

APPENDIX A.

Analysis of Bill intituled "The Government Contractors Arbitration Act, 1872."

(1st Revise.)

1st August, 1872.

PREAMBLE recites that there are statutes in force for erection of public works in colony, and that, as disputes may arise with persons executing such works, it is expedient provision should be made for summary and final settlement of such disputes.

Clause 1. Short Title.

Clause 2. Interpretation.

Clause 3. Disputes between Government and Contractors to be referred to decision of Judge of the Supreme Court.

Clause 4. Where dispute between Chief Engineer and Contractor, to be referred to the Minister for his decision; and, in case decision of Minister adverse to Contractor, then latter entitled to avail himself of provisions for arbitration thereafter contained. Provision for one calendar month's previous notice to Minister.

Clause 5. Statement of matter in dispute to be settled and signed. Copy of statement to be served by party proceeding to a reference, and filed in Supreme Court.

Clause 6. Either party refusing or neglecting to state case, Judge may proceed *ex parte*.

Clause 7. Procedure on filing of statement.

Clause 8. Judge to fix day and place of proceeding with reference.

Clause 9. Judge may direct how reference to be carried on.

Clause 10. Judge may hear evidence on oath or affirmation, and may require production of papers, plans, contracts, &c.

Clause 11. Judge may direct inspection of works by skilled persons, and report or certificate of such persons may be taken and received by Judge as if evidence had been taken *viva voce*.

Clause 12. May obtain opinions of engineers, accountants, and other skilled persons.

Clause 13. Parties not attending reference, Judge may proceed *ex parte*.

Clause 14. Parties may appear by counsel or solicitor. Judge may adjourn proceedings.

Clause 15. Notices, how to be served on the Minister and Contractor respectively.

Clause 16. Judge to give a certificate of his decision, and what may be stated in certificate. Payment of money by one party to other, whether as damages or costs. What shall be done or be refrained from being done by either of them in respect of any matter relating to contract, or arising thereout, or the proceedings on the reference.

Clause 17. Copy of certificate to be filed in Supreme Court, at place where proceedings conducted.

Clause 18. Effect of certificate to be similar to judgment or decree of Supreme Court in its ordinary jurisdiction. Crown may proceed thereon as upon a debt due to Crown. Contractor to be entitled to have same satisfied as provided by "Crown Redress Act, 1871."

Clause 19. Costs to be paid as Judge shall, in his discretion, think fit to order, and shall be included in and form part of certificate.

Clause 20. Penalty for non-attendance as witness, or for neglect to obey order of Judge.

Clause 21. Procedure of Supreme Court to be applicable.

Clause 22. No appeal from Judge's decision, either to the Supreme Court, or Court of Appeal, or other tribunal; but every decision shall be final, &c., on parties.

APPENDIX B.

DEAR PRENDERGAST,—

Wellington, 13th August, 1872.

I send you two sections in draft, which I venture to suggest in lieu of sections 5, 6, and 7 of the proposed Contractors Arbitration Bill. I also suggest the following alteration:—

In section 4, lines 16 and 17, to omit the words "a settlement of such difference," and insert "arbitration." To omit the proviso at end of section 18. It appears to me that, as drawn, a contractor would have no remedy unless money had actually been voted; whilst, by omitting the proviso, he would be in the same position as an ordinary judgment creditor, entitled to ask for appropriation if none already existed.

The Hon. J. Prendergast.

Yours truly,

WM. THOS. LOCKE TRAVERS.

APPENDIX C.

If any dispute shall arise between either of the parties to any contract, as hereinbefore mentioned, upon any matter or thing which, according to the terms of such contract, ought to be or might be referred to arbitration as aforesaid, then either party desiring to proceed to a reference under this Act shall prepare a statement in writing, setting forth in a concise manner the nature and extent of the claim made by such party, and the propositions of fact which such party desires to submit to the arbitrator in support of such claim, and shall deliver a copy of such statement of claim and propositions of fact to the other party, and the other party may, within seven days after receipt of such statement, deliver to the party from whom the same shall have been received such propositions of fact as such other party desires to submit to the arbitrator, in opposition to such claim.

At any time after the expiration of ten days from the service in manner aforesaid of any statement of claim and propositions of fact in support thereof, the party desiring the reference shall cause a copy of such claim and of any propositions of fact in support thereof, or which shall have been delivered in opposition thereto, to be filed in the office of the Registrar of the Supreme Court, in the chief town of the province or county where, under the provisions of this Act, such reference may lawfully be had, and shall, as soon as conveniently may be after the filing thereof, apply to the Judge of the said Court to hear and determine the matter of such claim, and to fix a day, time, and place for proceeding in the matters so to be referred to him as aforesaid. Notice of the filing of such statement shall in all cases be given to the other of the said parties.