

Subsequently, however, at the time the documents were being prepared and collected for the suit in the Exchequer Court, the Superintending Engineer instructed Mr. Archibald, the Assistant-Engineer of Section No. 7, to come up to Ottawa, and bring every scrap of paper he had relating to the works, and among these were found the notes, measurements and calculations of the changes of grade and location, and the substitution of iron pipes and tunnels for masonry culverts, which, when carried out, showed a balance of \$5,618.39 in the contractors' favor, which item had not entered into consideration in connection with the sum of \$12,436, previously offered to the contractor.

When the case came up in the Exchequer Court, it did not reach the stage at which this information would have been elicited, hence it is that His Lordship, in giving judgment, did not touch on this point.

We should explain that by the terms of the contract, the contractor is entitled to be paid for the excess of work caused by change of grade, &c., over diminution of work from the same cause, and also for the excess, if any, of the cost of iron pipes and tunnels substituted for masonry; on the other hand, we feel it right to mention that nearly all, if not all, of these changes of grade, &c., were solicited by the contractor and were granted as a concession, they in no degree impairing the efficiency of the road; and it is believed that at the time the concessions were made, that neither party had the least idea of it leading to an extra payment.

We have the honor to be, Sir, your obedient servants,

SANDFORD FLEMING,
COLLINGWOOD SCHREIBER.

F. BRAUN, Esq., Secretary, Department of Railways and Canals.

INTERCOLONIAL RAILWAY, OFFICE OF CHIEF ENGINEER,
OTTAWA, 18th February, 1874.

SIR,—I have received your letters of yesterday's date covering papers relating to certain claims for extras made by the contractors for Sections 4 and 7 of the Intercolonial Railway.

I enclose herewith abstracts showing the financial position of each contract at the present time, and I now desire to explain to you my reasons for not recommending the payment of the amounts claimed, or concurring in the recommendation of Mr. Brydges with respect to paying a portion thereof.

If the Intercolonial Railway contracts have any force, there is, in my opinion, nothing whatever due. A reference to the statement attached will, in fact, show that the contractors are already overpaid. The 9th section of the contract is very clear with respect to extras. 9th section of the contract:—

9. "It is distinctly understood, intended and agreed that the said price or consideration of shall be the price of, and be held to be full compensation for all the works embraced in, or contemplated by, this contract, or which may be required in virtue of any of its provisions, or by law, and that the contractors shall not, upon any pretext whatever, be entitled by reason of any change, alteration or addition made in or to such work, or in the said plans and specifications, or by reason of the exercise of any of the powers vested in the Governor in Council by the said Act, intituled: 'An Act respecting the construction of the Intercolonial Railway,' or in the Commissioners or Engineer, by this contract or by law, to claim or demand any further or additional sum for extra work, or as damages or otherwise, the contractor hereby expressly waiving and abandoning all and any such claim and pretension to all intents and purposes whatsoever, except as provided in the fourth section of this contract."

Section 4, referred to in the last line, reads as follows:—

4. "The Engineer shall be at liberty, at any time before the commencement, or during the construction of any portion of the work, to make any changes or alterations which he may deem expedient, in the grades, the line of location of the