

## APPENDIX No. 3

Mr. Lumsden, however, does not in his evidence put it upon that ground, but rather upon the ground that the staff understood the specification and his interpretation differently from the manner in which he understood it himself, and that the substance of the complaint is contained in the latter part of the statement, in which he says that his loss of confidence was due to 'the failure of the engineers to carry out, *in accordance with my views*, the terms of the general specification, and of my instructions and interpretations.' The statement is quite consistent with the conclusion that the engineers were honestly and faithfully endeavouring to carry out, even though mistakenly, their own views and understanding of the specifications and interpretations. This, when examined in the light of the whole of the evidence which has been given, seems to be the whole ground of controversy.

Even after the interpretation of January, 1908, Mr. Lumsden seems to have understood the specification and interpretation in one sense while the district engineers and their staff under them understood them in another sense. What the difference was requires careful reading of the whole evidence; but the difference is perhaps more clearly brought out in the evidence of Mr. Doucet, who says that early in the discussion he raised the question with the Chief Engineer as to the meaning of the interpretation relating to 'assembled rock,' whether under it the Chief Engineer intended that the 'assembled rock,' or rock in masses, should be allowed only where the entire mass was rock. Obviously that interpretation could not be tenable, because the interstices between the rock would have to be filled with something. The diagram evidently referred to shattered or broken rock lying in masses, and, according to the definition in clause 34, cemented together and requiring to be blasted. But even if all those conditions were satisfied, there was still the question whether solid rock could or should be returned where the proportion of the mass was largely but not wholly rock; and when the solid rock content was not broken or shattered rock, but round boulders with clay, sand, gravel or small boulders filling the interstices. See Mr. Lumsden's evidence beginning at page 422.

At page 425 Mr. Lumsden says his idea was that assembled rock should mean a mass of boulders in contact with each other.

At page 426 Mr. Lumsden says the amount of solid rock in material consisting of boulders of uniform size touching one another throughout the mass would be 65 or 70 per cent of the whole cubic contents.

Mr. Gordon Grant, at page 532, says:—

I would be willing to allow a mass that is sufficiently hard to justify continuous blasting to remove it if the proportion of rock in it was anywhere from fifty to a hundred per cent. I would be more guided by the difficulties of removing it than by quibbling on the percentage of rock provided it was above fifty.

Mr. Doucet had some correspondence with Mr. Lumsden discussing the matter of classification. (See proceedings, page 562; exhibits 21, 86, 87 and 88.)

At page 565 he says that he agrees with Mr. Grant that the test of continuous blasting was absolutely necessary in order to classify material as solid rock under the specification, and that he did not sanction the classifying, as solid rock, material which could have been removed by occasional blasting or without blasting at all.

Mr. Doucet's evidence from page 564 gives his views with regard to the meaning of the specification and the different discussions of the matter with Mr. Lumsden, and at page 571 he says that in his view the material consisting of boulders cemented together and which would require continuous blasting to remove, should be classified as solid rock if the proportion of the whole mass contained fifty per cent rock, and that where the massed material contains less than fifty per cent of boulders it should be classified as loose rock under the head of 'cemented material.' See the bottom of page 571.

At page 573 Mr. Doucet says that he had an understanding with Mr. Lumsden as to the proportion of boulders in the mass, which was agreed upon in June, 1908,