

9-10 EDWARD VII., A. 1910

When the evidence established that the difference of opinion really turned upon the different views of the Chief Engineer and the other engineers as to the meaning of these clauses, it did not seem necessary to prolong the inquiry by summoning the engineers holding subordinate positions on the staff; but Mr. Richan, a division engineer on the eastern portion of District 'F,' upon whose district were the larger number of all the localities mentioned by Mr. Lumsden in his list, was called and gave evidence of the manner in which the work was carried on and returns made upon that division, and similarly evidence was given by Mr. Cressman, resident engineer upon Residency No. 18 of District 'B.'

Having regard to the manner in which the evidence has been given, to the nature of the questions, and to the fact that Mr. Lumsden has not made any charge affecting the personal integrity of competency of the engineers, it did not seem desirable to incur the expense or delay involved in calling the other engineers whose names have been mentioned.

Referring again to Mr. Lumsden's statement in Exhibit No. 1, it may be summarized as containing the following statements:—

(1) The general specifications and instructions regarding classification were not adhered to, but large amounts of material had been returned as solid rock, which should only have been classified as loose rock or common excavation, and that material had been returned as loose rock which was or could have been handled by ploughing or scraping, and should have been returned as common excavation.

The result of the whole evidence as to this complaint or charge is that Mr. Lumsden did not agree with the judgment of the engineers on the ground as to the classification of the material found, and of the description termed by the engineers 'mixed material,' and as the proportion of such material which should be classified as solid rock, loose rock and common excavation respectively.

Mr. Lumsden himself disclaims any intention of charging that the engineers intentionally disregarded the specification or the interpretation of January, 1908, (the document referred to as his instructions regarding classification), and it should be noticed that a great deal of the work had been done and material classified prior to January, 1908, when those instructions were given, and while the engineers had no instructions upon the subject other than the specifications to work from.

(2) The second statement is that on several residencies there seemed to be no attempt to carry out the instructions of the Chief Engineer and measure rock returned either by showing the cross-sections or by measurements of individual pieces, but that they appeared to have simply guessed at the amount by taking the percentage of the total cuttings.

With regard to this the witnesses all agree that ledge rock should be measured and that boulders returned as solid rock because of their exceeding one cubic yard in measurement should be measured and that ledge rock should be shown upon the cross-section.

On the other hand, the evidence establishes that the measurement of the proportions of solid rock, loose rock, and common excavation in mixed material is not possible, and that this can best be estimated by the observations of the resident engineer from day to day. It should be observed, also, that the circular letter of January 30, 1908, which Mr. Lumsden admits were the first general instructions on the subject, contained for the first time the specific instructions as to measurements—coupled, however, with the qualification that these should be insisted upon unless from the nature of the material it was impracticable to obtain them.

The district engineers and their staff who were examined assert that these instructions were carefully obeyed from the time that they were received, but it seems that previously there were instances in which the cross-sections did not show the dividing line between the ledge rock and mixed material overlaying it, and that the cross-sections did not show separately the amount of material lying inside and out-