

9-10 EDWARD VII., A. 1910

in October, 1907, but you don't adhere to it to-day?—A. I adhere still that masses may refer and were intended to refer to detached pieces of ledge rock.

Q. But I suppose you would be willing to extend that somewhat?—A. I have extended it in my subsequent interpretation to a mass of rock which was, I suppose, about two-thirds rock at any rate, or something like that, two-thirds rock and cemented material.

Q. You subsequently admitted that view, that it meant masses of detached ledge rock would be untenable? You have conceded that?—A. I have conceded it, but more on account of seeing and reading and going over these.

Q. Now, that is very instructive?—A. That there might have been a misunderstanding.

Q. I think it is fair to us, if you still adhere to your original view, that you should tell us; now, do you or do you not? Was your real opinion influenced or changed by perusing the opinions of counsel or others?—A. Well, between the opinions of counsel and the opinions of the engineers, and my consultation with Mr. Schreiber, I did conclude to change that part of it referring to solid rock.

Q. You say you concluded to change?—A. Yes.

Q. But opinions are really not a matter of choice or volition, are they? Were you convinced?—A. I know what I understood in the first instance when the specification was made, that it was nothing but rock.

Q. So that really, while out of deference to the numerous other opinions expressed, you may have consented to modify your expressed opinion, in reality you are like a woman, convince her against her will, she holds the same opinion still; isn't that true?—A. Yes, I held that opinion at the first start until I consulted with Mr. Schreiber and saw the different views taken by the learned counsel and engineers, and I modified it to the extent, as you know, in my subsequent—

Q. But still feeling down deep in your consciousness that your first view was the true view?—A. Well, my first view was the one—when that first interpretation was made, I certainly understood it to be all solid rock."

Your committee need not at this point discuss whether Mr. Lumsden's view of the specifications was in fact correct or not, as this is a mixed question of law and of engineering opinion; but there can be no question that Mr. Lumsden's written interpretation seemed to accord with the views which had been expressed by his district engineers and by the legal opinions referred to, and which have been acted upon by the engineers in their classification.

The interpretation, drafted as it was by Mr. Lumsden and illustrated by the accompanying blue print, was submitted to the Commissioners and accepted by them, and was subsequently submitted to the Assistant Chief Engineer of the Grand Trunk Pacific, Mr. Woods, and his letter approving of the same, found on page 281. This interpretation was officially communicated by Mr. Lumsden to the district engineers under him, and a conference was arranged by Mr. Lumsden at his office in Ottawa, at which the district engineers appeared, and Mr. Lumsden then further modified his interpretation and instructions regarding measurement of this massed material by adding to his letter the following:—

In short, actual measurement shall be made of all classified material returned, and not by percentages, except in cases where remeasurements are impracticable in the judgment of the engineer in charge. (Exhibit 32, page 192.)

The uncontradicted evidence and especially that of Mr. Lumsden himself, shows that no engineer was appointed by the Commissioners except upon the recommendation of Mr. Lumsden himself. There has not been, in the whole course of the inquiry, a suggestion that the appointment of any engineer was imposed on Mr. Lumsden, or that the Commissioners ever declined to give effect to any recommendation of Mr. Lumsden for the dismissal of any engineer. All the engineers in whom Mr.