

LIMITATION OF ORDER OF REFERENCE.

In his opening address Mr. Richmond (counsel for the mine-owners) contended that the Commission was limited in its inquiry to a reallocation of the responsibility for providing the interest and sinking fund on the original loan of £150,000, raised for the river-improvement works in 1911; and in his closing remarks he emphasized the matter even more strongly, contending that to deal with the whole scheme and its probable ultimate cost (£625,000) would be to go beyond the order of reference in the Commission. He suggested that if the Commission thought fit to allocate the burden of the expenditure in excess of the original loan-authorization of £150,000 it should do so in a separate report, as the prime reference to the Commission is the reallocation of the £150,000, and that only. Mr. Johnstone, on behalf of the Waihi Borough, supported Mr. Richmond's contention.

The Commission did not agree with Mr. Richmond's view, however, considering that the wording of the first operative clause of the Commission, paragraph (1), was intended to cover, as it says it covers, "the interest and sinking fund on any loans raised for the purpose of carrying out the works authorized by the Waihou and Ohinemuri Rivers Improvement Act, 1910" (hereinafter referred to as "the Act"). Mr. Richmond contended that some of the works constructed or now in hand were not contemplated by the 1910 Commission; but, whether this contention is well founded or not, it can scarcely be held that they are not authorized by the Act, as the powers under that Act are very wide indeed, and the present Commission is directed to inquire and report whether the allocation scheme under section 17 of the Act is fair and equitable, and, if not, what variation should be made in such allocation. The Commission therefore proceeded with its inquiry on the assumption that it was intended to embrace all charges for interest and sinking fund on all loans raised or that may hereafter be necessary to complete the full scheme of river-improvement works now in hand or contemplated, together with the cost of administration and maintenance of such work.

CONTENTIONS OF THE PARTIES.

(a.) *The Waihi Borough Council.*

Counsel for the Borough of Waihi, at whose instance the Commission was appointed, contended very strongly and ably that the allocation of a deduction from gold revenue up to £5,000 per annum against the borough is, and always has been, unjust and unfair, and that even if there were any justification for such an allocation in 1910 there is no justification whatever for it now, in view of the conditions having so greatly altered in the meantime. At the time the allocation was made the Borough Council's income from gold revenue was approximately £23,000 per annum, whereas at the present time it is under £8,000, and getting smaller every year. Moreover, the works originally contemplated were, the Borough Council understood, merely intended to remedy damage alleged to be done by the deposition of mining debris in the Ohinemuri River; but the works actually done and in progress have had the effect of draining and improving large areas of swamp lands, so that lands which were valueless, or nearly so, in 1910 have since been converted into profitable dairy farms, or are in progress of being so converted.

He contended further that as the money—some £20,000—already contributed to the Waihou and Ohinemuri Rivers Improvement Fund (hereinafter referred to as "the fund") by the mining industry (represented by the Waihi Borough and the mining companies) is, in the opinion of the Borough Council, more than sufficient to remedy any damage done by the deposit of tailings in the river, it would be equitable and fair to now release such contributors from any further payment towards the expense of the scheme; also that, on the well-established principle that taxation should follow the benefits resulting therefrom, the lands improved by the works being carried out under the scheme should be made to pay the cost of such improvement. Counsel further urged that the Borough of Waihi is in financial straits and sorely in need of assistance—so much so that it may even be necessary to close the local hospital if monetary help is not forthcoming. He therefore presses the claims of the borough to be relieved of the liability to make