

Our firm specially insisted throughout the negotiations preceding the contracts being signed that the Engineers of the Government should not be the sole arbiters of our rights, and also specially insisted that previous orders in writing should not be required from us as a condition precedent to the performance of work ordered by the Engineers; and the Government, after much discussion, distinctly gave way to us upon both these points, as appears upon the face of the published correspondence, to which we ask the Government to refer.

In reliance upon this arbitration clause of our contract we have done much extra work not ordered in writing by the Engineers, and we have expended considerable sums of money, under the impression that, in case of dispute with the Engineer, we could obtain the Arbitrator's decision after the termination of our contract, when the whole case should come before him. We now find that the thirty-first section of the Act requires that such matters should have been referred to the Arbitrator within six months after the particular dispute or matter of difference arose, and not afterwards.

If such be the case, we are at this moment debarred by the statute from claiming payment for much of our work; and we venture to suggest that such a serious alteration of our contract rights, without our knowledge or assent, amounts to a repudiation of making a contract whereby they have induced an English capitalist firm to construct their railways, and, that object gained, of having passed an Act of Parliament to relieve themselves of their obligations to them.

As to the sixth ground of objection, viz., that the cumbrous machinery of the statute, and its contradictory clauses, render it almost if not quite impossible for us to comply with its requirements.

By section 7 we are required, before any dispute, whether accruing between the Engineer and contractor or either of the parties, shall be referred under the power in this Act contained, to give the Minister for Public Works one calendar month's notice in writing of such dispute and of the nature and cause thereof; and in such notice the contractor's claim shall be especially stated, and, if such claims be for pecuniary compensation, the amount shall also be stated.

By section 4, whenever such dispute shall have arisen between the Engineer and contractor, the matter shall be referred to the Minister for his decision; and in case the decision be adverse to the contractor, then the latter shall be entitled to avail himself of the provisions for arbitration thereafter contained, but not otherwise.

By section 5, "If any dispute shall arise between either of the parties upon any matter or thing which ought or might be referred to arbitration, then either party desiring to proceed to arbitration under this Act shall prepare a statement in writing, setting forth concisely the nature and extent of the claim made by such party, and the propositions of fact and law which such party desires to submit to a Judge of the Supreme Court in support of such claim." It then provides that the "other party" shall submit within fourteen days his counter-propositions of law and fact in opposition to the claim. By clause 27 neither party shall have power to revoke or recall any statement of claim or proposition of fact or law submitted without the consent of either party.

By clause 17 it is provided to the contrary of clause 27, namely, that either party may apply for leave to amend his proposition of law and fact against the consent of the opposite party, and the Judge shall decide as to the reasonableness of the application.

By clause 26 the practice of the Supreme Court in civil actions shall apply to the summoning of witnesses, the taking of evidence, &c.; but by clause 12 the Judge may send "skilled persons" to inspect the work and report to him, and the report or certificate of such person may be sent by such person to the Judge, and may be taken by the Judge and acted on by him as effectually as if he had taken the evidence of such person *viva voce*. And by clause 13 the Judge may, either during such reference or at any time thereafter, "call before him" engineers, accountants, or other skilled persons, and obtain their opinions for his guidance.

By clause 15, if either party shall fail or neglect to produce any contract, plans, drawings, paper, or writings, after having been lawfully required so to do, it shall thenceforth be lawful for the Judge to proceed with the subject-matter of such reference *ex parte*.

By clauses 19 and 20 the Judge, when he has finished his investigation, is to give his certificate, either ordering payment of money or prescribing what is to be done by either or both of the parties, or what shall be refrained from being done by either or both of them.

As nearly as we can gather from the complicated and involved language of the statute, such is the course of procedure; and we draw from it the following conclusions:—

We must lose one calendar month out of our six months' limitation in giving the preliminary notice in writing of such dispute, which has to be served on the Minister for Public Works.

We must then concentrate in Wellington, from all quarters, our documents, proof, and witnesses, in order that, under clause 4, the Minister for Public Works may hear our evidence, and adjudicate upon our claims.

We must then send back to each district all our aforesaid evidence and witnesses, and appeal from the Minister in Wellington to each Judge of the Supreme Court in his own judicial district, and for him we must set out in writing the propositions of fact and of law upon which we support our claim.

If the words "propositions of fact" mean "statements of facts" we intend to set out in evidence in support of our claim, we submit that it would be impossible so to do within the remnant of six months that would remain to us after the conclusion of the investigation before the Minister, even if it be possible at all, which we doubt. If, on the other hand, the words "propositions of fact" have no such meaning, then we respectfully ask what do they mean? In that case their signification is unknown to us, and therefore we cannot comply with their requirements.

If the words "propositions of law" mean that we are to set forth every proposition of law necessary to support our "propositions of facts," we respectfully submit that this also is imposing on us an impossible task.

Had it been enacted that the Government, when objecting to pay us for our work, upon our claim as sent in to them, should state in writing their objections of facts and the legal grounds of their objections, to which statement we should reply, the statute would have required no more than is