

We think all this work was undertaken for the bulk price. We have several times, in reporting on other claims, and also in our general report, explained the principle on which we have concluded that the Crown is not liable to reimburse the contractor for such outlays as this, caused, not by change of grade or location, but because the quantities submitted in the bill of works were not accurate. The bargain was speculative; the claimants got, on this section, the advantage of unexpected decreases of work, which are not chargeable to them, and, according to the bargain, they must take with that advantage the disadvantage of finishing the Amqui bridge at a lower foundation than was expected.

But irrespective of the terms of the contract, there are other circumstances which, on this charge, would put the claimants out of any court.

The principal portion of this item is for work and material supplied, because an artificial foundation was resorted to instead of the natural one contemplated by the original design.

Mr. McGaw was very positive, in his evidence before us, that he had never been informed that he might adopt the new design, or follow the old one, at his option, on the understanding that if he adopted the new one he should make no charge on account of it.

The following letter was put into his hands:—

“ 1st May, 1874.

“ DEAR SIR,—You can proceed with the foundations of the Amqui bridge, on Section No. 14 of the Intercolonial Railway, at any time, upon the original design, or if you consider it to your advantage you will be permitted to introduce a pile foundation, as per plan furnished, it being quite understood that nothing extra will be allowed on the pile system of founding.

“ I am, yours truly,

“ COLLINGWOOD SCHREIBER.

“ ALEX. MCGAW, Esq ,

“ P. S.—The piles on one side will probable be about 12 feet long, and on the other side 22 feet.—C. S.”

On 5th May, 1874, the receipt of this letter was acknowledged by Mr. Stewart, his book keeper.

We allow nothing on Item 8.

*Item 9.*

Additional earth-work required to make up bank at intersection (and on Section 17, outside of contract) and occasioned by change of grade, 2,500 yards at 25 cents .....	\$625 00
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This was work outside the contract. After that had been finished, it was discovered that the grade of this and the adjoining section did not coincide: and this was ordered upon the understanding that it was not covered by the bulk price. The evidence supports the charge as to quantity and price. We allow \$625, which brings the whole price from \$254,263 to \$254,888.

*Item 10.*

Clearing out ditches after the road was accepted by Mr. Hazlewood, District Engineer.....	\$500 00
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This section was not formally taken off the hands of Messrs. Neilson & McGaw, as completed under contract, until after Amqui bridge was built; but we gather from the evidence, that before that was done Mr. Hazlewood went over the works and said they were then up to the requirements, except in some specified places, the Amqui bridge amongst them. In our judgment this did not relieve the contractors from their undertaking, to deliver over the works in good order when the whole