

And you found a balance due to Messrs. Brogden on the materials contained in these certificates?—Yes.

Did you have the documents in connection with the Auckland and Mercer contract before you? Yes, I think I had all of them before me.

Did you investigate the allowance for deductions on that contract?—I did not.

Did you satisfy yourself as to whether the percentage on the deductions had been allowed in that case?—I did not. I took the statements as I received them.

You cannot tell what the total amount of deductions in that case was?—I can tell you the amount which I accepted from the Accountant of the Public Works Department. The amount was £29,779.

Can you tell me what percentage was allowed upon the deductions in the Auckland and Mercer case?—No.

*Mr. Bell.*] When you say that you based your statement on the statements that were made to you, do you refer to oral statements or written ones?—On written statements, including the final certificates of the Engineers. These abstracts are final; but the real final certificate is the certificate which is signed by the Engineer-in-Chief.

*Hon. Dr. Pollen.*] You have stated that you held this investigation *ex parte*, and without any reference to Messrs. Brogden. Was it not part of your duty to communicate with Messrs. Brogden on the subject?—It was no business of mine to do so. All I had to do was to prepare a statement for the Minister. I did not profess to go into details, because that could not be done by one man in Wellington.

*Hon. Mr. Miller.*] Do you know of any case in which the final certificate failed to include any amounts due on progress certificates?—I do not.

Mr. W. T. L. TRAVERS, examined.

*Mr. Bell.*] I will ask Mr. Travers to say what his impression is with regard to the manner in which he got the first revise of the Government Contractors Arbitration Bill at his office?—My belief is that it was brought to me by Mr. James Brogden, and that I looked over it at his request, and suggested certain amendments which were drawn by me, and which I either sent or took myself to Sir James Prendergast, then Attorney-General. The circumstance that these amendments were upon two separate sheets of paper, and the character of the note which I sent to the Attorney-General, satisfy me that I did not peruse the Bill as I should have done if it had been sent to me in the ordinary official course. My letter to Sir James Prendergast was to the effect that I ventured to suggest certain amendments. If I had had the Bill before me in ordinary course as the professional adviser of Messrs. Brogden, I should have sent a more official letter either to Sir James Prendergast or to Mr. Reid. Therefore my belief is that I had nothing to do with the Bill except to the extent of looking over the draft or a printed copy, and making the suggestions referred to in regard to it, and for years after I made these suggestions I had nothing more to do with it. In fact, I am firmly convinced that it was not sent to me for perusal in ordinary course as the professional adviser of Messrs. Brogden.

*Mr. Montgomery.*] You were solicitor for Messrs. Brogden at that time?—Yes. My impression is that Mr. Brogden brought the Bill to me, and that he was looking after it himself. I am also of opinion that he thought the Bill was intended to impose a duty on the Judges of the Supreme Court in order to carry out the arbitration clause of the contract. I have very little doubt that Mr. Brogden looked at the Bill, but whether he supposed that it did more than he anticipated I am not in a position to say. I know that he was under the impression that the Bill was merely intended to carry out the arbitration clause.

*Hon. Mr. Miller.*] In your statement you have said that the allowing of an appeal to the Judge was in the nature of a favour from the Minister for Public Works?—Yes, it was a privilege.

And you have also stated that it was not proper to oust the jurisdiction of the Supreme Court?—I say it is not usual, though it may be proper in a legal sense.

But the appeal must have been final?—It was made so by the terms of the contract.

*The Chairman.*] This was a public Bill, was it not?—Yes; and I think the Bill was intended to have a general application at first.

You have said that under other circumstances you would have treated the draft, to a certain extent, differently?—Yes; if it had been sent to me in the ordinary course of business, and as the known legal adviser of Messrs. Brogden, I should have perused it carefully, made any alterations I thought proper on the draft, and kept a copy of them.

But what rights would you have had, as the legal adviser of Messrs. Brogden, in regard to a public Bill?—The object of the Bill was to give effect to the arbitration clause, and to see that the Act went no further. If anything further had been contained in the Act I should have felt myself justified in asking the Government to strike it out.

*Sir John Hall.*] Do I understand you to say that, in point of fact, the Act in so far as it limits the jurisdiction of the Supreme Court, does no more than is provided in the contract itself?—The Act provides more than the contract does. The contract provides that the decision of the arbitrator is to be final, and therefore, when once the arbitrator has made an award, unless there is some good ground for upsetting it, it would be absolutely conclusive and binding on the parties. But there is nothing in the contract which would have prevented a person from suing in the Supreme Court in the first instance without going to arbitration at all.

*Mr. Bell.*] You have admitted that no person can sue successfully in the Supreme Court unless he has the Engineer's certificate?—Yes, if it be not improperly withheld; but a man has a right to pursue a hopeless case if he thinks proper to do so, and chooses to risk the ordinary results of litigation.

Could any contractor by any possibility succeed in an action in the Supreme Court unless he had the certificate of the Engineer?—Yes, I think so, under some circumstances; but of course he could not come out successfully unless he could show that he had complied with the condition in the contract.