

Mr. Barton's complaint of March, 1877: "I am not going to have a trial by a Judge if I can prevent it," and so on. If the Committee really think, after reading this correspondence, that Mr. Travers, who never mentioned, so far as we know, that the Act was new to him until after the letter of the 8th March, 1877, had been written, was wholly ignorant of the provisions of the Act, and that it was passed behind Messrs. Brogden's backs, as they have so frequently alleged, and for the purpose of depriving them of their contract rights, then of course I have wholly failed in my contention. For my own part I have never doubted that Mr. Travers had forgotten all about the matter when he said in his letter to the *New Zealand Times* of the 4th April, 1878, that he had never read the Act. I have no doubt that Mr. James Brogden was behind the chair when the Act was passing; but, of course, members of this Committee who were present at those debates have a better knowledge of that than I. I speak only from information given me by members not now in Wellington.

*Sir J. Hall*: I know I saw Mr. Brogden behind the chair almost constantly at that time.

*Mr. Cave*: I have never denied that Mr. Brogden was frequently in the House, but not on the particular day of the passing of the Act.

*Mr. Montgomery*: Does Mr. Brogden absolutely deny that he had the Bill in his hands when it was read a second time?

*Mr. Cave*: There is the letter of the 15th March, 1882, written by Mr. A. Brogden from information derived from his brother. Mr. A. Brogden told me over and over again that his brother assured him he knew nothing of the limitation clause in the Act. He does not deny he had ever seen the Bill. I do not think it is necessary for him to contend that. I limit myself to contending he had no knowledge of clause 31.

*Mr. Bell*: If I have not made my contention plain to the Committee I am sure that is my fault. I endeavoured to show the Committee that, in the attacks made upon the Act, everybody connected with the Messrs. Brogden consistently alleged that they were entirely ignorant of the Act. That it was passed without notice being given them, and that it took away rights they would have had but for its being passed. That was the allegation until the correspondence in E.-4 1878 was published. Since then clause 31 only has been attacked. If that clause had happened to have been in the revise seen by Mr. Travers, the Messrs. Brogden would have been now in the position of being proved to be in error; and as their attack applied equally to clauses that were in the draft as to clause 31, which was not, they are proved to have been throughout in error. That the Government showed the utmost good faith is proved by the fact of a copy of the Bill being sent to Mr. Travers, whose suggested amendments were accepted. I do not make the slightest imputation on Mr. James Brogden for asserting that he was utterly ignorant of the Act; but I simply say he has forgotten it. When the letter of the 15th January, 1878, was sent to the Secretary of State, Mr. Brogden said the Act was passed behind his back; that it was an Act with a *misleading title*, and that it was a breach of good faith, and so on. If he had limited himself then to saying, "I saw the Bill, but not clause 31," that would have been quite a different position; but to go back, after saying he was ignorant of the whole Act, and to accuse us of passing only a certain portion without his knowledge, is a course that can only be taken before a Parliamentary Committee; it certainly would not be permitted in a Court of justice.

I was proceeding to show that Messrs. Brogden had been treated with exceptional liberality. We gave them contracts by private tender to the amount of £810,196. They might have had as much as they liked by public tender, but that they did not want. That sum does not include railway material, all of which was supplied by the Government, Messrs. Brogden receiving 5 per cent. commission on the value of the railway material for their advice in purchasing it. The contracts were divided into two parts. In addition to the contract sum, each contract provided that the contractors should build all stations, and construct sidings, &c., as required by the Engineers, they being paid for this station work at cost price, with 10 per cent. added for their profit. This station work on each contract is often referred to in the correspondence as "the 10 per cent," e.g., "Waitara 10 per cent.," "Invercargill 10 per cent." If we include the station accommodation, the total amount of the nine Brogden contracts given without public tender was £928,243 12s. 9d., we being bound under the agreement of the 10th August, 1872, to give contracts only to the amount of £575,000. I say that was most exceptionally liberal treatment. Very well, now I ask the Committee to consider for a moment how the contract prices were arranged between the parties. The Committee will see that, there being no public tenders, prices had to be arranged. Accordingly Messrs. Henderson and Carruthers met, and we have a record of the prices fixed for the first six contracts, which I shall lay before the Committee. The last three contracts, those signed in July, 1878, were contracts with a schedule, and the prices for them were not arrived at in the same way. I confine myself at present to show how the prices for the first six contracts for railway works were arrived at. First of all, quantities were taken out. It was ascertained how much work had to be executed on each line. That was called "the data," and upon it Messrs. Carruthers and Henderson fixed the price for each particular class of work—earth-work so much a yard, timber-work so much per 100 feet, and so on. The prices being so fixed, there were added three separate sums, being 10 per cent. on each item for special profit, 10 per cent. on each item for the cost of management, and 12½ per cent. upon all but a few items for contingencies. Now, I propose to compare the prices fixed in these contracts with the ordinary schedule prices paid to other contractors for the same class of work at the time, in order to show that the prices without the 32½ per cent. included ordinary contractors' profits.

*Mr. Cave*: That seems to me to be going outside the inquiry. If you are going into that, I am afraid I shall have to call evidence in reply.

*Mr. Bell*: I desire to show the Brogdens were treated with exceptional liberality, and that, so far from there having been any desire to prevent them having the advantage which ordinary contractors have, they have been granted exceptional advantages over other contractors.

*Mr. Cave*: I do not think there is any question upon that. If Messrs. Brogden had executed works in excess of their contract, surely that is no reason why they should not get the value of the excess. It seems to me, if we open up this question, it will open up really the whole merits of the claims, and I shall have to give evidence to show they have executed these works.