

might not at all have appreciated its possible effect. I assume Mr. James Brogden must have seen the statute in a printed form. I can scarcely conceive he would have allowed a statute of this kind to pass on to the statute-books without having seen it; but whether he considered what the result would be is an entirely different matter. He never consulted me about the operation of these particular sections, and so I assumed that he really thought they would be productive of no inconvenience to him.

*Sir John Hall.*] You say, Mr. Travers, that you do not think the insertion of the 31st clause would have been of much importance if the 28th clause had not been inserted?—Just so, sir.

That, if the 28th clause had not been inserted, appeal to the Supreme Court would not have been barred?—No.

Is it not a fact that there would have been no appeal against the certificate of the Engineers given *bonâ fide*?—The contract is perfectly clear and definite. The certificate of the Engineer is made a condition precedent to the recovery of moneys under the contract, and the absence of that certificate on the ground of fraud or collusion would alone enable the Messrs. Brogden to overcome the difficulty under the conditions.

There would have been no appeal against error of judgment?—I apprehend that the law is clear on the point in regard to the contract.

Considering that the Act was passed by Parliament in the shape in which it was introduced, that it was practically two months before Parliament, and that Mr. James Brogden was in Wellington at that time, do you not think an ordinarily prudent man of business would have made himself acquainted with it at once?—I cannot say anything as to the fact, but I can scarcely believe that Mr. Brogden had not seen the Bill. I do not know when Mr. Brogden left; I am not sure that he did not leave before October.

It was read a first time on the 6th August?—Yes; the Bill was passed finally in October. [To Mr. Williams: Was he here in October?—Mr. Williams: He left in November.]

*Mr. Travers:* I cannot conceive that Mr. Brogden may not have seen the Bill.

*Sir John Hall.*] At any rate, do you not think it was the business of a prudent man of business, when he knew that the Bill was introduced to give effect to his own contracts, to make himself acquainted with it at once?—No doubt. I have no doubt that he ought, but the clauses in question may nevertheless have been a surprise upon him.

[At the instance of Mr. Bell, the Solicitor-General was here asked to produce the revise. Mr. Bell suggested that Mr. Reid should make a statement to the Committee. He wished to ask that gentleman simply to say that he had in his hand the revise seen by Mr. Travers, and that it had in it the 22nd clause.]

Mr. W. S. REID, recalled.

*Mr. Reid:* I do not know that I have anything further to say. I produce the original drafts of the Bills, and I am positive I never saw Mr. Travers at all while these Bills were in progress. Such communication as he may have had with our department, I presume, must have been with the then Attorney-General. His note, dated the 13th August, forwarding this draft clause, is addressed to Mr. Prendergast. It is, in fact, printed in a paper which has been laid before Parliament. The proof copy of the Bill was dated the 29th July, and the next one the 1st August. That is marked "First revise," and, I presume, is the copy that was sent to Mr. Travers. It was about the 13th August that he must have revised the Bill. There does not appear to have been any previous revise. Then, after that date, as explained in my previous memorandum, the whole nature of the Bill was altered. At this date it was an Act for referring disputes between contractors generally. The subsequent draft altered the recitals to the form in which they appear now in the statute, and refer exclusively to the Brogden contracts. The revise that Mr. Travers saw was one that applied to all contracts which the Government might have entered into under the Public Works Act; and it is quite true that in the subsequent revise the limitation clause was inserted and the clause which barred actions in the Supreme Court. But, so far as I know, I had no personal communication with Mr. Travers whatever. The Bill, as it was prepared, was simply an ordinary one, and might have been shown to any professional friend, whose suggestions might have been taken. I should not have considered myself bound to say that was all I intended to put in the Bill. The proper time for that would have been when the Bill was before the House. There was no stipulation between the parties as to what should be inserted, and therefore I should have considered that the limitation clause which is here in the final revise of the Bill was a proper clause to be inserted. The Bill was somewhat of a novelty, and matters cropped up that had to be provided for. Mr. Travers, of course, could have had copies of the Bill at any time had he wished them. His suggestions in the draft were adopted and inserted in the Bill. I think I have already shown that this Bill, the first revise of which Mr. Travers saw, had a retrospective operation, *i.e.*, it applied to contracts that "shall or may have been entered into and executed before the passing of this Act."

*Sir John Hall.*] That retrospective clause was in it when Mr. Travers saw it?—Yes.

Have you a copy of the letter in which you sent a revise to Mr. Travers?—I do not know how he got it. That he did get it I am aware simply from finding a note attached to the draft Bills. I presume it was handed to him by Mr. Prendergast, but I have no knowledge as to that.

*Mr. Macandrew.*] It must have been sent to him in the capacity of Brogden's solicitor?—It may have been. If there had been any official communication with it I think it would have been on record, but there was none. I searched for it at the time when the question was before me some years ago.

*Mr. Bell.*] I wish to ask, Mr. Reid, whether, in the first revise as seen by Mr. Travers, there is not a clause providing that the decision of the Judge in the arbitration shall be final and conclusive without appeal?—Yes; that is the last clause.

*Sir John Hall.*] Which clause?—Clause 22.

*Mr. Cave.*] That is when he is acting as arbitrator, not in his capacity as Judge?—Yes; I think that must be in his capacity as arbitrator.

*Sir John Hall.*] What is the difference between the effect of clause 22 and clause 28. Clause 28 says neither of the parties shall bring an action in respect of any matters so agreed to be referred?—Both clauses were in the Bill.