

CORRESPONDENCE WITH MESSRS. BROGDEN, RELATIVE TO CONDITIONS, ETC., FOR RAILWAYS.

No. 1.

MESSRS. TRAVERS and OLLIVIER to the Hon. the MINISTER for PUBLIC WORKS.

SIR,—

Wellington, 15th March, 1872.

Some few days ago the Messrs. Brogden placed in our hands the General Conditions, upon which the Government proposed that they should tender for the construction of the lines of railway submitted to them under Contract No. 3. We were informed by Mr. Brogden that, immediately on receiving those conditions from you, he intimated that he could not tender under them, and he has instructed us to forward you a draft of conditions, &c., in a form which he conceives to be reasonable as between both parties, and under which he will be prepared, when supplied with the necessary data, as provided by the contract, to tender for the construction of the proposed works. As matters of this kind ordinarily come under the consideration of engineers, we would suggest that the Engineer-in-Chief should be placed in communication with Mr. Brogden respecting them, in order to avoid unnecessary delay in adjusting any disputed points. We may state, however, that the accompanying conditions have been prepared from conditions settled by eminent engineers in England, in connection with both home and foreign railways.

The Hon. the Minister for Public Works.

We have, &c.,

TRAVERS and OLLIVIER.

No. 2.

MEMORANDUM by ENGINEER-IN-CHIEF and ATTORNEY-GENERAL.

It is found that to several of the General Conditions hitherto introduced into railway contracts here, Mr. Brogden objects, and it is necessary that the Government shall determine what is to be done as to his objections, and say whether the printed conditions are to be altered to meet his objections or not. The following are the more important:—

1. Mr. Brogden wants an arbitration clause providing for the appointment of three arbiters; but would agree to an arbiter being named in the contract.
2. Mr. Brogden objects to the power granted, in clause 12 of printed conditions, to the Minister, to determine absolutely the contract in case of breach, consenting only to the alternative provided, that the Minister may take the work out of the Contractors' hands.
3. Objects to the Government having power to omit works without paying him 10 per cent. anticipated profits.
4. Objects to making good damage done by floods and force of waves, unless bad workmanship or bad arrangements should have caused it.
5. Objects to truck system clause.
6. Objects to Minister being able to suspend payments for a month to make inquiry.
7. Proposes that Minister shall be able to pay for extra work done without written authority, but which Engineer approves in writing, within one month.
8. Objects generally to the Engineer being the arbiter.

Until these are determined, the Engineer-in-Chief and the Attorney-General are unable to settle the general conditions.

JOHN CARRUTHERS,
Engineer-in-Chief.
JAMES PRENDERGAST.

Public Works Office, 25th March, 1872.

No. 3.

MEMORANDUM by ENGINEER-IN-CHIEF on MR. BROGDEN'S Objections to Printed Conditions.

Objections.

1. It is unusual not to make the Engineer sole arbiter as regards quality and quantity of work, explanation of plans, settlement of prices for work not mentioned in Schedule of Prices, or extra to the contract; and I think it is undesirable to leave these matters to arbitration.

2. Contract No. 2 gives the power of taking work out of Contractors' hands for breach, but not of absolutely determining contract. This is also in accordance with custom, but there are numerous precedents for the Government retaining the power of absolute determination of contract.

3. I do not think this will be an important item. As far as my experience goes, it is always provided that work may be taken out of contract without paying anticipated profits.