

## APPENDIX No. 3

Lumsden declared, in his letter of resignation, that he had lost confidence were appointed by the Board of Railway Commissioners upon his own recommendation in writing, as will be seen on reference to Exhibits Nos. 31, 32 and 33, pages 191, 192 and 193.

Mr. Lumsden, as Chief Engineer, was therefore responsible for the engineers under his charge, and he had such absolute control over them as the Chief Engineer in such works always has.

Moreover, Mr. Lumsden, under the terms of the contracts between the Commissioners and the contractors, was clothed with absolute authority in dealing with the contractors, it being provided that:—

All instructions or certificates given, or decisions made by any one acting under the authority of the Chief Engineer shall be subject to his approval. (Page 189.)

In all cases where the contractor or the Commissioners are dissatisfied with the decision of the engineer or inspector in immediate charge of the work, an appeal to the Chief Engineer may be made.

And by Clause 15 it was provided:—

That the Engineer shall be the sole judge of the work and material in respect of both quality and quantity and his decision in all questions in dispute with regard to work or material shall be final.

He was thus constituted the supreme authority upon the whole work. There was in the contracts (Clause 39) the further provision that:—

The progress measurements and progress certificates shall not in any respect be taken as binding upon the Commissioners, or as final measurements, or as fixing final amounts; they are to be subject to the revision of the engineer in making up his final certificate, and they shall not in any respect be taken as any acceptance of the work or release of the contractor from responsibility in respect thereof, but he shall at the conclusion of the work deliver over the same in good order, according to the true intent and meaning of this Agreement.

The commissioners had further security provided in the drawback of a ten per cent of the progress estimates under Clause 34, together with a lien upon all the plant, material and machinery belonging to the contractors. The amounts payable under the contracts and even the progress estimates themselves, together with the quantities and classification, were thus subject to the absolute and final revision and decision of Mr. Lumsden as Chief Engineer.

Notwithstanding that Mr. Lumsden was thus vested with the full control of his engineering staff and the full direction of the work as it progressed, it is to be observed that he never made any complaint whatever to the commissioners of any engineer, nor did he ever give to the commissioners so much as a hint that he had begun to lose confidence in any of the engineers upon the staff. Mr. Lumsden occupied an office in Ottawa with the commissioners and it appears extraordinary that the first word of complaint against his engineers should come in his letter of resignation. He himself attributes his loss of confidence in the engineering staff to what he saw and heard upon the tour of inspection with Mr. Schreiber and Mr. Kelliher who went with him for the purpose of an arbitration under the provisions of Clause 7 of the agreement between the commissioners and the Grand Trunk Pacific Railway to which it will be necessary to make some further reference. But Mr. Lumsden in his letter of September 24, 1907 (Ex. 8, p. 145) expressed dissatisfaction with his position as chief engineer, upon the grounds that the Commission differed from an ordinary railway corporation inasmuch as its powers were limited by the Act, and they had not the same freedom of action to meet difficulties as they arose in the construction of the work; that his salary was inadequate, and that the magnitude of the work subjected him to strain and worry. In that letter Mr. Lumsden says:—