which I deemed it necessary to wire on the 23rd June, 1889.

The Delagoa Bay and East African Railway Company, whose offices are at 28, St. Swithin's Lane, City, constructed with English capital, under a Concession from the Portuguese Government, a railway to the frontier between their territory and the Transvaal; but it would seem in fact, as a matter of history, that the frontier line had to be revised and shifted, necessitating additional construction; this has developed a difference of opinion between the Portuguese Government and the owners of the English railway.

The Portuguese Government, taking advantage of this difference of opinion existing between the contracting parties, determined to assume that, unless the Railway Company constructed a further 9 kilom. of railway, they could, without further reference of an appeal to a Court of Law, step in and declare the whole of the railway, works, rolling-stock, stores, appurtenances of every description, to be the absolute property of the Portuguese Government.

The recognized officials of the Government have, for weeks past, been making it known, in offensive ways, that the Portuguese Government had determined to what is called "sack" every English-speaking man; and the men on the construction and permanent works of the Company have been restrained with much difficulty from retaliating on the Portuguese officers, who appear if possible to have determined to put the construction men in the wrong; at last, this matter was officially put before my notice as Vice-Consul. I waited on his Excellency the Governor, who admitted that the Portuguese official in question had been indiscreet, and should be punished; but the officer remained at his post, was apparently appreciated, and the irritation increased.

On the 25th June the Portuguese Government informed the General Manager of the railway that the railway and all its belongings would be seized, and the staff transferred to Portuguese administration.

A deputation of officers waited on me, as Vice-Consul, to inform me, for the

information of all concerned, that under no circumstances would the men on the works serve a Portuguese Government, and that as they were engaged by an English Company, who were desirous of retaining their services, they were not to be transferred.

The Directors in London of the Company determined that their property must be protected, and that a conflict, if possible, be avoided, but issuing the most positive instructions that the property of the Company must not be handed over to the Portuguese, it was and is clear that a conflict cannot be avoided. The Portuguese are arrogant and insulting, and although endeavouring to show that they are desirous of cultivating commerce, they are determined to crush enterprise, and being incapable themselves of carrying out railway operations, are alarmed at the fact being known that the users of the railway are English-speaking people, as receivers of goods, and English-speaking people are receivers of goods. The situation is perplexing. The advantages of a railway does not directly appeal to their intelligence, but the Portuguese side of the question is that the Transvaal will insist on the conveniences the magnificent port offers being utilized, and the advantages of a railway being developed.

On receipt of this appeal, I was determined that as it was impossible to be assured of the conciliation of the Portuguese, as it was of the restraint of the various English-speaking people, I determined to wire for an English man-of-war to protect the vast English interest here invested.

I venture to suggest that your Lordship insists on this question being thoroughly sifted, in the interest of the present and the future, becoming every day more intricate and of importance, and trust that my action will meet with the approbation of your Lordship.

Since writing above (29th June, 1889) the Portuguese Government have torn up the English railway, the Head of Police firing on an English driver on engine; the English residents are being arrested without any provocation one by one; my interpreter has been arrested in his bedroom in act of interpreting letter from Government to me. The Consulate is crowded, and the greatest uneasiness is felt at the helpless state of British subjects.

I have, &c.
(Signed) PHILIP KNEE.

No. 45.

Mr. Petre to the Marquis of Salisbury.—(Received July 29.)

My Lord,

Lisbon, July 24, 1889.

THE Portuguese Government, after a good deal of bargaining by telegraph, has contracted with Mr. Sawyer for the completion of the Lourenço Marques Railway. The line is to be finished in September.

In answer to an inquiry of mine his Excellency said that no agreement had been come to as yet with the Transvaal Government as to the frontier.

I have, &c.
(Signed) GEORGE G. PETRE.

No. 46.

Delagoa Bay Railway Company to the Marquis of Salisbury.—(Received August 1.)

My Lord,

28, St. Swithin's Lane, London, July 31, 1889.

I HAVE been requested to transmit to your Lordship the inclosed copy of a letter from the Portuguese Minister of Marine to the Lourenço Marques Railway Company in Lisbon.

I have, &c.
(Signed) W. J. HORN, *Secretary.*

Inclosure in No. 46.

Senhor de Carvalho to Senhor Chagas.

(Translation.)
Your Excellency,

*Office of the Secretary of State for the Navy and Colonies,
July 20, 1889.*

I AM instructed by his Excellency the Minister and Secretary of State for affairs of the Navy and Colonies to acknowledge receipt of your Excellency's official letter of the 10th instant, in which you inform him—

1. That the Portuguese Directors and Fiscal Committee of the Lourenço Marques and Transvaal Railway Company resigned their places on the 1st of the present month, and immediately informed the Board in London thereof, for the purpose of having a general meeting of the shareholders, and electing the respective managing officials.

2. That the Directors in London resolved not to hold a general meeting, and requested the British Consul at Lisbon to take charge of the Company's effects and archives.

In reply his Excellency the Minister has ordered me to declare to your Excellency the following:—

For the carrying out of the objects to which reference is made in the Contract of the 14th December, 1883, the Concessionnaires in Article 51 bound themselves to form a "Société Anonyme," with legal domicile in Lisbon, and Articles of Association approved of by Government, and it was established in the same Articles that the Company should be Portuguese for all effects. In Article 50 it was likewise determined that the Company, its contractors, agents, and workmen, were subject in all matters connected with this same Contract to the laws and Tribunals of the Kingdom of Portugal.

Therefore the above-mentioned clauses of the Contract are sufficient, without any necessity for referring to the doctrines of international law, for prohibiting the intervention of the British Consul in the Company's affairs.

Your Excellency and your colleagues are the sole judges of the motives and reasons that led to your resignation. The Government is not competent to intervene in the management and internal direction of the Company. But if the Articles of Association, which the Government approved, are not fulfilled, if they are violated, if the managing officials abandon their places before they are legally substituted, if the Company becomes disorganized, or denationalized, from the intervention of foreign elements, then the Government will proceed as may be right in accordance with the laws of the kingdom.

God preserve, &c.

For the Director-General,
(Signed) TITO AUGUSTO DE CARVALHO.

No. 47.

Delagoa Bay Railway Company to the Marquis of Salisbury.—(Received August 2.)

My Lord,

28, *St. Swithin's Lane, London, July 31, 1889.*

WE have the honour to hand to your Lordship herewith this Company's Memorial, containing the claim made against the Portuguese Government for compensation in respect of the damage and loss inflicted upon the bond and share holders of the Delagoa Bay Railway.

We would respectfully urge upon your Lordship the necessity for the matter being speedily settled.

Should there be a delay beyond the 31st August, we deem it impossible, under the circumstances, to avoid this Company being placed in liquidation, with the probable result of the present Directors of the Company being replaced by an Official Receiver, and would beg to inform your Lordship that it is only by personal sacrifice on the part of the Directors that such a course can be postponed until that date. Another reason for the question being at once dealt with is the fact, as we learn from a reliable source, that, in view of the impending elections, the existing Government in Portugal will be much more ready to arrange the matter now than later.

We have, &c.

The Directors,
(Signed) CASTLETOWN,
Pro H. R. M.

D. PARRISH.
ALEC. P. MATHESON.
HUBERT R. MAGNIAC.
ADRIAN HOPE.
CLEMENTS R. MARKHAM.
JOHN E. D. RYDER.

No. 48.

Acting Vice-Consul Knee to the Marquis of Salisbury.—(Received August 12.)

My Lord,

Lourenço Marques, July 5, 1889.

I HAVE to report to your Lordship that Her Majesty's ship "Stork" arrived here on the 4th July, the Captain calling on me at once.

I have given the Captain a statement of seizure of railway for information of the Admiral.

I have, &c.
(Signed) PHILIP KNEE.

No. 49.

Acting Vice-Consul Knee to the Marquis of Salisbury.—(Received August 12.)

My Lord,

Delagoa Bay, July 15, 1889.

I HAVE the honour to inclose your Lordship copy of the letter received from his Excellency the Governor on the 29th June, 1889, informing me that he had released from prison my interpreter; and I have the honour to inform your Lordship that I have transferred the Consulate to J. Gulliford, Esq., owing to my health demanding instant change, as per medical certificate inclosed.

I have, &c.
(Signed) PHILIP KNEE.

Inellosure 1 in No. 49.

The Governor of Delagoa Bay to Acting Vice-Consul Knee.

(Translation.)

Secretary's Office of the Government of Delagoa Bay,

Most Illustrious and Most Excellent Sir,

June 29, 1889.

I HAVE the honour to communicate to your Excellency that I obtained from the judicial authority the release of the interpreter to whom the official letter of your Excellency refers of to-day's date, who had been arrested for information as to what part he took in the acts at the station.

I gave the necessary orders for the said interpreter to receive, from two employes under arrest, the keys to which your Excellency refers in the said letter.

God guard, &c.

The Governor,
(Signed) JOSÉ DE A. D'AVILA.

No. 50.

Mr. Petre to the Marquis of Salisbury.—(Received August 19.)

My Lord,

Lisbon, August 13, 1889.

MR. BLOKLAND, who is present in Lisbon in connection with the Delagoa Bay Railway question, was received by the King at Cintra the day before yesterday, and afterwards paid me a visit. He spoke to me at some length, and, apparently, without reserve, concerning the object and result of his mission to Lisbon, and discussed also the general question of the railway, attributing the complications, which had arisen in connection with it and prevented its completion, to the refusal of Colonel McMurdo to sanction the agreement as to the tariff which had resulted from the negotiations which took place between Lord Castletown, on behalf of the English Company, and the Directors of the Transvaal Railway Company at Amsterdam. Mr. Blokland added that if this arrangement, which showed that a tariff, such as the Transvaal Company could accept, was not, in the opinion of the English Directors, incompatible with the interests of the Delagoa Bay Railway, had been ratified, he thought there would have been no difficulty in obtaining a further short prolongation of time from the Portuguese Government. He said there were two things upon which President Krüger desired to be satisfied before the Transvaal Government would allow the Netherland Company to commence the construction of the line from the Portuguese frontier to Pretoria. One was the certainty of the

Lourenço Marques Railway being completed to the connected point, and the other an acceptable settlement of the future Tariff question.

As regarded the first point, Mr. Blokland said there was a reasonable certainty of the remaining kilometres of the Lourenço Marques Railway being shortly finished, and he gave me to understand that the Tariff question had also been satisfactorily arranged as far as this Government was concerned.

I asked him if he thought that President Krüger would look upon an arrangement which could not, under the present circumstances, be otherwise than a purely contingent one, as the Portuguese Government, as temporary administrators of the railway, had not the power to fix a tariff which would be binding on the ultimate possessors of the line. He said he thought so, and he added that the right of fixing the tariff was a debatable point, owing to no mention of it having been made in the Concession itself. I observed to Mr. Blokland that at all events the Portuguese Government was bound in that respect by the subsequent official and unequivocal declaration of the then Minister of Marine.

Mr. Blokland told me it was not true that overtures had been made by Mrs. McMurdo or her representatives to the Netherland Company for the sale to the latter of her shares, and considering the alleged state of that lady's affairs, consequent upon her husband's death, he thought it doubtful whether she had the power of doing so.

Although Mr. Blokland assured me that it was a matter of indifference to the Transvaal Government who possessed the Lourenço Marques Railway, provided it was finished and in working order, and a reasonable tariff fixed, I am very much inclined to think that the money is ready for its purchase either by arrangement or in the event of its being put up to public auction, and that besides the tariff the question of a guarantee by the Portuguese Government was also discussed.

Mr. Blokland has left Lisbon on his return to the Hague, and I have not had any opportunity of speaking to Senhor Barros Gomes since his departure.

I have, &c.
(Signed) GEORGE G. PETRE.

No. 51.

Mr. Petre to the Marquis of Salisbury.—(Received August 19.)

My Lord,

Lisbon, August 15, 1889.

IN speaking to me yesterday respecting the mission of Mr. Blokland to Lisbon, Senhor Barros Gomes was not disposed to be communicative, but his Excellency confirmed in a general way what Mr. Blokland had told me in regard to its object, without admitting, however, that a satisfactory settlement of the Tariff question had been arrived at.

I repeated to his Excellency what I had already said to Mr. Blokland, that the railway was only under the provisional control of the Portuguese Government, and that as matters stood at present, any binding settlement of the tariff, except as between themselves and the Transvaal, would be altogether *ultra vires*.

Senhor Barros Gomes denied positively that there was any question of an eventual guarantee to be given by the Portuguese Government in which the Transvaal would be concerned, and therefore the surmise mentioned in my despatch of the 13th instant was, I presume, ill-founded.

I should mention that both Senhor Barros Gomes and Mr. Blokland maintained to me that the right derived from the Tramway Concession granted to the Netherland Company still existed, and might be used, although I pointed out to them that, setting aside other grounds, the Decree of the 15th July, 1886, whether interpreted literally or in its spirit, was utterly opposed to such a contention.

My American colleague, Dr. Loring, has allowed me to read the printed copy which he has received of the American claim against the Portuguese Government in the form of a Petition of Mrs. McMurdo to the Secretary of State, drawn up by her counsel, Mr. Robert C. Ingersoll. It is dated New York, the 3rd instant.

As this document is, *mutatis mutandis*, more or less identical with the Memorial of the 31st ultimo, addressed to your Lordship by the Delagoa Bay and East Africa Railway Company, I need not do more than mention its receipt from the State Department by Dr. Loring.

I have, &c.
(Signed) GEORGE G. PETRE.

No. 52.

Admiralty to Foreign Office.—(Received August 19.)

Sir,

Admiralty, August 16, 1889.

I AM commanded by my Lords Commissioners of the Admiralty to transmit herewith, for the information of the Secretary of State, copy of a communication, dated the 24th ultimo, from the Commander-in-chief on the Cape of Good Hope Station, together with its inclosures, in original, in regard to the state of affairs at Delagoa Bay, and the proceedings of the officers in command of Her Majesty's ships "Stork" and "Bramble."

I am, &c.
(Signed) R. D. AWDRY.

Inclosure 1 in No. 52.

*Rear-Admiral Wells to Admiralty.**"Raleigh," in Simon's Bay, July 24, 1889.*

SUBMITTED with reference to a telegram received by me from Her Britannic Majesty's Acting Vice-Consul at Delagoa Bay, your telegram of 30th ultimo, my reply thereto of the same date, mine of 5th instant, yours of 7th instant, mine of 8th instant, yours of 9th instant, mine of 15th instant, yours of 21st, and mine of 23rd instant, observing that the inclosed correspondence shows how mismanaged has been "the Delagoa Bay Railway" imbroglio with the Portuguese Government, entirely owing to the absurd and grossly improper conduct of the Acting British Vice-Consul, Mr. Knee.

2. The Governor of Lourenço Marques happened luckily to be an officer who had served in our navy, and his behaviour seems to have been most courteous and forbearing.

3. At Port Elizabeth I received Mr. Knee's first telegram, 24th June, from Delagoa Bay, as follows:—

"Portuguese Government determine to seize English railway. Send man-of-war quick to protect British lives; when may expect?"

I answered:—

"'Stork' for surveying service leaves this afternoon for Durban and Delagoa Bay. Telegraph here further on state of affairs. Cannot conceive life of English residents in danger under Portuguese Government."

4. I directed Lieutenant Balfour, of the "Stork," to report fully on the subject, and his Report is inclosed. Mr. Knee has now left, and a Mr. Gulliford, Superintendent of the Telegraph Company, has been appointed Vice-Consul, to the satisfaction of the Portuguese Government.

(Signed) RICHD. WELLS.

Inclosure 2 in No. 52.

Lieutenant-Commander Balfour to Rear-Admiral Wells.

Sir,

"Stork," at Delagoa Bay, July 5, 1889.

I HAVE the honour to inform you that I left Durban at 4 P.M. on the 2nd instant, and after a fine passage but strong contrary currents arrived here at 4 P.M. on the 4th instant.

Being anxious to find out how matters stood as soon as the ship was moored, I proceeded on shore to visit the Acting Vice-Consul. As he was at his private house, which is from 1 to 2 miles from the landing-place, and not far from the telegraph station, I proceeded to the latter place, sending a message to ask him to come and see me. On his arrival he informed me that matters were quite quiet, and the Portuguese Government, with most of the Railway Company's servants, were working the line. This I telegraphed to you.

This morning, upon the Vice-Consul visiting me, I asked him to give me a

written account of what had occurred. His account as taken down by Mr. Sturgess is inclosed, as also one by an eye-witness, Mr. Muller, who was at the station from 7.30 till the close of the proceedings; Mr. Knee, Acting Vice-Consul and General Manager of the railway, did not arrive till between 8.30 and 9 o'clock. As far as I can learn at no time was there any occasion for the presence of a man-of-war. Mr. Knee's telegram to me stating he was a prisoner in his own house was hardly justifiable, as he simply remained there on account of a rumour he indirectly heard that he would be arrested if he appeared in the town. The Governor, José d'Almeida d'Avila, who was for some years in the British navy, and whom I had the pleasure of being ship-mates with, informed me that on no occasion was there the least intention of arresting or in any way interfering with him. The Company by Deed of Contract being under Portuguese laws, and the Concession expiring on the 24th June, the station-master and clerk were arrested for resisting the civil power by starting the train in defiance of the Portuguese authorities.

The interpreter of the Consulate is also paymaster of the line, he was only in custody for three hours, and was released directly upon the application of Mr. Knee as Vice-Consul.

The Governor had shown Mr. Knee, previous to the 29th June, his orders from Portugal, and had asked him to co-operate with him, and assist him in taking an inventory of stores, &c., by appointing one or more of the Company's servants to act on a Commission for that purpose. He also summoned the merchants, and informed them to that effect.

I inclose a Report from Mr. Ernest E. Sawyer, engineer and contractor for the extension of the line, who is now continuing the work under the Portuguese Government.

I have, &c.
(Signed) ANDREW F. BALFOUR.

Inclosure 3 in No. 52.

Statement made by Mr. Philip Knee, Her Britannic Majesty's Vice-Consul, and General Manager of Railway.

FOR some time past it has been known to the Portuguese Government that the Concession ended on the 24th June, but the Railway Company in England instructed me as General Manager to hold on to the property; and for weeks before the 24th the local papers here have been writing irritating articles, pointing out that the 24th was fast approaching, and the end of the railway was getting near.

On the 22nd June I waited on the Governor, and asked him to be good enough to inform me what steps he proposed taking on the 24th or 25th; he said that he had no instructions whatever, but that the moment he received them he would communicate them to me, the General Manager, before they became known to any one else.

On the 23rd I telegraphed to the Admiral that the Portuguese had determined to seize the line; the men employed on the construction of it, and in the locomotive works, were much excited on being told by the Portuguese that every one of them would be "sacked," and if they resisted they would put them in prison; the head of the locomotive department stated that the men wished to send a deputation to me (the Vice-Consul) to ask for protection, the treatment of people in prison here having more than an unusual [?] bad repute; it was evident that unless the men had been assured that protection would be afforded them, they would have armed themselves and taken what steps seemed best to defend themselves. I issued orders that the men were under no circumstances to provoke the Portuguese, and that no man would be dismissed except through myself.

As soon as it was known that a man-of-war had been sent for the men became calm and continued their work. On the 26th the Governor sent for me and read me a Decree from Portugal that he was to take possession of the line, its belongings, and the whole of the Company's property. I informed him that my instructions were not in accord with such a Decree, and that until I heard from the Board of Directors in London I must decline in any way to recognize the right of any person to interfere with the line, its working, or to take possession of any property belonging to the Company.

On the 28th a letter was received by me from the Governor demanding that no more trains should be run; the letter being in Portuguese, and the interpreter up the line paying the men (he was paymaster as well as Consular interpreter), could not be at once replied to. On the morning of the 29th, at 7.30, soldiers were marched down and took possession of the terminus, the officer in command asking the station-master if he intended running the ordinary train. The station-master replying that he had no orders to the contrary, the soldiers were then ordered to remove a length of rail to prevent the engine and train going out; the driver and stoker were removed from the engine, and two soldiers put there in their place. This engine being attached at the rear of the train, the driver of the engine in the front of the train (time being up) started; the soldiers on the rear engine jumped off. The officer in charge of the soldiers levelled his revolver at the driver, but his arm was knocked up by an artizan standing near; the man who knocked his arm up was immediately taken into custody; the revolver does not appear to have been fired. A second officer levelled a revolver at the acting guard, the station-master and a clerk from the General Manager's office watching the proceedings were then arrested, both being put into cells already occupied by Kaffirs. The greatest excitement prevailed; the greater part of the railway staff crowded to the Consulate. I, in the meantime, was sent for, and arrived at the railway station at 8.30, and was served by the officer in command of the soldiers with a document, which I at once took to the Consulate for interpretation. The interpreter, in the act of seeking his bedroom for quietness to translate the document, was arrested, and also placed in a cell with Kaffirs.

I at once called on the American Vice-Consul and requested his co-operation. In company we waited on the Governor, who stated he had given no orders for the arrests, and that the interpreter after inquiry should be released, but that he must communicate with the Judge before he could say anything relating to the station-master and clerk who were arrested. I impressed upon the Governor that unless the interpreter was at once released I had no means of understanding the document sent me, or replying to it, and unless he was immediately released I should wire the circumstances to the Foreign Office. He was released in three hours, and has forwarded to the Foreign Office a claim for 10,000*l.* damages.

The men employed on the railway were called together by me, and instructed to go to their homes.

The reason for my telegram of the 23rd was that collision between the troops and men composed of all nationalities seemed inevitable, for if the men were removed from their work, threatened to pull up the rails and bridges.

A Portuguese officer informed the English people generally that the moment I appeared in the streets I would be arrested; I therefore remained in my house the whole of one day, until I got an assurance from the Governor that it would not be so; the men, having heard this, made no secret of it that they would use force to release me.

The foregoing statement was taken down from Mr. Philip Kneec's dictation.

(Signed) ANDREW F. BALFOUR,
Lieutenant and Commander.

Witness:

(Signed) G. R. STURGESS,
Assistant Paymaster in charge.

Dated on board Her Majesty's ship "Stork," at Delagoa Bay, the 5th July, 1889.

Inclosure 4 in No. 52.

Statement of Mr. Burt C. Muller.

AT 7.30 A.M. on the morning of the 29th a Major and twenty-five men, armed with revolvers, went to the station. The driver and fireman of a small shunting engine in rear of the train were taken off, and two soldiers substituted, while some soldiers were endeavouring to remove a piece of rail so as to stop the train going.

The large engine was meanwhile shunting about a waggon containing dynamite, previous to going ahead of the train. While the engine was in motion the Major of the twenty-five men ordered the driver to stop. This he refused to do; whereupon the Major presented his revolver at him. The Civil Representative of the Government, who was beside him, stopped his arm, and the revolver was put away without being

fired. At the same time two Europeans were fighting on the platform, a private drew his revolver to stop them, but no shots were fired, and one of the men fighting was arrested. The larger engine, meantime, was quickly and cleverly coupled to the train, and started just before the rails were taken up. The station-master and one of the clerks were then arrested for setting at defiance the orders of the authorities. After the train had gone a short distance it was stopped, and the stern engine and some of the trucks uncoupled, the remainder of the train going on.

About 8.30 A.M., or later, Mr. Knee, Acting Vice-Consul, and General Manager of the railway, arrived; by this time everything was quiet. On his arrival he was handed an official document, which at first he refused to accept, but ultimately took; every one then went quietly away. The proceedings were then taken down in writing by the civil authorities and signed by several of the European eye-witnesses—(Mr. Muller as one).

At night the train returned at the usual time, but was stopped a short way outside the station, and the driver and fireman left the engine.

The above account was taken down from the dictation of Mr. Muller.

(Signed)

ANDREW F. BALFOUR,

Lieutenant and Commander.

Witness:

(Signed)

G. R. STURGESS,

Assistant Paymaster in charge.

“*Stork*,” at Delagoa Bay, July 5, 1889.

Inclosure 5 in No. 52.

Evidence of Dr. Magin.

I WAS at the station on Saturday, the 29th June. The train was in the station with the engine behind. The Portuguese went on the engine to seize it, turned the driver and fireman out, and took possession. There was another engine on a siding which made fast in front, and was fastened to the train. I was told, but I could not see it through the crowd, that the Chief of the Police presented his pistol at the head of the driver, who stooped down and shouted to him to shoot. He (the engine-driver) blew out steam in every direction, dispersing the crowd, and steamed out of the station. The man who is supposed to have knocked up the arm of the Chief of Police was arrested. The affair does not seem quite clear whether the pistol was pointed or only held up; nobody fired. The train was taken on for about half a mile, and stopped to take water, and the rear engine came back. In the meantime, a length of rail had been taken out by the troops. When they came back the Portuguese soldiers went on the rear engine and arrested the engineer and fireman, and took charge. Somebody said (Portuguese) that the boiler was going to burst, so everybody, soldiers and all, ran away. I saw the station-master and one of the clerks were taken away by the soldiers. About this time Mr. Knee arrived, and an official document was offered him. He had an interpreter with him. He said he was not accustomed to receive letters in the street, but at his office; out of courtesy to the gentlemen present he would take it. They bowed and went off. There was considerable excitement going on during this time. My impression was that there was no danger to life, and that the Portuguese soldiers behaved with great leniency.

Taken down from dictation.

(Signed)

ANDREW F. BALFOUR,

Lieutenant and Commander.

Witness:

(Signed)

G. R. STURGESS,

Assistant Paymaster in charge.

Dated on board Her Majesty's ship “*Stork*,” at Delagoa Bay, the 5th July, 1889.

Inclosure 6 in No. 52.

Lieutenant-Commander Balfour to Rear-Admiral Wells.

Sir,

"Stork," at Delagoa Bay, July 8, 1889.

I HAVE the honour to inform you that having after a little delay got the coal I required from the Portuguese Government, I proposed sailing to-morrow morning in execution of orders.

The railway and plant being in the hands of the Government, the Company of course could not give me the coal they had promised.

The Governor would not let me have it till the Commission had taken an inventory of the stores, &c., and as Mr. Knee would not assist them in this, it has made it a little difficult for them to do it. The Governor has been most courteous, and taken a good deal of trouble personally to procure it for me.

I have given Lieutenant and Commander Langdon, of Her Majesty's ship "Bramble," all the information I have acquired, and a copy of my communication to you of the 5th instant.

I have, &c.
(Signed) ANDREW F. BALFOUR.

No. 53.

Admiralty to Foreign Office.—(Received August 30.)

Sir,

Admiralty, August 29, 1889.

I AM commanded by the Lords Commissioners of the Admiralty to transmit, for the information of the Secretary of State for Foreign Affairs, copy of the remarks of the Commander-in-chief on the Cape of Good Hope and West Coast of Africa Station, dated the 6th August, with copies of its inclosures, respecting the state of affairs at Delagoa Bay, and the appointment of Mr. Gulliford as Acting Vice-Consul in the place of Mr. Philip Knee.

I am, &c.
(Signed) R. D. AWDRY.

Inclosure 1 in No. 53.

*Rear-Admiral Wells to Admiralty.**"Raleigh," in Simon's Bay, August 6, 1889.*

SUBMITTED, with reference to my submission of the 24th ultimo, observing that, from these reports, their Lordships will perceive that everything is going on quietly at Delagoa Bay.

The late Acting Vice-Consul, Mr. Knee, returns to England by the steamer conveying this letter.

(Signed) RICHARD WELLS.

Inclosure 2 in No. 53.

Lieutenant-Commander Langdon to Rear-Admiral Wells.

(Extract.)

"Bramble," at Delagoa Bay, July 23, 1889.

I HAVE the honour to inform you that no change has taken place in the situation of affairs at this port. Everything remains quiet, any excitement caused by the transfer of the railway having entirely subsided, and the author of the disturbance retired from the scenes.

The new Acting Vice-Consul, Mr. Gulliford, Superintendent of the Great Eastern Telegraph Company, called and informed me personally that he has no trouble, and finds the Governor and Portuguese officials civil and accommodating.

Inclosure 3 in No. 53.

Acting Vice-Consul Knee to the Senior British Naval Officer, Delagoa Bay.

Sir,

July 13, 1889.

I HAVE the honour to inform you that I have, under direction from Lord Salisbury, appointed Mr. Gulliford, Eastern Telegraph Superintendent, Acting Vice-Consul during my absence on sick-leave.

I have, &c.
(Signed) PHILIP KNEE.

Inclosure 4 in No. 53.

Acting Vice-Consul Gulliford to Lieutenant-Commander Langdon.

(Extract.)

Delagoa Bay, July 17, 1889.

AS far as I can gather everything is quite quiet, and the safety of British subjects secure as usual.

I will do myself the honour of calling on you at my earliest convenience, and in the meantime report to you daily (or when you think necessary) as to the state of matters generally in this city.

Inclosure 5 in No. 53.

Acting Vice-Consul Gulliford to Lieutenant-Commander Langdon.

Sir,

Delagoa Bay, July 20, 1889.

I BEG to report that everything, as regards British subjects in Delagoa Bay, continues to be perfectly quiet and satisfactory.

As I propose to do myself the honour of calling upon you this (Saturday) afternoon, I shall be extremely obliged if a boat can be at the pier at 2 P.M. to meet me.

I am, &c.
(Signed) J. W. GULLIFORD.

Inclosure 6 in No. 53.

Acting Vice-Consul Gulliford to Lieutenant-Commander Langdon.

Sir,

Lourenço Marques, July 23, 1889.

I HAVE the honour to report to you that everything on shore, in this city and neighbourhood, is proceeding in its usual quiet manner.

There has been, as far as I can gather after close investigation, no disturbance or probability of the same since the transfer of the railway to the Portuguese Government.

The railway line is being worked very satisfactorily, and the extension (the former bone of contention) is also being pushed forward and promised to be finished by the end of September.

I have, &c.
(Signed) J. W. GULLIFORD.

Inclosure 7 in No. 53.

Lieutenant-Commander Langdon to Rear-Admiral Wells.

(Extract.)

"Bramble," at Delagoa Bay, July 29, 1889.

I HAVE the honour to inform you that no change has taken place in the situation of affairs here. The railway is being completed under the superintendence of Mr. Sawyer, who has accepted Contract from the Portuguese Government to complete it by the end of October, or forfeit 30l. a-day till it is finished.

Mr. Petre to the Marquis of Salisbury.—(Received September 9.)

My Lord,

Lisbon, September 6, 1889.

I HAVE the honour to report that an Agreement has been signed by the Minister of Marine and Colonies, representing the Lourenço Marques Railway, and Mr. Ernest George, Consul in Lisbon for the Transvaal and also for the Netherlands, representing the Dutch South African Railway Company, fixing the Tariffs between the two Companies.

I understand that the rates are as follows:—

For higher classed goods, 4*d.* per ton per kilom.

For goods of inferior description, 2*d.* per ton per kilom.

The rates for railway materials are fixed as follows:—

For machinery, 2*d.*

For coal, &c., 1*d.*

These charges constitute a mileage rate, each Company receiving its proportion of receipts from through traffic. The length of the Transvaal line will be about 220 kilom., while that of the Lourenço Marques or Delagoa Bay Railway will be, when finished, about 89 kilom.

I may add that Mr. George, to whom I am indebted for the foregoing information, stated that the rates are practically the same as those originally proposed by Mr. McMurdo.

I have, &c.
(For Mr. Petre),
(Signed) G. F. BONHAM.

The Marquis of Salisbury to Mr. Petre.

Sir,

Foreign Office, September 10, 1889.

SINCE the correspondence which has passed between Her Majesty's Government and the Portuguese Government in reference to the seizure of the Delagoa Bay Railway, Her Majesty's Government have carefully examined the bearing of that measure upon the interests of those subjects of Her Majesty who were affected by it.

Senhor Barros Gomes in his notes of the 26th June and 1st July, while admitting the right of Her Majesty's Government to advocate on just grounds the claims of British subjects, contended that in this case such advocacy was not needed, as the Portuguese Government had no concern with the English Company, and he asserted that they could only recognize the Portuguese Company, which had the power of appealing for protection to the laws of Portugal.

If this contention were admitted the interests of the British Company would be at present absolutely unprotected, for the Portuguese Company, after submitting, under protest, to a decision which it felt itself incapable of resisting, has, for all practical purposes, ceased to exist. But Her Majesty's Government consider this view to be altogether untenable. Senhor Barros Gomes must indeed in advancing it have forgotten the circumstances which attended the establishment of the British Company.

It is unnecessary to recapitulate the history of the Concession given to Colonel McMurdo in 1883, of the subsequent formation of Portuguese Company (the Lourenço Marques and Transvaal Railway Company), and of the successive prorogations of the term fixed for the completion by that Company of the Contract. It is sufficient to remark that the Company, notwithstanding the extensions of time granted to it, was unable to find the capital to enable it to fulfil its obligations. It was in consequence of this failure that an attempt was made to obtain funds in England. The attempt was successful, and in March 1887 the British Company, the Delagoa Bay and East African Railway Company, was formed in London with the object of working the Concession; and the necessary capital was subscribed.

It is important to note that the Company was constituted with the full knowledge of the Portuguese Government, for, in order to prevent certain misconceptions with respect to the enterprise at the outset, Baron da Costa Ricci was instructed to caution the Directors that the Concession itself could not be transferred to a British Company, but that a British Company might, provided that the Portuguese Company continued

to exist according to Portuguese law, hold a whole or part of the shares of the latter. The conditions thus prescribed were fully understood and accepted on both sides. They are recorded in the annexed correspondence which is already in your possession, but is appended to this despatch for convenience of reference.

From that time the position was that, while the Portuguese Company existed as holders of the Concession for technical purposes, and while the terms of the Concession were carried out through it, the British Company supplied the funds, executed the works, and possessed the entire property of the railway.

The obligations undertaken by the British Company, for which alone its capital was raised, were limited to the construction of the railway required by the Contract or Concession of 1883, as shown upon plans approved by the Portuguese Government on the 30th October, 1884. No intimation of the probability of any alteration of those plans was given to it by the Portuguese Company or Government. It is not contested that these obligations so undertaken have been carried out, or that the line has been constructed in accordance with the original plans, has been approved by the Government engineers, and has been opened for traffic. But it appears that on the 24th July, 1887, some months after the British Company was formed, a plan for the extension of the line beyond the point fixed on the approved plans was prepared by the Portuguese engineers. The British Company at once protested, through the Portuguese Company, against being called on to undertake this additional work without compensation. It was only acting reasonably in demurring to the demand that it should incur an expenditure not mentioned when the capital was raised and not required under the terms of the Concession, but, independently of this, there was unquestionable ground for hesitation in the fact that the proposed extension was within disputed ground, as the Transvaal frontier was still unsettled, and it was obvious that the dispute could not be settled summarily by one party to it.

This difficulty is clearly admitted in the annexed letter of the Minister of Marine and Colonies on the 30th January, 1888, which also contains the important assurance that when the frontier should be decided a reasonable term would be fixed for the conclusion of the line by the Company.

After the receipt of this letter no further step was taken for some time, negotiations being apparently in progress between Portugal and the Transvaal; but in the October following the Portuguese Government suddenly issued a Decree fixing a terminal point for the railway 8 kilom. beyond the point laid down in the original plan, and requiring that the additional line should be constructed within eight months from the date of the Decree. The Company protested against this arbitrary measure as unjust and inconsistent with the assurances given in the preceding January; and urged that if it were compelled to execute the work the period of eight months was insufficient, as it included the whole of the rainy season. Finding its protests disregarded it commenced the extension, but its fate had been practically determined. When the eight months expired the Portuguese Government, basing their action on Article 42 of the Concession, annulled the Contract, seized by force the rails, bridgework, and other material of the railway, and thus confiscated the whole property of the English Company. This step was taken, notwithstanding that provision had been expressly made in the Concession for the amicable settlement of a dispute of this character, it having been stipulated in the 53rd Article that all questions which might arise between the Government and the Company touching the execution of the Contract should be decided by arbitration. This provision was in effect altogether ignored by the Portuguese Government; for the declaration made by Senhor Barros Gomes in his note to you of the 26th June last that arbitration would be accepted, but that in the meanwhile the annulment of the Concession could not be suspended, can only be regarded as illusory. There was no meaning in the acceptance of arbitration after the party accepting it had settled the disputed question in its own favour by an act of force.

The motives which influenced the Portuguese Government in their action are clear from the correspondence. It was their object, by pressing the Company with regard to the extension, to compel it to make Concessions in regard to its undoubted right to fix the Tariffs. The Company, indeed, asserts that there was from the beginning an understanding to this effect between Portugal and the Transvaal, and points, in support of its assertion, to an unpublished Agreement dated the 17th May, 1884.

Senhor Barros Gomes, in his conversation with you, recorded in your despatch of the 3rd July last, admitted that Portugal had a common interest with the Transvaal in the rapid completion of the railways in their respective territories, and that they were agreed as to the Tariff, but denied that there was any further understanding.

Into the merits of this question I do not propose to enter. The question at issue is not the motive, but the justice of the seizure.

Her Majesty's Government are of opinion that the Portuguese Government had no right to cancel the Concession, nor to forfeit the line already constructed.

They hold the action of the Portuguese Government to have been wrongful, and to have violated the clear rights and injured the interests of the British Company, which was powerless to prevent it, and which, as the Portuguese Company is practically defunct, has no remedy except through the intervention of its own Government.

In their judgment, the British investors have suffered a grievous wrong in consequence of the forcible confiscation by the Portuguese Government of the line and the materials belonging to the British Company, and of the security on which the debentures of the British Company had been advanced; and that for that wrong Her Majesty's Government are bound to ask for compensation from the Government of Portugal.

The accompanying documents contain a statement of the amounts at which the British Company assess the damages they have suffered.

The accuracy of this estimate may possibly be challenged, and, if so, it must, of course, be duly substantiated.

If the Portuguese Government admit their liability to compensate the British Company for any injury to which their interests or property have been subjected by the confiscation of the line and the seizure of the materials upon it, Her Majesty's Government will admit that the amount of that compensation is a proper matter for arbitration.

You are authorized to read this despatch to Senhor Barros Gomes, and to give him a copy of it. In so doing, you will state that Her Majesty's Government are anxious for an amicable settlement, and rely on the sense of justice of the Portuguese Government to repair the wrong which has been the consequence of their action.

You are at liberty to give to Senhor Gomes a copy of the Red Book containing the English Company's statement of claim.

A further copy is sent to you for that purpose.

I am, &c.
(Signed) SALISBURY.

No. 56.

Mr. Petre to the Marquis of Salisbury.—(Received September 23.)

My Lord,

Lisbon, September 18, 1889.

I CALLED upon the Minister for Foreign Affairs to-day and read to him your Lordship's despatch of the 10th instant, asking for compensation from the Government of Portugal for the wrong inflicted upon British investors in consequence of the forcible confiscation by the Government in the month of June last of the line and materials of the Delagoa Bay Railway. I also left a copy of your Lordship's despatch with his Excellency, and a copy of the Red Book containing the British Company's statement of claim.

Senhor Barros Gomes admitted that the demand made by Her Majesty's Government on behalf of the British Company was expressed in conciliatory terms, and he assured me that it would be most carefully considered in the same spirit by the Portuguese Government, who were desirous that, within just and reasonable limits, British investors should be protected from loss in consequence of the act, the legality of which he was prepared to uphold, of the Government. I could not, however, he said, of course expect him to express any opinion with reference to the request for compensation, more especially as he had not yet seen the Red Book, and did not know the extent of the claim made by the British Company. At the same time his Excellency demurred to the assumption that the Portuguese Company had ceased to exist, and, as a consequence, was not disposed to abandon the ground taken up by the Portuguese Government in his notes to me of the 26th June and 1st July.

I have, &c.
(Signed) GEORGE G. PETRE.

No. 57.

Mr. Petre to the Marquis of Salisbury.—(Received September 23.)

My Lord.

Lisbon, September 18, 1889.

WITH reference to my despatch of the 6th instant, I have the honour to transmit herewith a printed translation of a Royal Decree dated the 4th instant, and published to-day, approving the Contract signed on the 4th instant by the Minister of Marine as representing the Portuguese Lourenço Marques Railway Company, and by Mr. E. George, the Consul-General in Lisbon of the South Africa Republic, as representing the Dutch South Africa Company which holds the Concession of the line of railway in the Transvaal, with reference to the completion and working of the railway from Lourenço Marques to Pretoria.

The text of the Contract itself has not been published.

I have, &c.

(Signed) GEORGE G. PETRE.

Inclosure in No. 57.

Extract from the "Diario" of September 18, 1889.

(Translation.)

MARINE AND COLONIAL DEPARTMENT.

Royal Decree.

WHEREAS it is expedient to hasten the completion and to facilitate the working of the line of railway from Lourenço Marques to Pretoria ;

And whereas a Contract for this purpose has this day been signed between the Administration of the Portuguese line of railway from Lourenço Marques to the frontier of the South Africa Republic as represented by the Minister and Secretary of State for the Department of Marine and Colonies, and the Administration of the Dutch South Africa Company, which holds the Concession of the Transvaal line, as represented by Mr. Ernest George, the Consul-General of that Republic in Lisbon ;

I am hereby pleased to sanction the Contract above referred to.

The Minister and Secretary of State for the Marine and Colonial Department shall accordingly carry this Decree into effect.

Given at the Palace, the 4th December, 1889.

(Signed) THE KING.

(Countersigned) FREDERICO RESSANO GARCIA.

No. 58.

Acting Consul Smith to the Marquis of Salisbury.—(Received October 2.)

My Lord,

Mozambique, August 7, 1889.

WHEN Mr. Johnston left Mozambique for Lake Nyassa he requested me to go to Delagoa Bay and make a Report to him on the late seizure by the Portuguese of the Delagoa Bay Railway.

Knowing that Mr. Johnston will not return to Mozambique for some time, I take the liberty of inclosing to your Lordship a copy of the Report I have made, trusting that it may be of some interest or use.

I have, &c.

(Signed) ERNEST W. SMITH.

Inclosure in No. 58.

Acting Consul Smith to Consul Johnston.

(Extract.)

Lourenço Marques, August 6, 1889.

IN connection with the Report you have requested me to make on the late seizure of the Delagoa Bay Railway by the Portuguese authorities, I have the honour to say that the

idea of a seizure seems to have originated among the Portuguese about a year ago, when, on the 24th October, 1888, the Portuguese Government, owing to the alleged numerous delays on the line, both in the construction department and traffic arrangements, fixed a point at the Pass of Incomati which was to be considered as the terminus of the line, and also fixed a term of eight months from the 24th October, 1888, as the time within which the line was to be completed, and decreed that on the failure to make such completion in the time specified the Concession would be forfeited and the line seized by the authorities. Article 42 of the original Contract of the 14th December, 1883, gives power to the Portuguese Government to issue such notices, by saying that the Railway Company shall be governed by such Laws as the Portuguese see fit to make, but the legality of such a clause as Article 42 in any Contract is a question to be decided hereafter.

At the time this new terminus was decided upon, and the time given in which to reach the point, the Railway Company gave notice that the term was insufficient, and argued that most of the months between October 1888 and June 1889 were in the fever and rainy season, during which time it would be impossible to undertake, without imminent risk to the lives of the workmen, the labour necessary to the completion of the line. The arguments of the Company, however, were unheeded by the Government, but events have proved that they were well founded, for, in January of this year, parts of the line were destroyed by the heavy rains, and work was much delayed in consequence.

For the last eight months, in fact ever since the 24th October, 1888, work on the line has gone on as well as could be expected, but it is impossible to depend, as you well know, upon native labour, and also upon necessary materials arriving here at the desired moment, and, consequently, the allotted eight months passed by, and on the 24th June, 1889, the line was not completed to the Pass of Incomati, so that the Portuguese considered that they were justified in issuing the Decree on the 25th June, 1889.

This Decree was received by the Governor of the district of Lourenço Marques on the 26th June, 1889, and upon its receipt the General Manager of the railway was sent for by the Governor, and informed by his Excellency that he had received orders from his Government to take over the railway, as it had been forfeited by the concessionaries according to the Decree of the 24th October, 1888.

In an interview I had with the Governor I was told that Mr. Knee, the General Manager, on being told that he was expected to hand over the management of the railway, said that he had had no such instructions from his Directors, but, on the contrary, had been told to stand out at any costs against such steps as the Government saw fit to make towards the seizing of the line. The Governor then informed Mr. Knee that nothing could be decided in the matter here in Lourenço Marques, that he was bound to carry out the instructions he had received, and begged Mr. Knee to look at the matter in its correct light. Mr. Knee's answer was: "I shall not allow the Government to interfere with my railway in any manner." The interview then closed, as well it might, and the next day the Governor formed a Commission to wait on the General Manager and make a formal demand for the possession of the line. Mr. Knee met the Commission in front of his office, told them that his rooms were too small to entertain so many people, and asked them to call on him at his private house, where he would listen to what he had to say. He then rode away, leaving the Commission standing where he had met them, who, naturally, returned to the Governor with the report that it would be impossible to gain possession of the line peaceably.

On the 28th June the Governor called together the leading merchants in Lourenço Marques, and told them what he had done, and how his advances had been met by Mr. Knee. He also read to them the Decree he had received from his Government, and pointed out the fact that he really had nothing to do but to obey his instructions, and hoped that he would receive the support of the residents, both Portuguese and foreign.

On the 29th June, half-an-hour before the starting of the regular 8 o'clock train to Moveni, the military took possession of the railway station and of the morning train standing on the platform. The engine-driver immediately went to another engine and backed it up to the train and coupled on, and out of bravado blew steam and hot water all over the soldiers, for which, naturally, attempts were made to arrest him.

As regards the report that the engine-driver was fired at by one of the Portuguese officers, I have every reason to believe the statement to be entirely false, as I have questioned many eye-witnesses to the scene, and have been assured that, although a pistol was drawn, it was not fired. Lines, fish-plates, and connections, however, were removed and torn up by the military, and although all connections were replaced on the following day, the fact remains that destruction of property was contemplated, even though such actions were entirely unnecessary, and the excuse given that lines were removed in order to stop the morning train from leaving the station has no ground whatever, for any of the pieces

of loose rail about the station, thrown across the track, would have been sufficient to make the departure of the train impossible, and allowed Portugal to deny the fact that it was willing to destroy the Delagoa Bay Railway, even after possession had been obtained.

After the Portuguese had assumed possession of the line, many of the officials and workmen connected with the railway called on the Governor to request permission to remain at work, and were assured that all Englishmen now working on the line were to retain their contracts, the only difference being that the pay would be received from the Portuguese Government instead of from the Company.

As regards Delagoa Bay at present, everything is quiet, and business intensely dull. About one hundred railway officials left for Durban with Mr. Knee, and the vacant places have been filled by a Portuguese staff, and as the latter do not seem to patronize the town in the manner the English staff did, I have been told that the difference to the hotels and shops in Lourenço Marques is at least 1,500*l.* a-month, and one hears much grumbling in consequence.

On the line everything is going on practically as it was before. Trains are being run regularly, and the only things to show that the English have lost the management of the line are the sign-boards, where the English notices have been religiously painted out, and the same notices, in the Portuguese language, placed in their stead.

Mr. Sawyer, the engineer who had the Contract under the Delagoa Bay Railway Company, has taken another Contract from the Portuguese Government to finish the line about the end of October, but opinion is that the line cannot be finished before the end of the year, at which time the line is expected to be complete as far as the Transvaal frontier, where all Portuguese authority will cease, and the line stop in a wilderness nowhere, to be connected at some future date with a line not yet started, but expected to be run from Johannesburg or Pretoria, in the Transvaal, to the place on the frontier where the Delagoa Bay Railway is eventually going to end. On going up the line, one is impressed by the wilderness through which he passes. Not a house or a sign of vegetation is to be seen anywhere, and one's constant wonder is where the material is to be obtained from to pay any Company for the enormous expense connected with a railway in East Africa.

No. 59.

Mr. Petre to the Marquis of Salisbury.—(Received October 7.)

My Lord,

Lisbon, October 3, 1889.

SENHOR BARROS GOMES has informed me that I may expect to receive the answer to your Lordship's despatch of the 10th ultimo, which I communicated to his Excellency on the 18th, in support of the claim of the British shareholders of the Delagoa Bay Company to compensation for losses incurred in consequence of the rescission of the Concession in the course of a week or ten days. His Excellency did not tell me exactly what the answer would be, but he said that the Portuguese Government traversed many of the statements contained in the Company's case, and the described the amount of compensation demanded by them as most extravagant. His Excellency added that the Portuguese Government could not admit that the Lourenço Marques and Transvaal Railway Company had either technically or practically ceased to exist in consequence of the resignation of the Portuguese Directors and of a general meeting not having been convened, and he maintained that the Company could not be dissolved in that manner without the intervention of the Portuguese Court.

Whether they will refuse here the arbitration proposed I am unable to say, but from what fell from Senhor Barros Gomes, it is evident that the Portuguese Government will take their stand on the continued existence of the Company.

I have, &c.

(Signed) GEORGE G. PETRE.

No. 60.

Foreign Office to Acting Consul Smith.

Sir,

Foreign Office, October 10, 1889.

I AM directed by the Marquis of Salisbury to acknowledge the receipt of your despatch of the 7th August, inclosing copy of a Report addressed by you to Consul Johnston on the

recent seizure by the Portuguese of the Delagoa Bay Railway; and I am to state to you that your Report has been read with interest by his Lordship.

I am, &c.
(Signed) T. V. LISTER.

No. 61.

The Marquis of Salisbury to Mr. Petre.

Sir,

Foreign Office, October 21, 1889.

MR. LINCOLN, the American Minister at this Court, called here on the 9th instant, and said that he was instructed by Mr. Blaine to state that the United States' Government wished to co-operate fully and efficiently with Her Majesty's Government in the matter of the Delagoa Bay Railway; and that instructions in this sense had been sent to the United States' Minister at Lisbon.

Mr. Lincoln then inquired whether he might be informed what steps had been taken by Her Majesty's Government, and what was the present state of the question.

The material portions of my despatch of September 10 were read to him, and he was informed that you had recently reported that the Portuguese Government had promised to return an answer very shortly.

I have since communicated confidentially to Mr. Lincoln a copy of my despatch above referred to.

I am, &c.
(Signed) SALISBURY.

No. 62.

Mr. Petre to the Marquis of Salisbury.—(Received November 4.)

My Lord,

Lisbon, October 29, 1889.

IT is probably owing to the partial interruption of all public business, caused by the illness and death of the late King, that the Government has not yet replied to your Lordship's despatch of the 10th ultimo, on the subject of the Delagoa Bay Railway compensation claim. I am informed by my American colleague, Mr. Loring, that he addressed a note on this subject to Senhor Barros Gomes about a fortnight ago, by direction of Mr. Blaine, in which a demand for compensation is expressed in very firm language. Mr. Loring was instructed to say that the United States' Government, after a careful examination of the whole case, were of opinion that wrongful loss had been occasioned to an American citizen by the proceedings of the Portuguese Government, and that they demanded and expected either that the property should be restored or due compensation given for its retention.

I have, &c.
(Signed) GEORGE G. PETRE.

No. 63.

Mr. Petre to the Marquis of Salisbury.—(Received November 21.)

My Lord,

Lisbon, November 17, 1889.

I HAVE the honour to state that Senhor Barros Gomes informed me yesterday that I should have already received his reply to your Lordship's communication on the subject of the Delagoa Bay Railway, had it not been that before receiving his signature it had been laid before the Cabinet, and that the President of the Council had suggested certain alterations, which would render it necessary to have it partially recast and recopied.

His Excellency added that the general tenour of the reply was favourable to your Lordship's proposals.

I have, &c.
(Signed) GEORGE G. PETRE.

Mr. Petre to the Marquis of Salisbury.—(Received November 27.)

My Lord,

Lisbon, November 23, 1889.

I RECEIVED yesterday evening the reply of the Portuguese Minister for Foreign Affairs to your Lordship's despatch of the 10th September last, on the subject of the Delagoa Bay Railway Company's claim upon the Portuguese Government for compensation for loss and injury sustained in consequence of the rescission of the Concession in the month of June last.

As the note is very lengthy, consisting of twenty-seven closely written folio pages, it will be some days before I shall be able to forward a translation of it to your Lordship.

Meanwhile, I may state briefly the general nature of its contents, and, what is of more importance, the course which the Portuguese Minister suggests for a settlement of the question.

Senhor Barros Gomes begins by reciting what are styled the seven contentions contained in your Lordship's despatch, and which are to this effect:—

1. That in consequence of the Decree of the 25th June the Portuguese Company has practically ceased to exist.

2. The Delagoa Bay and East Africa Railway Company was constituted with the full consent of the Portuguese Government (the words of your Lordship's despatch were, "with the full knowledge," but probably the meaning is the same).

3. The object of the Portuguese Company was simply to construct a line in conformity with plans approved by the Government on the 30th October, 1884, which plans were duly carried out.

4. That on the 24th June a plan for the extension of the railway was proposed which was not included in the original project.

5. That when the Company, in January 1888, contended that it was necessary to grant a longer term for the construction of the extension, and that the frontier between Portugal and the Transvaal should be fixed, the only answer which they received was the Decree of October of that year fixing the term of eight months for the construction, no attention being paid to the fact that the rainy season was included in that term.

6. That although the Company commenced the works, the Portuguese Government, at the expiration of the eight months, rescinded the Concession and seized the whole line and materials belonging to the Company, in virtue of Article 42 of the Contract, as alleged by them, but in violation of Article 53, which provides for arbitration, inasmuch as in the Portuguese note of the 26th June last it was stated that any appeal to arbitration would not have any suspensive effect.

7. That your Lordship would not discuss the reasons why the Portuguese Government had taken the course mentioned, but that your Lordship looked upon it as both unjust and prejudicial to the rights of the Company, and that, therefore, you trusted the Portuguese Government would agree to grant just compensation, the amount of which could be settled later on.

Senhor Barros Gomes deals separately with, and controverts at length, each of the foregoing contentions.

It is not easy, and it might be misleading, to condense the reasoning employed by his Excellency; but the main standpoint adopted by the Portuguese Government is that the Portuguese Company still exists both *de jure* and *de facto*. They express their readiness, which appears to amount to a desire to treat with accredited agents of the Portuguese Company respecting terms of compensation for the rescission of the Contract of December 1883, and they add that it is in the power of the English Company to select the representatives of the Portuguese Company. It is stated to be improbable that the Government would be unable to come to an agreement with the Company's representatives, but in the improbable event of their not being able to do so, they will consent to submit the question at issue to arbitration. In that case, the Tribunal of Arbitration may either be constituted in accordance with Article 53 of the Concession or in any other manner, provided the strictest impartiality is thereby secured in favour of both parties who are concerned in the matter at issue.

I have, &c.

(Signed) GEORGE G. PETRE.

Mr. Petre to the Marquis of Salisbury.—(Received November 30.)

My Lord,

Lisbon, November 26, 1889.

I HAVE the honour to inclose a translation of a note which I have received from the Portuguese Minister for Foreign Affairs, in reply to your Lordship's despatch of the 10th September last, on the subject of the Delagoa Bay Railway Company's claim to compensation for the rescission of the Contract for the Lourenço Marques Railway.

I summarized this reply in my despatch of the 23rd instant, and as soon as it can be got ready I will send your Lordship a copy of the original.

I have, &c.

(Signed) GEORGE G. PETRE.

Inclosure in No. 65.

Senhor Gomes to Mr. Petre.

(Translation.)

Your Excellency,

Foreign Department, Lisbon, November 13, 1889.

THE despatch on the subject of the rescission of the Contract for the Lourenço Marques Railway, which Lord Salisbury addressed to your Excellency, and which you communicated to me by giving me a copy, has subsequently been the subject of a serious and attentive examination on the part of the proper Departments of the Government, which examination has accordingly been minute, and has taken some time.

I am now able to reply to the several statements with which Her Britannic Majesty's Government (who have been informed in greater detail than with impartiality by the "Delagoa Bay and East Africa Railway Company," which alleges that it has been unjustly treated) impugn the rescission of the Contract of the 14th December, 1883, in virtue of the Decree of the 25th June of this year.

Lord Salisbury's despatch comprises various points which I shall summarize as accurately as the strictest exigence may require. By this means, I shall succeed in showing in a more clear and precise manner that the act thus impugned is justifiable, and that consequently the charges brought against it are void of foundation:—

1. Lord Salisbury presumes that, inasmuch as, according to my note of the 25th June, the Portuguese Company is the only one officially recognized by His Majesty's Government, and consequently the only one with which they can treat, and, as this Company has become extinct, in his opinion, for all practical purposes, after and in consequence of the Decree of the 25th June last, the British interests involved in the Lourenço Marques Railway would remain unprotected were it not for diplomatic intervention.

2. That the "Delagoa Bay and East Africa Railway Company" was established with the full assent of the Portuguese Government, which is proved, as he supposes, by the telegrams which he quotes from Baron da Costa Ricci.

3. That the object for which the Portuguese Company in question was formed was merely to build a railway at Lourenço Marques in accordance with the plans sanctioned by His Majesty's Government on the 30th October, 1884, which object it entirely carried out.

4. That it was only on the 24th June, 1887, that a new additional plan was drawn up with a section of a few kilometres, which did not appear in the original plan which had been approved.

5. That the only answer which the Company received to its allegation, made in January 1888, that a longer period of time ought to be accorded to it for the construction of the extension, and after the settlement of the question of boundaries between Portugal and the Republic of the Transvaal, was the Decree of October of that year, fixing the term of eight months for the construction of that extension, no attention whatever being paid to the allegation on the part of the Company that the term allowed included the rainy season.

6. That, although the Company began the works (as it had failed to obtain a prolongation of the term, which was refused) His Majesty's Government, at the expiration of the eight months, rescinded the Contract of Concession, and seized the

whole line and materials belonging to the Company, on the ground of the stipulation of Article 42 of the Contract, but infringing that set forth in Article 53 of the Contract as regards the principle of arbitration, inasmuch as the appeal to Arbiters mentioned in my note of the 25th June as not having any suspensive effect upon the Decree of Rescission might be looked upon as illusory.

7. And, lastly, Lord Salisbury, while stating that it is not his wish to enter into the motives of the proceedings of His Majesty's Government in this matter, but merely to examine the justice of those proceedings, which he considers to be unjust and detrimental to the interests of the English Company, trusts, in view of the sentiments of justice of the Portuguese Government, that they will grant a just compensation to those interests, the amount of which might be fixed hereafter.

I propose to reply in succession to these several points, which have been most accurately abridged from Lord Salisbury's note in question, as briefly, but also as precisely, as possible:—

1. It is incorrect to suppose that the Portuguese Lourenço Marques Railway Company has ceased to exist. The dissolution of anonymous Companies, whether it be of their own accord or by force, is subject to precise conditions which are set forth in the Laws and in the Statutes of those Companies. As regards the case in point, let reference be made, amongst other provisions, to Article 29 of the Statutes of the 30th December, 1885, to Article 44 of the Law of the 22nd June, 1867, and to Article 122 of the new Commercial Code of the 22nd June, 1888. Now, not a single one of these conditions has, up to the present, been verified as regards the Portuguese Lourenço Marques Railway Company. It is evident, therefore, that the Company, on the one hand, did not make use of the power conferred upon it by law of dissolving of its own accord, and, on the other hand, it cannot be held to be legally extinct by the sole fact of the Decree of the 25th June having rescinded the Contract of the 14th December, 1883.

His Majesty's Government have always entertained this conviction. I have more than once had occasion to assert in their name to your Excellency, both in writing and *vis à voce*, that the Company had the power to appeal to a Court of Arbitration from the provisions contained in the Decree of the 25th June last; and it is a notorious fact that, by that Decree, His Majesty's Government ordered an inventory to be taken of the line in the presence—as is expressly laid down—of the representative or representatives of the Company. And, moreover, His Majesty's Government would never have made through me to your Excellency the declaration to which I allude, nor would the Decree of the 25th June have been worded as it was, were they not fully convinced that the Company is actually in existence.

It is true that Lord Salisbury's despatch only declares the Company extinct for all practical purposes; but not even from this strict point of view is the noble Lord's assertion justifiable. As regards the Decree of the 25th June, up to the present, the Company has done no more than protest against what it supposed to be the unjust provisions of the Decree. This is true. But that very protest is an evident sign that it did not look upon itself as extinct, and there is nothing to prevent it from still appealing, as I said, to the Court of Arbitration, the constitution of which, in accordance with Article 53 of the Contract, insures the greatest impartiality to the parties to the suit. The Delagoa Bay Company, which owns at present almost the whole of the shares of the Portuguese Company, is in a position to contribute in the most decisive manner towards the carrying into effect of this perfectly legal appeal. The supposition, therefore, that the interests of the Company are unprotected, is absolutely groundless, on which supposition it thought, as may be presumed, that it was placed under the unavoidable necessity of having recourse to diplomatic intervention. The defence of those interests was and still is placed in the hands of those who can better and are, moreover, obliged to protect them, that is to say, the Company itself. In the Contract, from which His Majesty's Government have never swerved, except for the purpose of generously favouring the Company—as will hereinafter be amply proved—in the Laws of Portugal and in the good-will of His Majesty's Government—of which they have invariably given it the most decisive proofs—the Company would have found, and will still find, more than sufficient means for the effectual defence of the interests which it represents.

It behoves me here to add that His Majesty's Government have taken so much care of the interests which are presumed to be unprotected, that they ordered, in accordance with the Contract of 1883, that the amount received for all the materials and stores, and for the works and buildings, &c.—which must be sold under the conditions and in the terms set forth in the Contract—shall be delivered to the Company,

after deducting the expenses incurred, and nothing more. The proceeds of this liquidation will have to be applied in due form to the payment of those who, either in virtue of their Contracts with the Company or by the fact of holding shares, have interests in the undertaking, or have invested their capital in it. The claimants might have a shadow of a reason in the hypothesis that no bidders would appear at the public sale, inasmuch as in that hypothesis (*vide* § of Article 42 of the Contract) the works, materials, and stores would revert to the State, which would not be bound to compensate them. But such an hypothesis is inadmissible. The claimants themselves acknowledge it to be absurd, in view of their calculations as to the probable receipts of the railway. Should it, however, occur, it would then become opportune to inquire whether it would be equitable for the State to make full use, irrespective of any consideration whatsoever, of the rights which it reserved (and which cannot be contested) in the aforesaid § of Article 42.

2. The supposition that the Delagoa Bay Company was formed with the full assent of the Portuguese Government must not be considered as hardly less void of foundation. His Majesty's Government were not called upon either to give or to refuse their assent to the formation of that Company. The telegrams of the Financial Agent of the Portuguese Government do not prove at all any such assent. They merely prove that His Majesty's Government were aware, as they could not fail to be, that the new Company was being formed and for what precise purpose, and they also prove the care taken by His Majesty's Government to notify, in order that the good faith of no one should be deceived, the laws and legal provisions by which the action of the Company, when once formed in Portugal, would have to be bound and regulated. The declarations made by Baron da Costa Ricci are both clear and positive. According to those declarations, the Portuguese Government had, in the first place, nothing whatever to do with the formation of the Delagoa Bay and East Africa Railway Company, and, consequently, were not in any way responsible for the statements and promises contained in its prospectus; secondly, they would continue to look upon the Portuguese Company as the sole owner of the Concession of 1883; thirdly, they not only did not authorize or promise to sanction the transfer of the Concession to a foreign Company, but were determined not to allow such a transfer; fourthly, they gave warning that the transfer of the whole of the shares of the Portuguese Company to a foreign Company would be null and illegal in the face of the laws of this country, and would *ipso facto* invalidate the Concession. Subsequently, it was considered expedient to explain the last-named declaration. Accordingly, a telegram from the Minister of Marine of the 19th March of that year explained that the transfer, referred to in No. 4 of the telegram above summarized, would only entail the cancelling of the Concession in the event of its being carried into effect under such conditions that the Portuguese Company should thereby cease to exist. The Directors of the English Company, on becoming acquainted with these formal declarations, stated in the letter signed by the Secretary to the Board, Mr. J. Alprovidge, on the 19th March, 1887, that the Portuguese Government had never been asked to assume any direct responsibility towards the English Company, and that it was distinctly announced in the prospectus that the Concession was the property of a Portuguese Company, by which its conditions had to be fulfilled.

In truth, no document whatever can be produced in which a single word can be found amounting to an official recognition of the English Company, or to an official assent having been given to its formation. On the contrary, the Portuguese Government have always and invariably only recognized the Portuguese Company as legally existent. The Concession was only made to it, and they have always and directly treated with it alone. It appears to me unnecessary to add anything further on this point.

3. The assertion reproduced from the allegations made by the Company, viz., the claimants, that the object for which the Company was formed was to construct a railway in accordance with the plans approved by His Majesty's Government on the 30th October, 1884, is also hardly conformable to the truth. There can be no doubt that some of the proceedings and declarations on the part of the Company prove that—although it is not easy to explain the reason—for some time it laboured under this mistake. I say some of the proceedings and declarations, because there are others which show that the Company did entertain with regard to this matter the true notion as to the engagement into which it had voluntarily and originally entered. Now, the said engagement consisted of the construction of a railway not only in accordance with the plans alluded to, and which were incomplete and provisional, but also in accordance with the first paragraph of Article 1 of the Contract of 1883, and,

therefore, in view also of other additional circumstances now omitted, and to which I am going to allude, of an extension over and above the line which is noted in the said plans.

The Company did not entertain any doubts as to this matter when it described in the prospectus, issued with a view to the emission of debentures, the line about to be constructed as being 90 kilom. long and not 80 kilom. only. It is true that in the Contract of the 24th May, 1884—which likewise had not the assent of the Portuguese Government—made with Edward MacMurdo, and in which it was stipulated, among other things, that the said line should be constructed, the frontier was erroneously put down at the point where the first surveys of the Engineer Machado terminated; but inasmuch as it was expressly declared in the “Portaria” of the 30th October of that year, which approved the plans for the construction of the Lourenço Marques Railway as far as the 81.970 kilom., that such an approval was not to be construed as precluding the presentation of the plans relating to the last part of the line of railway close to the frontier, the Company, notwithstanding this, did not complain against what would thus be a violent and inexplicable imposition; and, furthermore, when it applied in 1887 for a prolongation of the period for the conclusion of the line, it confined itself to excusing its shortcoming by ascribing it to the fact that the frontier had not been positively defined.

This is an indirect though an insignificant proof that on more than one occasion it held the conviction that it was bound from the commencement to construct the few remaining kilometres as far as the frontier.

The most perfunctory acquaintance with the history of the Concession in question proves how very groundless is the presumption that the object for which the Lourenço Marques Railway Company was formed has been fully carried out by that Company. Let us see what was that object, or, rather, which is the same thing, what was the object of His Majesty's Government in granting the Concession of 1883. That object, to express it in a few words, was: to get a railway constructed between Lourenço Marques and the Transvaal frontier (Article 1) within the maximum period of four years, reckoning from the date of the approval of the plans (Article 40). In order to carry out this object, the Company engaged to send out to Lourenço Marques an engineer within forty days, reckoning from the date of the Contract, in order to survey the country for the purpose of fixing the course of the line, and to present 100 days later the result of such survey (Article 38); and, in order that the object in view might not be illusory, it engaged to maintain during the whole period of the Concession the railway and its dependences and stock, &c., in excellent condition (Article 24). I shall state in what manner the Company carried out this object for which it had been formed, and how it fulfilled its engagements into which, amongst others, it had entered. In January 1884 Mr. Alprovidge started for Lourenço Marques. The whole of the plans and available information respecting the railway were placed at his disposal at Lisbon (Article 38). The Engineer Machado, with whom he conferred at Lourenço Marques, furnished him with further data; but, nevertheless, Mr. Alprovidge did not conclude his work, or, rather, he hardly commenced it, within the legal period. The Government, by a “Portaria” of the 2nd May, 1884, had to prolong for sixty days more the period for the presentation of the work in question.

As the “Portaria” which approved the plans which were at last presented is dated the 30th October, 1884, it is evident that, according to the Contract (Article 40), and in order that the object for which the Company was formed might be carried out as far as possible, the railway ought to have been concluded on the 30th October, 1887. Well, it was not concluded at that date, and nearly two years after that, in the middle of 1889, not only was it not finished—inasmuch as a section of 8 kilom. in extent as far as the frontier was still wanting—but the line was interrupted for more than 12 kilom., and the remainder could only be made use of at once for traffic provisionally, and as a matter of special favour. As regards the conditions imposed concerning the maintenance of the line (Article 24), it will suffice to say that the repairs of which recently the line was urgently in need were many and important, so much so, that the traffic was partly interrupted without the Company adopting, in spite of the pressing demands made by the Government and their Delegates at Lourenço Marques, the requisite measures in order to re-establish the traffic, and it was always found impossible, notwithstanding the wishes of the Government, to open the line definitively to public traffic.

From what I have above stated, it is much more than evident that the Company was always far from corresponding exactly to the ends for which it had been formed, and to the object of the Concession which had been granted to it, notwithstanding the

numberless favours which it gratuitously and generously received from His Majesty's Government, namely:—

In spite of the already quoted extension of the period which was granted by the "Portaria" of the 2nd May, 1884;

In spite of the "Portaria" of the 24th of the same month and year, which accorded various modifications of the Contract of 1883 for the purpose of removing certain difficulties against which the Company had to contend, and which prevented the rapid progress of the construction;

In spite of the "Portaria" of the 30th October of that year, which granted permission, under certain conditions, for the raising of the sum deposited by the Company in accordance with its primitive engagement;

In spite of the "Portaria" of the 3rd March, 1885, which modified some of the technical conditions imposed upon the Company, which was likewise done for the purpose of facilitating the fulfilment of the engagements entered into by the Company;

In spite of the Decree of the 28th December, 1885, which extended until the 30th October, 1888, the period for the complete construction of the line;

In spite of the Decrees of the 14th May, 1884, and of the 7th January, 1886, which sanctioned the insertion in the Statutes of the Company of certain clauses and provisions, such as the one which allowed the immediate issuing of debentures, which could not be inserted without special authority from the Government, in view of the Law respecting anonymous or joint-stock Companies of the 22nd June, 1867;

In spite of the important assistance rendered by the Portuguese Government when they ordered in June 1886 the construction of the line to be proceeded with at their own expense after they had received an express declaration on the part of the Company that it was not then in possession of the capital which was absolutely necessary in order to enable them to begin the works in question;

In spite of the "Portaria" of the 19th November, 1887, in virtue of which a further extension of time was granted for three months;

And, finally, in spite of the permission granted on the 26th of the same month to make use provisionally of the first 80·5 kilom., although a good many engineering works were wanting in order that this part of the line might be considered as completed in accordance with the Contract.

4. It is true that it was only on the 24th July that the additional plans for the construction of the section of the line of railway as far as the frontier were presented. But I cannot but declare the assertion, which appears to be insinuated under these words, that it was only at the date mentioned that the Company became aware of the obligation imposed upon it of constructing the section of the line as far as the Transvaal frontier to be absolutely groundless. I have already had occasion to refer to the "Portaria" of the 30th October, 1884. That obligation is expressly mentioned therein. I also alluded to the fact that the Company in question had declared in the prospectus relating to the issuing of the debentures that the line which it was proposed to construct would be 90 kilom. in length. Granting, therefore, that it was only on the 24th July, 1887, that the additional plans referred to were presented, it must likewise be acknowledged that a long time before, from its commencement, the Company was fully aware of this onus, and submitted to it. I must further add that it was only in 1889 that the Company bethought itself, in the course of its relations with His Majesty's Government, to raise any doubts as to the legality of the onus in question.

5. The complaint made as regards the shortness of the time allowed in the "Portaria" of October 1888 for the termination of the last section of the line is also void of foundation. It is well to remember that the Company's excuse for not having completed that section was based on the fact that the point on the frontier for the terminus of the line had not yet been fixed. His Majesty's Government, without departing on this point from their good-will, which they always evinced towards the Company, admitted, as far as it could reasonably be done, the excuse made, and it was only subsequently that they drew up the "Portaria" of the 24th October, 1888, which fixed the term of eight months for the completion of the whole line.

It must not be supposed that the said term was fixed arbitrarily and without grounds. The Government, as it was reasonable they should do so, consulted the proper technical Departments, and it was only after they became convinced, in view of the unbiassed and reliable information furnished to them, that the term complained against was sufficient, that the said "Portaria" which fixed the same was issued. The allegation that the works could not be effected during a great part of the term is

not to the purpose. It is true that the rainy season was comprised within the said term, but it is also certain that there were several circumstances, such as that 80 kilom. of the line were already constructed and available, and that consequently there was no need of providing huts for shelter for the workmen—as it was easy to convey them by rail as far as the spot where the works were to be made—and the small number of workmen required to effect the same, it is certain, I repeat, that the circumstances in question tended to facilitate the execution of the task which the rains might render difficult.

Moreover, the rainy season never interrupted the works carried on by the State at Lourenço Marques, and also in the railways in the English Colonies of South Africa; the rainy season never gave rise to the stoppage or suspension of any works already commenced. I will further state that the works of the railway, which commenced on account and by order of the Government in June 1886, were continued uninterruptedly until the 17th May, 1887. It was only then that the Company began to construct for its own account.

6. There is no doubt that the Company did at last take the first steps to carry out the works of the last section of the line. But it did not begin to do so, as in duty bound, as soon as it received the "Portaria" of the 24th October, 1888. The Company, which, from the 17th May to the 26th November, 1887, succeeded in carrying the line from the point to which it had been constructed on account of the Government as far as the 80·5 kilom., and in placing it, if not in the precise conditions of the Contract, at least in a state that it could be provisionally opened for traffic, might have finished the section which was wanting within the period allowed. It preferred to let time run on unprofitably. It was only in February of the present year that it submitted for the approval of the Government the plans concerning the last section, or, rather, it declared its acceptance of the plans made by the Engineer Machado, with which plans it was officially acquainted ever since June 1887, inasmuch as at that date that engineer delivered them, together with the results of the surveys, to the Company's representative at Lourenço Marques; and it was only in the middle of last June, that is to say, when less than fifteen days were wanting for the expiration of the period laid down in the "Portaria" of the 24th October, that the engineer commissioned to finish the railway made his appearance at Lourenço Marques.

It is a matter of notoriety that His Majesty's Government at the expiration of the period allowed rescinded the Contract; but they rescinded the Contract because, at that date, the 24th June last, the Company, in spite of the numberless favours and privileges which I have mentioned above, stood in the following position as regards its engagements assumed in the Contract of the 14th December, 1883.

Not only it had not constructed the last section, 8 kilom. long, as far as the frontier, but it had not even commenced any work there; it had not placed the 80·5 kilom. already constructed—the provisional use of which had been tolerated since the 25th November, 1887, in a fit condition to be opened definitively for traffic; and, furthermore, in the part already constructed the provisional service was interrupted for the space of 12 kilom. because the Company had not effected the repairs required on account of the damages caused by time.

Although the Government rescinded the Contract on these strong grounds, nevertheless they did not, as alleged, confiscate the line and the materials belonging to the Company; they only took possession, in accordance with the precise terms of the Contract, of the whole of the property of the Company, in order to act towards it—as they did invariably—in accordance with the clauses of the Contract. For this purpose, it is clear they based their action on Article 42, but at the same time without infringing, as it is alleged they did, Article 53. I have more than once officially recognized, in the name of the Government of which I am a member, the right of the Company to appeal to the Court of Arbitration upon the question of the rescission of the Contract of 1883, it being the intention of His Majesty's Government, as it could not fail to be, to respect the award, whatever it might be, and to cause it to be entirely carried into effect. The means to compel the Portuguese Company to appeal, as it has the right to do, are, as I have already pointed out to your Excellency, in the hands of the Company [*sic*], which will thus be easily able to refrain from having recourse to diplomatic intervention.

7. It is on the ground of the allegations, which I have examined and contested one by one, that Lord Salisbury considers that the decision taken by the Portuguese Government on the 25th June of this year is unjust, and unlawfully injurious to the interests of the "Delagoa Bay and East Africa Railway Company." I think that the groundlessness of the allegations in question, which have been furnished to Her

Britannic Majesty's Government by the claimants—the Company—has been manifestly proved. It will be sufficient to record the fact that, inasmuch as the Company failed to carry out the engagements entered into as regards the extension of the line, the period fixed for its final completion, and the conditions laid down for its duration and preservation, His Majesty's Government, after having given the clearest proofs of good-will, of which a similar instance will hardly be found anywhere, only rescinded on the 25th June, 1889, a Contract which, in accordance to the precise and incontrovertible terms of that very same Contract, and in view of the proceedings and resolutions at the general meeting held on the 1st February [sic], they might have rescinded, in the exercise of their perfect and unquestionable right, on the 3rd March, 1887.

The lively sentiment of justice by which, fortunately, His Majesty's Government is animated in all its proceedings—and still more lively in this case, as it was a question of proving the perfect legality and absolute propriety of an act of theirs, and likewise a no less lively feeling of regard towards Her Britannic Majesty's Government—of which feeling I shall never be tired of giving proofs, have dictated the long and minute answer which I now address to your Excellency, and in which it seems to me that I have succeeded in proving that the rescission of the Contract of the 14th December, 1883, was not a wrongful act, whether it be considered from the point of view of the private law of the Contract, or from that of the general law of reason and justice.

Nevertheless, it must not be in any way inferred from the above statement that His Majesty's Government are not willing to accept, as regards this pending question, a settlement which may conciliate the paramount interests which it is their duty to protect carefully, and, in equity, the interests of the Company on whose behalf Her Britannic Majesty's Government have, in the exercise of a right which is worthy of respect, thought proper to interfere.

With a view to this equitable and conciliatory settlement, it is the opinion of His Majesty's Government that the starting-point cannot but be from the firm conviction that the Portuguese Company still exists both *de facto* and *de jure*, which I have asserted more than once, and which I think I have proved in the course of this note, and also from the clauses of the Decree which the Portuguese Government published on the 25th June last, under the full conviction of their right to act in that manner.

His Majesty's Government are unhesitatingly disposed to treat directly with the agents of the Portuguese Company legally constituted for the purpose as to the terms of compensation which it may appear equitable to give to it on account of the rescission of the Contract of December 1883, as recently decreed. The English Company, which holds—as I have more than once had occasion to state—almost the whole of the shares of the Portuguese Company, may, as Her Britannic Majesty's Government are not unaware, exercise a decisive influence over the selection of the representatives and the constitution of the Portuguese Company, with which His Majesty's Government would have to treat. It is very unlikely that His Majesty's Government will not be able to arrive at a direct and advantageous arrangement. But should this improbable case occur, His Majesty's Government would not object to submit to arbitration the point under discussion. The Court of Arbitration could be constituted under the conditions set forth in Article 53 of the Contract, or else, inasmuch as it is a question of a different hypothesis, in a different form, but, at the same time, in such a manner as may by mutual agreement secure for the parties engaged in the suit the strictest impartiality.

I trust that your Excellency, when acquainting Lord Salisbury with the contents of this note, will duly inform him as to the feelings of good-will and the manifestly conciliatory spirit by which His Majesty's Government are animated with regard to this question.

I strongly flatter myself with the hope that Her Britannic Majesty's Government will see in the statement which I have above made to your Excellency the manifest wish of His Majesty's Government to attend carefully to the interests of British subjects—which interests Her Britannic Majesty's Government have, as is natural, so much at heart to defend—as far as they may be able to do so without violating the duties incumbent upon them, and likewise with the sole purpose of evincing more and more their constant and just regard by which they are inspired in their relations with Her Britannic Majesty's Government.

I avail, &c.
(Signed) BARROS GOMES.

No. 66.

Mr. Petre to the Marquis of Salisbury.—(Received December 9.)

My Lord,

Lisbon, December 6, 1889.

MR. LORING, the United States' Minister, has shown me a despatch which he received from Mr. Blaine a few days ago, and which, by instruction of the Secretary of State, he has communicated to Senhor Barros Gomes. It supports Mrs. McMurdo's claim to compensation for loss sustained by the cancelling of the Concession granted to her late husband, Colonel McMurdo, for the construction of the Delagoa Bay Railway, and by what Mr. Blaine calls the unjustifiable confiscation of the property. The statement of the case and the arguments used in support of the demand for compensation are similar to those of your Lordship's despatch of the 10th September last, which I communicated to the Portuguese Government. The tone of the despatch is conciliatory though firm, and it concludes by saying that the amount of compensation, when the principle is admitted, may be left for future settlement.

I have made him acquainted with the substance of Senhor Barros Gomes' reply to your Lordship's despatch of the 10th September.

I have, &c.

(Signed) GEORGE G. PETRE.

No. 67.

The Marquis of Salisbury to Mr. Petre.

Sir,

Foreign Office, December 20, 1889.

I INCLOSE a letter from the Delagoa Bay Railway Company commenting on Senhor Barros Gomes' note of the 13th ultimo.

I am, &c.

(Signed) SALISBURY.

Inclosure in No. 67.

The Delagoa Bay Railway Company to the Marquis of Salisbury.

My Lord,

28, St. Swithin's Lane, London, December 15, 1889.

I AM directed to acknowledge receipt of your Lordship's favours of the 8th and 9th instant, the latter covering a copy of the despatch of the 10th September addressed by your Lordship to Her Majesty's Minister at Lisbon regarding this Company's affairs, and of the reply, dated the 13th ultimo, made thereto by Senhor Barros Gomes.

As your Lordship's despatch lays down as the decision of Her Majesty's Government the indisputable fact that full compensation is due to this Company at the hands of the Portuguese Government, and as my Directors do not find that the points stated in your Lordship's despatch with such accuracy and force in support of that decision are in any way met by the Portuguese Government, they feel that a categorical reply to the statements of Senhor Barros Gomes must be to a very great extent superfluous, and a repetition of the facts already submitted to your Lordship in the Company's statement of claim. As, however, a general reference to those facts in refutation of the assertions of Senhor Barros Gomes might be misconstrued, my Directors have decided to deal as far as possible *seriatim* with the various paragraphs under which he has summarized your Lordship's despatch.

1. Senhor Barros Gomes first labours to prove that the Portuguese Company has not really ceased to exist, the fact being, as stated by your Lordship, that it has "practically" ceased to exist. In reply to this Senhor Barros Gomes refers to the protest lodged by the Portuguese Directors against the act of confiscation. He omits to mention (what must be well within his cognizance, seeing that no less than two of the three Directors are now his colleagues in the Government) that the said Portuguese Directors immediately thereafter resigned in a body, and that the Portuguese Company, according to its Statutes, can consequently do no business.

It is clear that, in the event of the English Company exercising their power to appoint Portuguese Directors, these nominees would be liable to be biassed by their own national feeling, and by any indirect action of their own Government, and could not, therefore, be held to represent faithfully the interests of their English shareholders.

Further, there is no *locus standi* for Directors, seeing that the Company has no property to administer, the Portuguese Government having taken forcible possession of the whole of it: line, rolling stock, land, offices, buildings, receipts, &c.; and also having arranged arbitrarily a freight rate for some ninety years, thus disposing of the most valuable asset of the Company.

My Directors cannot accept as having been made seriously and *boná fide* the contention of the Portuguese Government that the Company should appeal to arbitration under a clause which, while the Concession existed, was persistently and deliberately ignored by them, and under a Contract which has been bodily rescinded by an inequitable Decree.

As to the favour which the Company is stated to have received at the hands of the Portuguese Government, my Directors can only refer to the serious impediments, detailed in their claim, which at almost every step of the enterprise were placed in the Company's way.

The suggestion that the figures of the Company's claim can have any relation to what it was supposed the concern would fetch when put up to tender is absurd. My Directors always believed that, under the provisions of the Concession, and under proper management, the Delagoa Bay Railway, when extended into the Transvaal, would prove an exceedingly valuable and remunerative property; and it may be mentioned in corroboration of this view that the shares of the Netherlands Railway Company, the whole of whose traffic must pass over the Delagoa Bay line, already stand at a premium of over 20 per cent., although the construction of the railway has only just been commenced.

2. That the Portuguese Government assented to the formation of the English Company with a full knowledge of its objects is clearly proved by the telegrams from the Minister of Marine to the Portuguese financial agent in London, which were published in the appendices to the Company's claim. That there should have been no necessity, as Senhor Barros Gomes states, for the Portuguese Government to either give or refuse its assent only emphasizes the more the assent when given, the relative positions of the English and Portuguese Companies being well known to them.

3 and 4. It is absolutely a fact that a telegram received from the Company's resident engineer at Lourenço Marques on the 24th July, 1887, was the first intimation the Company ever received that the plans which had been provided by the Portuguese Government themselves did not comprise the whole of the line that the Company was expected to construct under the Concession. The telegram was unintelligible to the Company, and it was a considerable time before any explanation could be obtained, notwithstanding immediate inquiries being instituted both at Lisbon and at Lourenço Marques.

If, as the Portuguese Government endeavour to maintain, the clause in the Portaria of the 30th October, 1884, referred to a length of line beyond that shown in the plans which the Government had themselves prepared, presented to the Company, and approved, then it is unintelligible that, to the Company's inquiries at Lisbon, the reply given by the Government should have been "that nothing was known of any such extension" (Appendix to Claim BB, p. 141). The plans themselves distinctly stated that they reached the frontier at 82 kilom., and the Government Engineer's Report referred throughout to that as being the length of the line. It was distinctly stated, both in the prospectus issued by the Portuguese Company when they endeavoured to issue their own bonds to the British public, and in that of the English Company, that the length of line was "about 52 miles."

Ninety kilom. must have been considered the correct equivalent, as that figure certainly appears in the calculation of estimated working expenses.

It will be obvious to your Lordship that in making a Contract for the construction of the line, it could have as readily been made for 90 kilom. as for 82 kilom. The very fact that not only was the Contract not made for 90 kilom., but that absolutely no provision was inserted in their estimates by the Company for the contingency of any extra length beyond 82 kilom. is, my Directors would submit, ample evidence that they were entirely unaware that by any possibility anything could be required of them in addition to the line shown on the official plans.

It may be pointed out that the Portuguese Government, who had evidently carefully studied the statements of the Company's prospectus, did not draw attention to that which, if the Directors had known the possibility of any further length of line being necessary, would really have been a serious misstatement, and would have justified their calling attention to it.

It was always clear to the Company that their right was to build to the frontier,

since it would have been impossible to have allowed a small intermediate section of line to have been owned by other parties; but as to the Company's duty, it has always been maintained that the considerations under the Concession were in respect of 82 kilom. only, and that the extra section entitled the Company to compensation or further considerations.

Senhor Barros Gomes, referring to the Contract of the 24th May, 1884, between the concessionaire and the Portuguese Company (the correct date being the 26th May, 1884), states that the same had not the assent of the Portuguese Government. Although the Portuguese Government having assented or otherwise may not be material on this particular point, my Directors must point out that one of the amendments to the original Articles of Association of the Portuguese Company was to give power to the Directors of the Company to alter and modify the Contract referred to, and that as these amendments to the Articles were specially approved by the Royal Decree of the 7th January, 1886, my Directors submit there was distinctly an assent on the part of the Portuguese Government to the said Contract.

My Directors have, they think, in their claim sufficiently dealt with the various delays that occurred in connection with the enterprise, and have demonstrated that beyond natural causes, which are essentially *force majeure*, the Portuguese Government directly contributed to increasing, if not actually creating, the difficulties with which the Company had to contend.

The paragraph beginning "As the Portaria which approved the plans," &c., is absolutely false. The line was opened for public traffic on the 14th December, 1887, and from that time, except when stopped by floods, viz., in March 1888, when, besides damage to the line, one bridge was swept away, and in January 1889, when no less than 12 kilom. of the line was ruined and a number of bridges destroyed, the line was in full operation, carrying all the traffic available and running trains in accordance with the regulations of the Portuguese Government. The Company hold that for these accidents the Portuguese Government are solely and only responsible, through their Engineer, for having located the line in their official plans below the flood level.

That the Company submitted to the onus of the extra 5 miles is inaccurate, but, to prove beyond all doubts its *bona fides*, it proposed through the Portuguese Representatives that, so soon as the Portuguese Government should have defined the frontier, the Company would at once proceed with the extension, and leave the subject of compensation to arbitration in accordance with the terms of the Concession.

It was manifestly impossible for the Company to build another 5 miles without knowing whether the line would even then reach the frontier, as otherwise another small section might have been demanded of it. That this is not only a possibility, but a highly probable contingency, my Directors see, inasmuch as the point at which the extension terminated is even now not on the frontier as defined by the Treaty between Portugal and the Transvaal.

The point of the frontier was never fixed for the Company, but ultimately, on the 24th October, 1888, a point was indicated which was to be the "terminus" (this was, subsequently stated to be considered as the frontier), and at the same time a period of eight months was named for the completion of the extension.

5 and 6. As to the right of the Portuguese Government, as one party to a Contract arbitrarily to bind the other party, and as to the sufficiency of the period for the work to be carried out, my Directors again feel that their claim has dealt fully with the question. That works could have been carried on during the incessant rain of a tropical summer is not "possible," as Senhor Barros Gomes asserts, and, as has been pointed out to your Lordship, had the extension been in course of completion, or absolutely completed, the floods which covered the level of the line, as projected by the Portuguese Engineer, to a depth of from 10 to 20 feet, must have swept it completely away. A fresh survey had to be made above the new flood level, and the new line involved much more labour and much more expense than the first survey would have required. Senhor Barros Gomes refers to the existence of 80 kilom. of rail already constructed, but apparently forgets that this was rendered utterly useless by the destruction of bridges and earthworks by the same flood. Had it been otherwise, however, his contention that men could have been daily conveyed backwards and forwards a distance of 50 miles on a single line of rail already sufficiently occupied with the carriage of material is absurd.

Senhor Barros Gomes refers to the work done by the Portuguese authorities at the Lourenço Marques end of the line. This was not only most limited in its extent, but was done in a most unsatisfactory manner, at a very slow rate, and at an enormous expense, which had to be paid by the Company. It was, besides, limited to earthworks, and was close to the town, the circumstances thus being very different from those under which the extension had to be dealt with.

The threat of confiscation hanging over the Company made it extremely difficult to make the necessary arrangements, but, nevertheless, these were completed and work commenced as soon as the season permitted. The Company's chief engineer, Mr. Sawyer, reported on the 30th May, 1889, that (the season being unusually late) the fair weather had not even then commenced; notwithstanding which, the engineering staff sent out for the extension work had been represented on the ground since the 18th April. On the 12th June he telegraphed from Delagoa Bay that the line was open to 80 kilom., that the extension had been commenced on the 21st May, and that great progress had been made with the first mile.

My Directors, therefore, do not hesitate to pronounce as absolutely untrue Senhor Barros Gomes' statement that, by the 24th June, no commencement had been made with the extension. By the line being "open," it is not intended to mean that the repairs on the original line had been completed, but that, by the aid of deviation lines, where the bridges had been washed away, the line was in a perfectly safe condition for traffic. Its complete restoration by that time was impossible, owing to new girders for the bridges having had to be made in England, which was being done as rapidly as possible. It was with the greatest difficulty the Company was able to find a maker who could undertake them, owing to the works of all first-class firms being so full of orders.

Senhor Barros Gomes appears to draw a distinction between "confiscating" and "taking possession" which my Directors are unable to appreciate, especially in view of the notorious fact that the seizure of the railway was effected by an armed force.

7. My Directors having now, as they believe, replied to every assertion of any importance made by Senhor Barros Gomes, would beg to point out to your Lordship that many serious and most damaging points which they raised against the Portuguese Government have been entirely ignored by Senhor Barros Gomes. My Directors submit that his reply is simply a bare and formal denial of the various facts stated by the Company, and that he supplies no evidence whatever in support of such denial.

The accusation of partiality against the Company in the framing of its claim must, to have any weight, mean that the Company has suppressed evidence that would weaken its case and support that of the Portuguese Government. Such an accusation comes with very bad grace from one who not only fails to produce any such evidence, but whose references are to the very documents (and to no others) supplied to your Lordship by the Company.

My Directors believe that this fact will sufficiently prove that, conscious of the justice of their case, their only desire has been to furnish, as far as lay in their power, everything that would assist your Lordship to form a correct judgment in the matter.

If the Portuguese Government had any serious reply to make to the Company's case, Senhor Barros Gomes would certainly not have failed to have placed it before Her Majesty's Government. That he has not done so must, my Directors respectfully maintain, conclusively establish the unanswerableness of the Company's statements, and, consequently, the justice of their claim, and they therefore venture respectfully to submit to your Lordship whether the time has not arrived when immediate action to enforce compensation should be resorted to. They consider their answer to Senhor Barros Gomes to be clear, categorical, and irrefutable, and under the circumstances, and having regard to the statement of the Portuguese Government that they are prepared to come to an equitable settlement (whilst asserting, nevertheless, that there is no equity in the Company's claim), they beg to suggest that possibly the mere exercise of a little more pressure on the part of Her Majesty's Government would suffice to insure such an agreement being arrived at as would be satisfactory.

If the Portuguese Government are in earnest in this matter, a speedy settlement cannot but be to their advantage, as the Netherlands Company is commencing operations on its line, and any delay can only tend to make more manifest the value of the property of which the Company has been deprived. If, on the other hand, it is the object of the Portuguese Government, by procrastination, to weaken the financial position of the Company—and on this point my Directors beg to make special reference to their letter of the 5th instant—my Directors feel that their interests are secure in your Lordship's hands. They are convinced that not only will the Portuguese Government be held responsible for the wrong and financial damage inflicted on their Company, but also for any further liabilities that may result from their present course of action, and that any determination, however studied, on the part of that Government to delay a settlement will no longer be tolerated by your Lordship.

I have, &c.

(Signed) W. J. HORN, *Secretary*.

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CORRESPONDENCE respecting the Action of Portugal
in regard to the Delagoa Bay Railway.

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*Presented to both Houses of Parliament by Com-
mand of Her Majesty. February 1890.*
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