

3. *The Chairman* (to Mr. Blow): I take it you are making a general statement now which will be supported by evidence afterwards?—On this point I think the Committee should take what I am saying as evidence, because I, in my official capacity, can support the Resident Engineer as to whether borings are usually given or not; and I say they are not given. I will state, as Under-Secretary of the Public Works Department, that borings are not usual in New Zealand—that it is a very decidedly exceptional thing for borings to be shown on any contract plans, and when they are shown we take exactly the same course that Mr. Stewart says he takes—that is, we guarantee nothing; and if the strata turns out to be totally different from what the bore shows is likely to be met with, the contractor has still no claim for extra payment. The view the department takes of this is, that we are perfectly at liberty, according to these specifications and drawings, to order any extra thickness of tunnel-lining that may be required; but of course we pay for that extra thickness as an extra to the contract. I will read the clause in the general conditions that gives this power. [Mr. Blow then read subsections 2, 3, and 4 of clause 7 of the general conditions attached to the contract.] That settles the question of the price to be paid. The price to be paid is according to the rate set down by the contractor in the schedule sent in with his tender. I do not think there can be any obscurity as to the meaning of those words. Subsection (2) provides how the price shall be arrived at, and subsection (3) that when arrived at it shall be added to or deducted from the contract sum. So that it is futile for the contractors to come here and urge that the work they had to do in this tunnel—putting in this invert or an extra ring of brickwork—were works not contemplated as extra works by the conditions of contract. The conditions of contract say that all works, however extensive they may be, are to be done according to order; but of course they are to be duly and fairly paid for. [Copy of schedule attached to the contract, showing the rates at which the contractor is to be paid for extra work, put in.] In regard to extra work—say, so many yards of brickwork, so many feet of timber, and so on—each is duly appraised and worked up to a total, and that total is added to the contract sum. If we want a little more work done of this class we say, Do it and we will pay you for it at the rates put down in the schedule. I think nothing could be simpler, and nothing could be fairer. The contractor fixes the price himself. If he likes to put his price at a higher rate, well and good, but of course then his price being higher he might not be the lowest tenderer. In this contract the amount put down is 6s. 6d. per cubic yard for excavating the tunnel. That rate was paid for all the excavating work. The amount for the lining of the face and wings is £1 16s. per cubic yard, and for the lining of the arch £1 16s. per cubic yard, and the department of course paid £1 16s. per cubic yard for the invert. It was just as difficult, and no more difficult, to build an invert than to build an arch—in fact, of the two it is easier because it does not want timbering. It is simply an arch upside down; and therefore the department did their duty in paying at the same rate for the invert as for the arch. The extra work in the side-walls was paid for at the rate of £1 14s. per cubic yard, which was the contract schedule rate for such work. [Contractor's schedule handed in.]

The contention of the department in reference to the tunnel, as in the case of slips, is that the contingencies that arose were clearly provided for in the contract signed by the contractors. That contract says that if any extra works are required, however extensive or of whatever nature, the contractors are to carry them out, the price to be paid for such work being the price shown in the schedule; but if any work arose of a different nature from that described in the schedule, then the Engineer-in-Chief was to fix the price for it. The prices to be paid were in that schedule; and the department contends that the nature of the work that arose was precisely of the same description as that provided for in the plans and specification. If the contractors had not made the allegations they have with regard to Inspector Witheridge, I need say no more, because their claim for slips is clearly barred by the provisions of the specification, and their claim on account of the tunnel has been met by the work done being paid for as an ordinary extra, which is clearly provided for by the general conditions. The contractors, however, have urged that Inspector Witheridge interfered with them unduly. In fact, after all the allegations that have been made with regard to Inspector Witheridge, I think the members of the Committee will be rather disappointed to find what an exceedingly mild-mannered man Inspector Witheridge really is. But in the first place Mr. Witheridge had no power to interfere if the contractors followed out the correct method for carrying out the work. I believe the contractors have stated the opposite, but I challenge the contractors to put their fingers on the clause in the general conditions or specification that gives the overseer power.

Mr. Blow proceeded to quote clause 4 of the general conditions in support of his contention. Having had his attention drawn to clause 11, subsection (2), he read this also, and said in reference thereto: I am glad Mr. McKenzie has drawn my attention to this clause. There is clearly negative power given to the overseer there, but he is not to direct the contractor in his work. He is responsible to see that the contractor puts in piles of the proper length, and drives them to the specified depth, and no centres for arches or staging are to be removed until he is satisfied that the brick- or concrete-work is sufficiently set. The overseer measures the pile before it goes in, and stands by perhaps when it is driven in, but there is no hint of a power in that subsection that gives the overseer the right to direct the contractor how he is to carry out his work.

Having also read subsection (3), bearing on the same point, Mr. Blow continued: The Resident Engineer therefore has some power in this direction, but the overseer has no power, and for the contractors to say that they were compelled by an order of the overseer to either erect their framing or to remove their framing in any manner that was contrary to their own judgment and experience is the sheerest nonsense. The overseer had no power to do that whatever, and even if he had a contractor that works under the Government is in the grandest position that it is possible to be as regards the number of appeals that he has. If he is dissatisfied with the overseer he appeals to the Resident Engineer, who can be brought to the works at a few hours' notice; if not satisfied with him he can appeal to the Engineer-in-Chief; failing him the Minister for Public Works, then the Premier, and finally he can petition Parliament, and his appeal comes before this