allowance for contingencies is to be found in clause 3 of the contracts. The Committee will observe that the plans and specifications were drawn very hurriedly. Mr. James Brogden had arrived in the colony with a staff of engineers, and was pressing the Government to give him work, the consequence being that plans and specifications had to be prepared in a hurried manner. Mr. Brogden complained that he had been brought out here, and could not get on with the work he came out specially to do. It was in consequence of this, no doubt, that the contracts were let before full and complete plans had been prepared. The Committee will find that clause 3 of all the contracts reads as follows:—

A copy of the plans and drawings, with the specifications, shall be furnished to the contractor by the Engineer, and the plans and drawings referred to in the specification, and the specification shall be taken together to explain each other; and if, in the execution of the works, it shall be found that anything has been omitted or misstated either in the drawings or specification, which is necessary for the proper performance and completion of any part or parts of the works, the contractor shall at his own cost and expense execute the same, and provide whatever may be requisite for so doing, provided the extra cost thereof shall not exceed the sum of £200 in each particular case. Any written dimensions on the drawings shall be taken in all cases in preference to measurements by the scale attached, and anything contained either in the drawings or specification shall be equally binding on the contractor as if it were contained in both; and in case the written or figured dimensions on the drawings shall disagree with the scaling, or in case there shall be any discrepancy between the drawings and specification, or any ambiguity in them, such occurrence shall not invalidate the contract, but the same shall be rectified by the Engineer if thought requisite, and the contractor shall not be entitled to make any claim or demand for compensation or damages on account of such discrepancy or ambiguity. If neither the drawings nor the specification contain any notice of minor parts, the intention to include which is nevertheless clearly to be inferred, and which parts are obviously necessary for the workmanlike completion and stability of the work, all such parts are to be made and executed by the contractor without extra charge, and are to be deemed by him as included in the sum at which he contracts for the works.

That clause is never found in ordinary contracts, but it appears in the whole of Messrs. Brogden's; it is a special clause which applies to them only. I think the Committee can come to no other conclusion than that was the reason why the 12½ per cent. was added. Nevertheless the Messrs. Brogden were paid for all extra work they did. There were no schedules to the first six contracts, and nobody knew how the prices had been arrived at excepting Mr. Henderson, Mr. Carruthers, and one or two of the Government Engineers; and the District Engineers proceeded to allow for all extra works, however small, which were done. I shall put in several of the claims, and ask the Committee to consider whether the items charged for extras should have been so charged. The claims include the extras which have been paid for as well as those which have not, and therefore the Committee cannot see, by looking at the claims, what has been allowed and paid for exactly. On the Invercargill and Mataura Railway we paid extra for small box-drains to carry off water, and a number of other such items occur. I give that as an example of the class of work which we have paid for, though it was intended to be met by clause 3 of the contract, and was covered by the 12½ per cent. allowed for contingencies. I have very little more to say; but I wish to impress strongly on the minds of the Committee that to each of the contracts there has been added an extra sum for management, for profits, and for contingencies. If the Committee will look at the letter of the 15th March, 1882, from the Under-Secretary to Messrs. Brogden, they will find the figures accurately stated. We have actually allowed for and paid to the Messrs. Brogden for extra works a sum of £131,523 0s. 1d., and for station accommodation £118,047 12s. 9d., while the contract sums named in their nine contracts, amounting to £810,196, less only £65,900 10s. for reductions, have also been paid. In the amount allowed for extras are included very many items which ought to have been provided by the contractors under clause 3 without charge, and which were really covered by the special allowance for contingencies in the contract sums. It must further be mentioned that in estimating the values for payment of extras the Government Engineers always added the percentages for special profit and contingencies to the prices found in the book for the first six contracts, as in the schedules to the last three contracts. The Messrs. Brogden now claim a further alowance of 10 per cent. on all extras. If the Committee will look at the claims they will see that on all extras 12½ per cent. has been claimed for contingencies, as well as the percentages for Messrs. Brogden's management and Messrs. Brogden's special profit. The claims now put in are the claims of 1881. If the Committee desire it I will read the pleadings in the Waitara case, but they are very long, and I do not think the Committee would gain anything from having them read. I have only now to ask the Committee to allow me to briefly summarize the argument I have addressed to them at their last two sittings. I submit that I have proved, first, that the Act of 1872 was an Act passed in, the interests of Messrs. Brogden, to provide the arbitration which they themselves had stipulated for; secondly, that the right of appeal from the Engineer's decision was an exceptional privilege granted to Messrs. Brogden, which no other contractor in the colony had; thirdly, that everybody connected with the contracts must have known that the Act was necessary to enable a Judge of the Supreme Court to act as arbitrator; fourthly, that Mr. James Brogden and Mr. Travers have utterly forgotten what occurred, and that they were probably cognizant of clause 31, and certainly were aware of all the clauses except clauses 27, 28, and 31; fifthly, that the Act was one in which it was essential that a limit of time should be fixed. The preamble, which was the preamble of the revise seen by Mr. Travers, stated that the Act was passed to provide a summary and final settlement of the disputes, and I would add here that the Messrs. Brogden themselves have admitted the force of my present contention by inserting in the Bill they themselves have introduced this session a clause fixing a limit of one year within which they must present their claims. I submit, also, that the attacks which have been made on the Act were always made on the Act as a whole, and were not specially directed to any particular clause until after the publication in the Appendix E.–3, 1878, of Mr. Travers's letter to Mr. Prendergast, and the announcement of the fact that Mr. Travers had perused and altered the first revise on behalf of Messrs. Brogden. I submit that I have also proved that no objection was offered by Mr. Travers, nor was any surprise expressed by him with regard to the conditions of the Act until after Mr. Barton's letter of the 8th March, 1877, had been written. The Committee will remember that the correspondence shows that Mr. Travers had, in January, 1877, proposed a certain course of proceedings which he thought should be carried out under the Act of 1872, and the first we hear of the "surprise" is in Mr. Barton's letter of the 8th March. I submit that I have also proved that over and over again in 1877 the Government offered to