

Mr. TRAVERS to the SOLICITOR-GENERAL.

SIR,—

Re Brogden

13th February, 1877.

I have the honor to call your attention to my letter to you of the 31st ultimo, to which I have as yet received no reply. The delay is extremely inconvenient to my clients, who are anxious that all matters still unsettled between themselves and the Government should be brought to a close without further waste of time.

I have, &c.,

WM. THOS. LOCKE TRAVERS,
(for Self and Partners.)

The Hon. the Solicitor-General, Wellington.

The SOLICITOR-GENERAL to Mr. TRAVERS.

Crown Law Office, Wellington, 14th February, 1877.

SIR,—

The Government and the Messrs. Brogden.

I have the honor to acknowledge receipt of your letter of the 31st ultimo respecting the submission to arbitration of Messrs. Brogden's claims against the Government, and, in reply, to inform you that the Government are prepared to adopt the course indicated in the letter above referred to. I think it will be more convenient that Mr. Henderson should meet the Engineer-in-Chief and settle the items in dispute before the claim is filed, and these gentlemen can arrange accordingly.

I have, &c.,

W. S. REID.

W. T. L. Travers, Esq., Solicitor, Wellington.

The UNDER-SECRETARY for PUBLIC WORKS to MESSRS. BROGDEN and SONS.

GENTLEMEN,—

Public Works Office, Wellington, 9th February, 1877.

It having come to the knowledge of the Government that several of their Railway Engineers have recently been applied to by you for certificates in terms of clause 25 of the General Conditions of your railway contracts, I am directed by the Hon. the Minister for Public Works to inform you that the Engineer-in-Chief is the Engineer under that clause, and that application should be made to him.

I have, &c.

JOHN KNOWLES,
Under-Secretary for Public Works.

Messrs. Brogden and Sons, Wellington.

Messrs. BROGDEN and SONS to the Hon. the MINISTER for PUBLIC WORKS.

SIR,—

Wellington, 8th March, 1877.

In reply to your letter of date 9th February, 1877, we have the honor to state that we do not construe our several contracts in accordance with the reading placed upon them by that letter. The clauses in these contracts referring to Engineers and their certificates in our opinion evidently refer to the several Engineers in charge of the respective works. The District and Resident Engineer have throughout the performance of these contracts been the officers who, on the Government's behalf, exercised the supervising and controlling power over us, and who therefore are alone competent to judge on behalf of the Government whether the contractors ought to receive payment without dispute. They were the officers who from time to time made up the progressive-payments certificates, and upon presenting these certificates to the Minister, and sometimes upon the telegraph order of such Engineers, payments have been made.

We therefore submit that, from the working of the contracts themselves, from the nature of the duty to be performed, and from the usual course and practice of the Government up to the date of the letter we have now the honor to reply to, the District or Resident Engineer, as the case may be, are the proper officers to whom we should apply for final certificates; and we submit, from prohibiting them from dealing with the matter, the Government has acted in violation of the contracts.

With respect to the proposal of the Solicitor-General, contained in his letter to Mr. Travers, dated 14th February, 1877, we beg to say that we shall not object to meet Mr. Carruthers and to go through the accounts with him with a view to amicable settlements; but we desire that it should be clearly understood that we so meet him for that purpose only, and that our so meeting him shall not be deemed in any respect a waiver or an abandonment by us of any rights already accrued to us.

We desire to call attention to your letter of 26th January, 1877, in which we are informed that it is not intended by the acknowledgment made in that letter to waive any irregularity in our notice or any right or privilege vested in the Government or the Minister for Public Works under "The Government Contractors Arbitration Act, 1872."

We most respectfully state that the provisions of that Act, altering and affecting our contract rights, were utterly unknown to us prior to the date of your letter, and that they are under our most careful and anxious consideration. Its clauses have been a serious surprise to us, and we feel it necessary at once to complain, and to enter our protest against the conduct of the Government in thus, without our knowledge or consent, and under colour of an arrangement with ourselves, passing through the Houses of Legislature an enactment aimed directly against our contract rights, and placing, or endeavouring to place, us under heavy and serious disabilities.

We are advised that it is highly probable that the statute in question will be declared by the Courts to be absolutely void, and that the Government of New Zealand (who are the parties contracting with us) had no right or power to alter so essentially, and so injuriously to us, the bargain entered into between them and ourselves.

When we entered into the contracts with the Colony of New Zealand, and deposited with the New Zealand Government £25,000, and expended the very considerable sums of money we have done, we did so on the faith and in the belief that our contract rights were inviolable. We never for one moment imagined that the advantage would be taken by the Government and Legislature of their