

APPENDIX No. 3

hibit No. 2, pp. 73 and 79). He also filed a partial list of the names of engineers intended to be implicated in his charges as Exhibit No. 3, (p. 92) and a copy of what purported to be depositions of certain engineers examined before the board of arbitrators during the course of their visit (Exhibit 3A, p. 92). These depositions were not admitted to the record by the committee as having the force of evidence, but as being the statements which Mr. Lumsden swore at the time of their production were those made in his presence which has influenced him in resigning. Mr. Lumsden when questioned as to the statements in these depositions, to which he attached importance referred to but two or three, and it appeared to your committee from subsequent evidence that the engineers answered to questions put to them had not been fully or correctly transcribed.

At the inception of the hearings before the committee, Mr. Lumsden stated that he appeared only as a witness and that he did not impute any bad faith to any of the engineers and that the issue was simply a difference between engineers as to classification.

From the whole of the evidence taken before your committee and especially that of Mr. Lumsden himself, that the substantial reason for the difference between Mr. Lumsden and the engineers under him, arose concerning interpretation of clauses 34, 35 and 36 of the specifications, which read as follows:—

Solid Rock Excavation.

34. Solid rock excavation will include all rock found in ledges or masses of more than one cubic yard, which, in the judgment of the engineer, may be best removed by blasting.

Loose Rock.

33. All large stones and boulders measuring more than one cubic foot, and less than one cubic yard, and all loose rock whether in situ or otherwise, that may be removed by hand, pick or bar, all cemented gravel, indurated clay and other materials, that cannot, in the judgment of the engineer, be ploughed with a ten-inch grading plough behind a team of six good horses, properly handled, and without the necessity of blasting, although blasting may be occasionally resorted to, shall be classified as 'loose rock.'

Common Excavation.

36. Common excavation will include all earth, free gravel or other material of any character whatever not classified as solid or loose rock.

36A. No classification other than of common excavation will be allowed on material from borrow pits, except by order in writing of the engineer.

It is to be observed that the language of these clauses, as pointed out by several of the engineers examined and admitted by Mr. Lumsden differs from that used in corresponding clauses in the specifications used in earlier railway construction, with which Mr. Lumsden was familiar. The real difference between Mr. Lumsden and the engineers under him arose in connection with the classification of the peculiar geological formation met with in very large quantity upon portions of Districts 'F' and 'B' consisting of clusters of boulders of varying sizes solidly cemented together in masses, which according to the absolute consensus of testimony (including that of Mr. Lumsden) could not have been removed except by continuous blasting.

This difference of opinion developed at a very early stage of construction. The resident engineers, to whom the duty of classification as the work proceeds, is committed returned this material as solid rock, and in this had the approval of their immediate superiors, the division and district engineers.