

Civil litigation and the construction of the second Tay Bridge

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*Beautiful new railway bridge of the Silvery Tay,
With your strong brick piers and buttresses in so grand array,
And your thirteen central girders, which seem to my eye
Strong enough all windy storms to defy.¹*

Introduction

The collapse of the Tay Bridge, then the world's longest bridge, on the night of Sunday 28 December 1879 was of international interest. The pathos of the event and the deaths seem to have led to the legal context and history of the Tay Bridge being generally overlooked. The disaster led to a parliamentary inquiry into the event itself, and a select committee to examine proposed new legislation to authorise a reconstruction. The North British Railway (New Tay Viaduct) Act 1881 (44 and 45 Vict. cap. cxxxvii [c.137]) was passed and in particular required, by section 10, that navigable channels through openings in the bridge be maintained by the railway company, an issue which had exercised the Magistrates of Perth in relation to the construction of the first structure.²

However, litigation followed on section 21 ('Parts of Railway No.1 to be abandoned and ruins of the bridge to be removed'). The relevant words in issue were that the railway company, whose legislation it was, 'shall remove the ruins and debris of the old bridge and all obstructions interfering with the navigation caused by the old bridge to the satisfaction of the Board of Trade'. Under other sections the company had five years within which to complete the new bridge.

A full history of the disaster requires consideration of, amongst other things, the economics of the whole venture, and the politics of transport nationally both in an age of *laissez-faire*, and locally given the dislocation of business arrangements that such a new development would bring.³ The legal aspects of the construction cannot be ignored, given its iconic status at the time and the longevity of the story of its collapse. The building of the new bridge resulted in litigation in the Court of Session, Edinburgh with an appeal to London, about the state of the site.

The removal of the old bridge and the building of a new one to restore direct communication between Dundee and the capital cannot be considered as entirely separate events. With the redevelopment after the collapse, certain spans or girders of the old bridge could be reused for the new one.⁴ As the line of the new bridge was sufficiently

close, indeed parallel, to the old bridge the latter was also used as a useful means of access for workmen and material. This arrangement is clear from the contemporary photograph.



Dundee City Archives:
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The spans or girders remaining from the old bridge could also be more readily transferred to the piers of the new bridge.⁵ It seems that the Board of Trade wanted the whole of the old bridge removed before building a new one commenced on a clear site, even although some large parts would have to be taken down, kept somewhere and lifted up later. The Board acted with 'great obstinacy' initially but later changed its view.⁶

The building of a new bridge required to consider the majority report (by Messrs. W. Yolland and W.H. Barlow) of the Court of Inquiry. They had recommended that 'before any steps are taken for reconstruction of the Tay Bridge, that a careful examination should be made of those parts of the structure left standing, especially as regards the piers, with a view to ensuring that such alterations and amendments as may be necessary to give these portions of the work complete stability'.⁷ In short, there was much preliminary work to be undertaken before the new construction might be commenced.⁸

Outer House: 19 December 1883

The Summons for the Magistrates of Perth, as conservators of the River Tay, insofar as within the county of Perth, sought decree ordaining the company to remove the whole remains of the old bridge. That related to both the portions of the bridge which had been partly blown down and the portions which were still standing entirely. There

were two related problems: first, the construction of a new bridge was being carried out alongside the old one: there was not a removal of the old bridge to be followed by a wholly new construction on empty water and land. The new piers had had added around them metal cylinders for protection.⁹

Further, the length and nature of obstructions (with debris, rubble and metal cylinders to support the old piers) not least the dimensions of the new piers, would only leave a narrow width making navigation possible only with 'very great difficulty'.¹⁰ The elements of the new structure were, in any event, being tested in a thorough manner to a degree unlike the old one, and that necessarily involved great effort in manpower and machinery.¹¹

Secondly, Perth had a population 'above 30,000' with extensive trade and the costs of transport by vessels was less than by railway. The railway companies had lines to Perth and in the absence of free navigation these firms were in a more advantageous position than the corporation of Perth. The latter 'derive considerable revenue from the port and harbour of Perth and from the rates and duties they are entitled to levy from the vessels coming there and on the exports and imports': these revenues were 'entirely dependent upon the river being preserved free and navigable'.¹²

In the Outer House, before Lord Adam, there was no dispute about the 'real facts' of the case and in particular the physical features of the bridge. Yet, it was not an admitted fact that the ruins caused obstruction. The Court agreed that the Magistrates of Perth had a 'perfectly sufficient title to see that the navigation was kept clear'.¹³ The relevant words were construed as pointing to a duty on the Board of Trade to see that the ruins were sufficiently removed - that is, removed to their satisfaction, and that requirement of the statute was such that the obligation on the railway company to remove the ruins and debris of the bridge was absolute.¹⁴

The dramatically clear meaning, however, was, that the whole bridge was ruined and the whole bridge 'from shore to shore must come down ... The whole bridge, I repeat [said Lord Adam], is ruined one from end to end - just as when a part of an old house falls down it is all ruined, and the ruins of it have to be removed'.¹⁵ The Court did not accept the submission on behalf of the railway company that 'ruins and debris' did not mean the whole of the ruins and debris of the bridge, but only apparently the ruin and debris of the parts of the old bridge destroyed.

The position of the railway company would have allowed for building again on what had been done to date, some of the old bridge and the connected railway still standing were in excellent condition, leaving only some parts that needed repairing. That would be far more economic, presumably, than building a whole new bridge. The Court did *not* think that the 'leaving of these things standing or not depends on the approval of the Board of Trade'.¹⁶

A further complication was that the Act of Parliament as passed contained an obligation on the railway company to remove the bridge. Was that obligation to be fulfilled immediately on the passing of the Act? The Court did not expect work on removal to have started immediately, on the day after the Act was passed, but the obligation to do so began with the passing of the Act. A new bridge 'must be a work of great labour and expense and they must be allowed a reasonable time in which to accomplish it'.¹⁷ Two-and-a-half years after the passing of the Act, and eighteen months after proceeding with the erection of a new bridge the time had come when the railway company 'must' take steps for the removal of the old bridge.¹⁸

It was accepted that it might be in the interests of neither party that those parts of piers which have been sunk below the bed of the river should be removed entirely.¹⁹ The work need not, in the words of the statute, be done 'at the sight of the Board of Trade' and no period was appointed for the work to be completed. In practical terms, the work may take 'years or months', and if there was any sense of undue delay the matter might be taken up again in court. It was not thought necessary to fix a period for completion.²⁰

Lord Adam ordered the railway company 'forthwith' to remove the ruins and debris of the bridge and railway over the River Tay along with all the piers, cylinders, cutwaters, and other portions of them. 'to the satisfaction of the Board of Trade'. The railway company was allowed to appeal that decision.²¹

Inner House: 22 May 1884

On appeal, the three points argued were, first, that there was no absolute obligation to remove the standing portions of the bridge which could not be described as 'the ruins and debris of the old bridge'. Secondly, the Board of Trade alone was entitled to see to the enforcement of the requirement to remove, and the Magistrates of Perth had no title, at least at the stage of reconstruction. Finally, the action by the Magistrates of Perth was premature as the railway company had five years by the terms of their legislation.²²

Lord Rutherford Clark asserted that there was an absolute obligation on the railway company to remove the ruins and the debris of the old bridge. He agreed with Lord Adam that the obligation extended to all that remains of the bridge. Also, the Magistrates of Perth did have title to enforce the obligation. He did disagree with Lord Adam when the latter said that the railway company was bound to remove the foundations of the old bridge on the bed of the river. 'No interest whatever can be served by such removal. It is quite immaterial of what the bed of the river is composed'.²³

In the judgment of Lord Rutherford Clark, the statute did not require that the railway company should be deprived of the use of the old bridge during the construction of the new bridge. The Board of Trade had no objection to such use. The order of the court was therefore limited to those parts of the old bridge which do not form part of a continuous railway from either shore. The proposed court order did not specify when the obligation was to be performed. The officials at Perth could seek a further order whenever they think fit.²⁴

Lord Craighill concurred generally with Lord Adam, although the former was more explicit, it would seem, on the question of the Board of Trade which was 'not a judicial tribunal, and the interpretation of this provision of the statute in question, special powers for adjudication not having been conferred on the Board, rests with the legal tribunals of the country, and not with that branch of public administration. The Board of Trade have duties, or, if you will, have rights under the clause in question, but these do not affect the obligation imposed on the [railway company] if there be an obligation, but only touch the question whether in the performance of the obligation all has been done which is necessary for the removal of obstructions interfering with the navigation of the Tay'.²⁵

However, Lord Craighill was of the view that as there was no time fixed by statute within which the fulfilment of the obligation to remove the ruins and debris of the old bridge might be required, or must be performed, fulfilment was immediately. The obligation was not a future but a present obligation according to its conception, but the Perth officials left the matter to be fixed at the discretion of the Court, and the proposal of Lord Rutherford Clark was correct.²⁶

Lord Young had a dissenting opinion, although he also was of opinion that the character of the work was such as to involve the exercise of judgment and discretion, not only with respect to the time and manner of its execution,

but also the exact extent to which it is to be carried, and he thought that by constituting the Board of Trade the authority 'at whose sight' and to whose satisfaction the work was to be done, the legislature contemplated the exercise of such judgment and discretion by the Board of Trade. 'The Board of Trade have at their command all the means and aids needful to enable them to exercise a sound judgment and discretion', and Lord Young did 'not for a moment suppose, that they will fail to perform their duty or neglect the public interest in the navigation of the Tay which has been so expressly committed to them'.²⁷

The precise authority of the Board of Trade was delineated: the Board of Trade was the statutory authority to be appealed to by the Magistrates of Perth, or any others who may have thought that the railway company were unduly delaying the removal of the bridge in whole or in part, and that the navigation is consequently obstructed. Lord Young did not doubt that the Court had authority to enforce any order of the Board of Trade within the limits of their power, and that the Court should not hesitate to exercise that authority, nor think for a moment of substituting their judgment for that of the Board, whatever the view of the Court might have had if the matter been for them to decide.²⁸

Lord Young did 'not quite see how "the satisfaction of the Board of Trade" is referred to as the criterion or standard, so that if they declare themselves satisfied with what is being done, or in the end with what is done, there must necessarily be an end of the matter, whether we [the Court] are satisfied or not, unless, indeed, we are to review their judgment upon the question whether or not all "obstructions interfering with the navigation" have been removed, or are in course of being removed, with reasonable diligence; to say, in short, that although they may be satisfied we are not, and that our judgment must prevail'. Also, Lord Young could not 'imagine that the legislature meant to call in the Board of Trade only to see that the orders of this Court were duly executed'.²⁹

Finally, Lord Young asserted that 'as a general proposition that when in a matter of national or public concern, as distinguished from private and patrimonial interest, the Legislature orders anything to be done to the satisfaction of a department of the Government, the Privy Council, or a committee thereof, which the Board of Trade is, this Court has no jurisdiction or authority to interfere except to lend its aid to enforce what the authority referred to may have duly signified as necessary or proper in its judgment to be done'.³⁰

The Lord Justice Clerk (Lord Moncrieff) agreed with the propositions of Lord Craighill and Lord Rutherford Clark. Unlike the other judges, however, the Lord Justice Clerk put the matter in its contemporary context, which was most helpful in understanding the nature of the live issues. Since the passing of the new Act 'considerable operations' had been going on. The railway company had found it convenient to use part of the old bridge for the purpose of carrying material and assisting in the construction of the new bridge. It was undoubtedly the case that such activity was 'not altogether consistent with the obligation contained in the statute; but it has been done, and it is in the course of being done, and the Board of Trade have not interfered to prevent it being done.'³¹

On the contrary, the Lord Justice Clerk noted, the Board of Trade seemed 'to agree that this use should be taken of the material of the old bridge - the piers and permanent way of the old bridge - for the erection of the new one. The result is beneficial to the company rather than otherwise; and one can quite see that the taking down of the bridge might have been a hinderance to navigation'.³² That use of the bridge had continued since the passing of the Act until the court cases, and it was thought that the Court were 'not bound to disregard entirely the matter of convenience in the use of ruins of the old bridge', with a suggestion that the Magistrates of Perth had somehow acquiesced in these arrangements.³³

Quite apart from such judicial recognition of practical arrangements on site at the old bridge, the Lord Justice Clerk had reached a different opinion from Lord Young on a specific point. Lord Young 'seems to think that the Board of Trade are the only authority who can enforce that obligation, and that when it is said that the thing which is directed to be done is to be done to the satisfaction of the Board of Trade, that gives them authority and jurisdiction to enforce the whole obligation, and excludes the jurisdiction of the ordinary Courts of law'.³⁴

The Lord Justice Clerk thought otherwise, and opined that the relevant part of the Act did not 'direct that operations are to be conducted at the sight of the Board of Trade, which would have been a totally different matter, but that the operations when done must be approved of by the Board of Trade. That, I think, is the position of this matter as regards the Board of Trade; and so the Board of Trade seem to have thought themselves ... I do not think the Board of Trade would admit that they or their officers were bound to superintend the work or control the parties in the course of it'.³⁵

The Judges of the Court of Session asserted jurisdiction notwithstanding the reference in the statute to the Board of Trade, the Act applied to the whole of the old bridge, including the old portions still standing, but that, as these portions were of use to the company in the building of the new bridge, and so caused less obstruction to the navigation than would have resulted from the use of pontoons and so on, the Court had jurisdiction to delay ordering the removal of these portions in the meantime, yet the officials in Perth were at liberty to apply to the Court whenever they should think fit.

House of Lords: Appellate Committee: 27 March 1885

The railway company appealed to the House of Lords.³⁶ There Lord Watson, a Scottish Lord of Appeal, asserted from the outset that the legislation imposed upon the railway company an absolute obligation to remove the whole ruins and debris of the old Tay bridge. Further, he could find nothing in the words 'to the satisfaction of the Board of Trade' , 'or in the context, calculated to suggest that the legislature intended to confer upon the board a discretionary power to dispense, either directly or indirectly, with the performance of any part of that obligation'.³⁷

As to when the obligation was to commence and complete the operation for removal of the old bridge, Lord Watson thought that he would have 'great difficulty in forming any conclusion': he was inclined to decide that 'the *onus* was on the [Magistrates of Perth] to show that there had been undue delay on the part of the company, and not that the company were bound to carry out the work of removal at once, unless they could excuse themselves on reasonable grounds'.³⁸ The related practical difficulties were obvious to Lord Watson: 'I do not think that a Court of law could pronounce a satisfactory order, in regard to the limits of time within which the work ought to be begun and completed, without the assistance of engineering skill'.³⁹

The 'true import and effect' of the expression 'to the satisfaction of the Board of Trade' was not that a positive obligation was imposed upon the railway company to make an application to the Board of Trade before proceeding to remove the old bridge. On the contrary, Lord Watson in his speech said that he thought that 'the company might, if they chose, begin and finish the work of removal without first ascertaining the views of the Board. In that case, I doubt whether the Board could actively interfere with their operations unless these were either so planned or so conducted as to cause unnecessary and avoidable obstruction to the navigation of the Tay; but the company would run the risk of the Board's disapproval of

the result of these operations, which might involve further, and, possibly, costly operations’.

He added: ‘It seems to me that it would be at least a prudent course for the company to submit their scheme for the removal of the old bridge, including the proposed time and manner of its execution, to the Board of Trade for its consideration. If the scheme submitted met with the deliberate approval of the board, I should think it would be exceedingly difficult to satisfy any Court that, in carrying it into effect, the company were either unreasonably delaying to execute the operations directed by the Act, or executing them in a manner injurious to navigation generally, or to the interests represented by the [Magistrates of Perth]’.⁴⁰

The Board of Trade had declined to do so on the assumption that it had to dispense with the removal of any part of the ruins and debris. Lord Watson thought that in the whole circumstances, it would be ‘inexpedient at present to ordain the company to remove the whole ruins and debris of the old bridge in terms of sec. 21 of the Act. The better course, in my opinion, would be merely to pronounce decree of declarator [an order that a right or factual circumstance exists], and, *quoad ultra* [as to everything else], to continue the cause. The interests of the [Magistrates of Perth] cannot suffer from the adoption of that course’.⁴¹ Lord Fitzgerald and the Lord Chancellor (Lord Selbourne) concurred and had nothing to add. The interlocutor of the Second Division of the Inner House of the Court of Session was accordingly varied, but only slightly: the railway company had lost again on the interpretation of its own legislation.

Historic context

In the era of the construction of the two bridges the political will at the executive level was to take a line of non-intervention, leaving the Board of Trade to comment on the design of projects, and confirm that the work constructed on best principles. Deference was paid to the consequences of engineers and in enterprise which had played parts in developing the country and that was to be preferred to relying on any attributes of those holding public office.⁴² The policy imperative of the public prosecutor, in Scotland at least, was that engineers acting in good faith with the degree of skill and knowledge professed were not to be the subject of proceedings, particularly if there were defective results of contemporary scientific research.⁴³

The construction site of the Tay Bridges was, accordingly, almost wholly unregulated by anyone in government: the state remained reluctant to take a leading role in railway safety, and much else it would seem, preferring

‘a system of influence over the private sector which dispersed responsibility and place greater value on client relationship in place of a positive state role or clear statutory framework’.⁴⁴ The state was scarcely involved in regulating the construction of the bridge, and there seemed to have been, on the principles laid down, no inclination to think in terms of disaster response.

Yet, three further points might be made specifically related to the litigation considered here. First, the railway company could not complain about the terms of the legislation in issue: it was their own legislation passed as a special or private Act which they had promoted at their own expenses in the knowledge of the extent of the collapse that occurred. Judicial consideration was not any different merely because the issues arose from private legislation. Secondly, the fact that a local authority in Perth commenced litigation suggests political tensions, amounting perhaps to a degree of enmity directed at the railway company. The construction of the Tay Bridge assisted movement of people and goods north but had affected traffic west to or through Perth to go north.

Finally, the private legislation for reconstruction included a general supervisory function for the Board of Trade who, on one view, had already compromised the fairness of the inquiry into the failure of the construction of the first bridge by their engaging in circumstances amounting to a conflict of interest.⁴⁵ In short, a representative of the Board of Trade had advised the engineer who had designed the old bridge on a particular aspect of the engineering. The same representative of the Board of Trade sat on the inquiry into the collapse. Under the 1881 legislation, the same Board of Trade had the task of reaching a conclusion as to the outcome of the work to remove the ruins and debris of the old bridge.

The legislation for the new bridge was clamant of political tension as government expanded: old liberalism, based on the struggle for the franchise and religious freedom was at this point giving way to a new liberalism involving a greater role for the state.⁴⁶ What was that role and where did the judiciary feature in a legal landscape that was slowly being encroached upon by a government body answerable to the legislature with such concepts arising from private legislation?

Lord Young saw the Board of Trade as ‘a committee of the Privy Council, and the Government Department especially charges with the interests of navigation’. That was to place the whole responsibility for the key issue of ‘the satisfaction’ of the Board within the existing constitutional

arrangements for government and accountability, leaving the Courts out. It was Lord Young who said that the Board had 'at their command all the means and aids needful to enable them to exercise a sound judgement and discretion'. The Board, so far as these cases record, did not confirm the existence of such resources.⁴⁷

The Scottish senior bench was faced with, perhaps, an unprecedented set of engineering facts with the collapse in 1879.⁴⁸ The minority view of Lord Young was that the *locus* of a controlling mind and directing action lay with an administrative arm of the executive, and accordingly the courts were somewhat excluded. The majority view was generally that the statutes with the sanction of the legislature imposed obligations that were binding, public or private Acts, and on their precise terms the duties might be onerous. Lord Watson took little time to dispense with the view of Lord Young of the extent of the power and associated discretion permitted by statute to the Board of Trade.

The majority of the Scottish judges had shown distinct and subtle insight: the removal of the ruins and debris of the old bridge would take time, effort and money. The same demands were made by the construction of the new bridge, and the onerous requirements might be eased somewhat if one was removed as the other was constructed. The test of the legislation was the 'satisfaction' of the Board of Trade, who as an arm of government were answerable to an executive in Parliament, not that the executive featured much in this story.

There were yet in the Court of Session and elsewhere other competent means of redress of grievance open to the Magistrates of Perth, or anyone else with a real grievance who sought a remedy. The balance amongst the constitutional tensions of the legislature, executive and judiciary was being teased out and settled. The railway company had a duty, the Board of Trade had a precise duty set down and the judiciary might come to settle any related dispute.

The private legislation in issue may be considered as lacking in detail as to the circumstances of 'removal' rather than merely asserting it had to be done. There must surely have been recognition that removal of the old bridge coincided with the construction of the new bridge. The nature and extent of the statutory duty imposed upon the Board of Trade might have been specified, particularly as to whether it was constant supervision during construction or final approval at the end of the whole project. Yet, the imposition of such a duty may then have been a comparative novelty.

A similarly unprecedented or unusual development was the requirement of a time limit of five years to complete the new bridge, which requirement apparently failed to take notice explicitly of the real time required for preliminary examination of the remains of the old bridge and to remove the ruins and the debris of it. It is doubtful if the engineers approved of such a time limit, or others saw it merely as a means to enforce progress in construction. Undue delay is always unacceptable, but modest delay in context may be necessary or prove to be useful.

These cases indicate that the old bridge collapsed in the centre, 'the high girders', but far from the lengthy parts of bridge carrying railway on both sides of the large gap being demolished immediately, they were used for the construction of the new bridge. The 'fact' that the existing spans of the old bridge, which at the time of reconstruction was not particularly old, could indeed be used for access to the new bridge as it was being constructed, and 'undoubtedly helped', seems not to have featured overtly in the litigation.⁴⁹ Amidst of all this, there may be seen tacit recognitions of the Parliamentarians, Judges and the Magistrates of Perth of the inevitability of these events which constituted, rather than signalled, progress, a major political and social objective of the time.⁵⁰

1. William McGonagall *An Address to the New Tay Bridge from Poetic Gems* (1890)

2. See e.g. 'Report from the Select Committee on the North British Railway (Tay Bridge) Bill' (Cmnd 311, Session 2) which may be recalled more for the attachment to it of the Minutes of Evidence heard by the Court of Inquiry held immediately after the disaster itself.

3. Perth and Kinross Council Archives, e.g., have in the City and Royal Burgh of Perth Records substantial correspondence between the railway company and local officials about the emergency height

restrictions and the effect of the sunken wreckage as it affected navigation in the river: PE/19/Bundle 59.

4. C. Hamilton Ellis, *The North British Railway* (London: Ian Allan, 1955), p.117.

5. J.S. Shipway, *The Tay railway bridge Dundee 1887-1987: a review of its origins* (Edinburgh: Institute of Civil Eng., 1987), pp.13-4.

6. Hamilton Ellis, *The North British Railway*, *ibid*, p.118.

7. Majority Report: 'Tay Bridge Disaster: Report of the Court of Inquiry' (London: Cmnd. - 2616, 1880).

8. An initial plan for reconstruction which did not find favour proposed reusing and extending the original piers.
9. Foundation cylinders formed, it appears, an essential part of the base of the piers supporting the new bridge and at construction required rigorous testing. These were different from caissons which were essentially very large open tubes lowered to the sea bed. One open rested on the ground and the sea water was pumped out allowing workmen to descend from the other open end to work at point where the base of the piers were to be built.
10. National Records of Scotland: CS244/1200; *Summons of Declarator*, pp.15 and 17.
11. Shipway, *The Tay railway bridge Dundee 1887-1987*, *ibid*, p.14.
12. *Ibid*, CS244/1200, pp.22 and 23.
13. *Magistrates of Perth v. North British Railway Company*, (1884) 11 R. 827, p.833.
14. *Magistrates of Perth*, (1884), *ibid*, p.833.
15. *Magistrates of Perth*, (1884), *ibid*, p.834.
16. *Magistrates of Perth*, (1884), *ibid*, p.834.
17. *Magistrates of Perth*, (1884), *ibid*, p.835.
18. *Magistrates of Perth*, (1884), *ibid*, p.835.
19. *Magistrates of Perth*, (1884), *ibid*, p.835.
20. *Magistrates of Perth*, (1884), *ibid*, pp.835-6.
21. *Magistrates of Perth*, (1884), *ibid*, p.832.
22. *Magistrates of Perth*, (1884), *ibid*, pp.834-5.
23. *Magistrates of Perth*, (1884), *ibid*, pp.836-7.
24. *Magistrates of Perth*, (1884), *ibid*, p.837.
25. *Magistrates of Perth*, (1884), *ibid*, p.837.
26. *Magistrates of Perth*, (1884), *ibid*, p.838.
27. *Magistrates of Perth*, (1884), *ibid*, p.838.
28. *Magistrates of Perth*, (1884), *ibid*, p.839.
29. *Magistrates of Perth*, (1884), *ibid*, p.839.
30. *Magistrates of Perth*, (1884), *ibid*, p.839.
31. *Magistrates of Perth*, (1884), *ibid*, p.840.
32. *Magistrates of Perth*, (1884), *ibid*, p.840.
33. *Magistrates of Perth*, (1884), *ibid*, p.840.
34. *Magistrates of Perth*, (1884), *ibid*, p.840.
35. *Magistrates of Perth*, (1884), *ibid*, p.840.
36. *North British Railway Company v Magistrates of Perth* (1885) 13 R. 37 HL.
37. *North British Railway Company*, (1885), *ibid*, p.37.
38. *North British Railway Company*, (1885), *ibid*, p.37.
39. *North British Railway Company*, (1885), *ibid*, p.37.
40. *North British Railway Company*, (1885), *ibid*, pp.38-39.
41. *North British Railway Company*, (1885), *ibid*, p.38.
42. See quotes at Ian Henderson, 'The British Approach to Disaster Management: A Fresh Look at the Tay Bridge Disaster, 1879' *Northern Scotland* (1998) 18(1) 57-74, p.69.
43. Henderson, 'The British Approach to Disaster Management', *ibid*, p.70, fn.47.
44. Henderson, 'The British Approach to Disaster Management', *ibid*, p.71.
45. Robert S. Shiels, 'A Conflict of Interest at the Tay Bridge Disaster Inquiry' (2022) 13(2) *Northern Scotland* 113-129.
46. Vernon Bogdanor, *The Strange Survival of Liberal Britain: Politics and Power before the First World War* (London: Biteback, 2022) Preface pp. xxv-xxvi.
47. *City and Royal Burgh of Perth v North British Railway Company* (1884) 11 R. 827, p.838.
48. The Judges may have seen for themselves the construction of the bridge, at its various stages and after the collapse. The Lord Justice Clerk had his country house, near Kinross, only 30 miles from the river. He and the other judges may have crossed the old bridge during the 18 months that it was operational.
49. Shipway, *The Tay railway bridge Dundee 1887-1987*, *ibid*, p.15.
50. The Select Committee were "placed in an unusual and difficult position by the withdrawal of all independent opposition to the Bill... The absence of opposition has, therefore, thrown more responsibility on the Committee": Report, *ibid*, p.2, para.1.

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