

9-10 EDWARD VII., A. 1910

On the 7th October, 1907, Mr. Lumsden received a letter from Mr. Woods, assistant chief engineer of the Grand Trunk Pacific (Exhibit 10) stating that District Engineer Armstrong, a Grand Trunk Pacific engineer, was furnished recently with a statement of classifications for the heavier work on Section 'B,' and that Mr. Woods and Mr. Armstrong visited the work, passing over portions of the work west of the Batiscan river, and from mile 115 to mile 132. It contains some statements which show quite clearly that the engineers of the Grand Trunk Pacific Railway Company were at that time aware that clause 34 of the specification was construed as meaning rock in masses, or material in masses, other than ledge rock. Mr. Lumsden replied (Exhibit 11, page 149) stating that the matter should be looked into and a full investigation made. This was followed in the same month by a conference at La Tuque, which took place about the 25th October, and a report of which was made by Mr. Lumsden to the commissioners on the 30th October, 1907 (Exhibit 13).

Evidence has been given by several witnesses who were present at that conference, including, beside Mr. Lumsden, Mr. Doucet, Mr. Grant and Mr. Huestis; and all agree that at the meeting in question Mr. Woods withdrew the statement which had been made in Exhibit 10, that the over-classifications which he alleged were made, not through error of judgment, nor upon the decision of the resident or division engineers, who were fully acquainted with the character of the work, but by arbitrary orders from their superior.

According to Mr. Doucet, the discussion referred to in Exhibit No. 13 turned upon the meaning of clause 34, which the engineers other than Mr. Lumsden maintained included masses of material which in the judgment of the engineer may be best removed by blasting, and consisting largely of rock cemented together.

The matter was submitted to the government in accordance with the request of Mr. Lumsden contained in his letter (Exhibit 14, page 153) and is referred to in the letter of the secretary of the board (Exhibit No. 15, page 154), in which the secretary says:—

As the correspondence will show, the complaint of the Grand Trunk Pacific engineer has resulted in revealing for the first time since construction started the difference between the Chief Engineer of the commissioners and his staff with respect to the interpretation of clauses of the contract relating to classification.

Also:—

Although the complaint of the Grand Trunk Pacific engineer specifically relates to certain cuttings on Macdonnell & O'Brien's contract, the whole work will be affected by the interpretation of paragraph 34 of the specifications. Accordingly both our contractors in District 'B' have been officially notified of the interpretation placed by our Chief Engineer on paragraph 34 of the specifications, and their replies contesting the interpretation of our Chief Engineer are included in the correspondence which accompany this letter.

The correspondence was referred back to the Minister of Railways to the Railway Board with the statement that he considered that full power was vested in the commissioners and their Chef Engineer to carry on the work in such a way as to them seemed best. (Exhibit No. 16, page 155.)

Mr. Lumsden then submitted an interpretation of clauses 34 and 36 of the specifications (Exhibit No. 17, page 156), which he stated was made by him after consulting with Mr. Collingwood Schreiber, consulting engineer to the government.

On the 20th December the correspondence was submitted to the Department of Justice (Exhibit No. 18, page 157), and returned by the Deputy Minister of Justice, Mr. Newcombe, on the 6th January (Exhibit No. 19), in which he stated his approval of the interpretation placed by the Chief Engineer upon the contract, with one exception. He says:—

I see no reason to differ from the classification stated by the Chief Engineer in his letter to the commissioners of the 16th ultimo, except as to the statement