

PLEAS.

In the Supreme Court of New Zealand, Wellington District.

ALEXANDER BROGDEN, HENRY BROGDEN, and JAMES BROGDEN, *against* THE QUEEN.

The 19th day of October, 1877.

WALTER SCOTT REID, Solicitor-General of our Lady the Queen for the Colony of New Zealand, for and on behalf of our said Lady the Queen, saith,—

I. That he denies all the material allegations in the petition of the suppliants contained.

And for a second plea the said Walter Scott Reid saith,—

II. That, before the filing of the suppliants' petition herein, Her Majesty the Queen paid and satisfied the claim of the suppliants in respect of the matters in the said petition mentioned.

III. And for a third plea the said Walter Scott Reid saith,—

1. That by the third clause of an Act of the General Assembly of New Zealand intituled "The Government Contractors Act, 1872," it is provided that, in case where under the provisions of any contract it might be provided that any disputes arising between the parties thereto, or between the Contractor and the Government, such dispute should be referred to the sole arbitrament and award of the Judge of the Supreme Court assigned to the judicial district of the Supreme Court within which the works relative to which the dispute should have arisen shall have been executed, then and in any such case such dispute should be referred to the decision of the Judge of the Supreme Court in the manner thereafter provided.

2. That by the twenty-eighth clause of the same Act it is further provided that neither of the parties shall bring any action, suit, or proceeding against the other for or in respect of any matter so agreed to be referred as aforesaid.

3. That by the interpretation clauses of the said Act it is also declared that the word "Contractor," used in the said Act, should mean the said suppliants, and the word "contract," also used in the said Act, should mean any contract then or after the passing of the said Act to be entered into between the Governor, in the name of the Queen, and the said suppliants for the execution of any public works.

4. That the said contract set out in the said petition is a contract between the suppliants and Her Majesty the Queen for the execution of a public work within the meaning of the said Act.

5. That, by the twenty-seventh clause of the said contract, it is agreed that if any dispute should arise between the Contractor and the Government relative to the forces and intent and meaning of the specifications, drawings, or conditions, or to the mode of carrying on the works, or the nature or quality of the materials used, or supplied to be used, or workmanship of work done, or as to the maintenance of works, or as to the expense of additional works, or of alterations and deviations from the specifications and plans, or as to any other matter connected with the execution of the works, or with the contract, specifications, drawings, or conditions, such dispute shall be referred in writing to the sole determination, award, and arbitrament of a Judge of the Supreme Court assigned to that judicial district within which the works relative to which the dispute shall have arisen have been, or are to be executed, whose award shall be final, binding, and conclusive between the parties.

6. That the said matters set forth in the said petition, and for which the suppliants claim redress, are disputes between the suppliants and the Government of New Zealand, acting on behalf of Her Majesty the Queen, within the meaning of the said Act and the twenty-seventh clause of the said contract; and that the said matters in dispute have not been referred to the decision of a Judge of the Supreme Court as by the said Act provided.

IV. And for a fourth plea the said Walter Scott Reid saith,—

1. That by the third clause of an Act of the General Assembly of New Zealand intituled "The Government Contractors Act, 1872," it is provided that, in any case where under the provisions of any contract it might be provided that any disputes arising between the parties thereto, or between the Contractors and the Government, such dispute should be referred to the sole arbitrament and award of the Judge of the Supreme Court assigned to the judicial district of the Supreme Court within which the works relative to which the dispute should have arisen shall have been executed, then, and in any such case, such dispute should be referred to the decision of the Judge of the Supreme Court in the manner thereafter provided.

2. That by the twenty-eighth clause of the same Act it is further provided that neither of the parties shall bring any action, suit, or proceeding against the other for or in respect of any matter so agreed to be referred as aforesaid.

3. That, by the interpretation clauses of the said Act, it is also declared that the word "Contractor," used in the said Act, should mean the said suppliants; and the word "contract," also used in the said Act, should mean any contract then or after the passing of the said Act to be entered into between the Governor, in the name of the Queen, and the said suppliants for the execution of any public works.

4. That the said contract set out in the said petition is a contract between the suppliants and Her Majesty the Queen for the execution of a public work within the meaning of the said Act.

5. That, by the twenty-seventh clause of the said contract, it is agreed that, if any dispute should arise between the Contractor and the Minister for Public Works relative to the forces and intent and meaning of the specifications, drawings, or conditions, or to the mode of carrying on the works, or the nature or quality of the materials used, or supplied to be used, or workmanship of work done, or as to the maintenance of works, or as to the expense of additional works, or of alterations and deviations from the specifications and plans, or as to any other matter connected with the execution of the works, or with the contract, specifications, drawings, or conditions, such dispute shall be referred in writing to the sole determination and arbitrament of a Judge of the Supreme Court assigned to that judicial district within which the works relative to which the dispute shall have arisen have been or are to be executed, whose award shall be final, binding, and conclusive between the parties.