DISTRICT INVESTIGATION

(Continued from First Page.)

sylvania avenue between Madison place and Fifteenth street: A. There was very little grading there—very little. I don't think the railroad track was altered. I think the taking up of the cobblestone, and probably taking away three or four inches, or something that way, was the amount of the grading.

Q. What grading was done on Madison place—about the same rate? A. I don't think—no, there was no pavement on Madison place; there probably might have been a foot.

Mr. Christy. The committee will observe that all contracts to lay carriageway included two feet of grading.

The Chairman. The committee observe that.

Mr. Christy. We are through with the witness.

By Senator Stewart: Q. Your bid was $2.20. A. My first bid was Four-and-a-half street from Pennsylvania avenue to the Arsenal; was $2.35 for six inch concrete pavement: I think I had bid for F street, from the War Department west, $2.85.

[Senator Stewart having made an observation to one of the members, which the witness heard, but the stenographer could not hear:]

That was laid with macadam. I understand they are going to lay concrete pavement on the top of it.

Q. You say you put in one bid of $2.25? A. Two dollars and twenty-five cents.

Q. And another bid for $2.85 for the same kind of pavement? A. Two dollars and eighty-five cents, and if I am not mistaken there was another bid, but I ain't positive; the bids will show; they are all matter of record.

Q. Without going into detail about what that part or this part would cost, how much would be the actual cost of pavement that you put in at $2.85? A. It would cost more in proportion to haul. In Four-and-a-half street I would land my material right from the vessels at the foot; there by the Arsenal, where it would have been on the street. In going to F street I would have had a good deal further hauling.

Q. That would have to be taken into consideration? A. Certainly.

Q. Take, for instance, F street; that you would put in at $2.85! A. two dollars and eighty-five cents.

Q. What would be the actual cost? A. The actual cost would not have cost me over about $1.35 a yard.

Q. Could you not afford, then, to make a lower bid than that? A. I didn't see any occasion. The only trouble was that my bids were too low to last. If they had been higher, I would have got a contract; there was no margin; or, at least, they thought there was not; I knew there was. The men who got the contracts bid $4, and they had never laid a foot of pavement in their lives. I was the pioneer of the pavements in this city; but they said I didn't know anything about it.

Q. You could put it down on F street at what figure? A. Two dollars and eighty-five cents, I think, was my bid.

Q. One dollar and twenty-five cents? A. That is about what it would cost there. Now, I am speaking about a pavement six inches thick; the pavements of this city, with the exception of one or two streets, are only two inches of concrete on four inches of broken stone, nearly all of it.

By Mr. Merrick. You say there are six inches—six inches of concrete? A. I mean concrete from bottom to top—every stone covered with the material.

By Representative Jewell: Q. To make one of that kind, I understand the course is to lay first stone, and then concrete, and mix to the top? A. It is stone and concrete.

Q. You mix it in that way? A. To make a proper pavement, you want to have material so that the stone will bind together, and, eventually, they will pack as a solid mass of stone six inches thick. Take from three to four inches deep of broken stone, and then sprinkle in your tar. Then the concrete is mixed and put on so as to bind with the other, and there is four inches at the bottom that is a solid band.

Q. If you could lay a concrete pavement of six inches in thickness in the manner you state for $1.35, what would it cost you to lay one with four inches of stone simply, and with two inches of concrete—what would be the difference in price? A. I should think there ought to be at least twenty-five cents a square yard; I think that is about what it would cost.

Q. The pavement laid in the city, with a few exceptions, I understand you, is four inches of stone, and two of concrete? A. Yes, sir.

Q. That pavement should have cost but $1 a yard? A. If they had handled their men and done it judiciously.

Q. I ask your opinion as an expert; properly managed, I say? A. When I was laying, it would not have cost me over that.

Q. Can you locate the pavement that was laid—the exceptional ones—that which was more than two inches of concrete? A. Yes, sir.

Q. Just locate it. A. G street was mixed before it was put down six inches from top to bottom; Thirteenth street from F street, running north, is laid that way; outside of that I don't know that I know any more.

Q. Then, so far as you know, the balance of this concrete pavement consists of four inches of stone and two of concrete? A. Yes, sir.

Q. That in your judgment could be laid, properly managed, at $1 a yard? A. When I was doing business there it could have been done. I have done it over and over again.

Q. Does that include grading? A. No, sir.

By Senator Stewart: Q. I mean the whole thing? A. The price I have given don't include the grading. If you go to work and take the generality of these streets the grading that is done don't amount to the amount that the contractor is bound to do at his own expense. In many instances there was not six inches, and in some, a great many, no grading.

By the Chairman. Do you include in this statement of $1 a yard the expense of preparing the ground? Suppose there is no excavation or filling in to be done, either? A. I mean the ground already, without any reference to the grading or preparing.

By Senator Stewart: Q. What would you allow for making the ground ready on that estimate? A. That would depend altogether on the condition the street was in, how much grading there had to be done, and the price given for grading and fixing that.

Q. I wanted to get at the whole thing. You bid on a contract which includes——. A. At my bid I include the two feet of grading.

Q. Take F street; there you bid $2.85. A. That includes two feet of grading.

Q. What could you have done the work for according to your bid? A. I, in the first place, would want to know if I had to grade but two feet.

Q. Take that particular work with the grading; you figure on it, and you put in a bid? A. If you just add the amount that they paid for grading.

Q. I could not tell anything about that, because I don't know anything about the street; but you figure on it, and make a bid. Now, how much could you make on that contract per yard if you had been given the contract at $2.85? A. The two feet of grading would cost about——

Q. That particular contract—no matter what the common cost was; you figure on it and bid; what profit could you have made on that if you had got that contract? A. The grading would not have increased my bid more than twenty-five cents a yard.

Q. Then you could have done F street, according to your bid, for one dollar a yard? A. Yes, sir; that would include two feet of grading.

Q. Then you could have made the difference between $2.85 and $1.50? A. That would have been a living profit for me. [Laughter.]

Q. You could have made $1.35 on that? A. Certainly, there is no doubt about that; that would have satisfied me.

By Mr. Merrick: Q. If the committee will allow me, I will ask what would be the average cost of two feet of grading, taking one street with another generally, through the city, with regard to which these concrete pavements were laid—the general average of grading—the cost? A. That is a thing that I could hardly answer without knowing the distance that dirt had to be hauled.

Q. That is, the distance to which the dirt had to be hauled from the street? A. Exactly; I could not answer that.

By Representative Wilson. I don't believe I understand your testimony, and I want to get a correct understanding of it, if I can. When did you commence putting down this pavement in this city? A. I am not certain whether it was 1867 or 1868.

Q. Where did you put down pavement? A. The first that I put down was a little piece corner of Pennsylvania avenue, and a corner there by St. Mark—right on the sidewalk—the first ever put down in this city.

Q. Has that ever been taken up? A. No; it is very perfect to-day.

Q. Has it ever been repaired? A. When they were paving the street there was a little strip coated probably half an inch.

Q. Where else have you put it down? A. There is a piece I notice now on New York avenue between Eleventh and Twelfth streets. It was put there in the winter time—in a very bad time—several years ago, when General Michler had the charge of the city. I was looking at it the other day. It has never been touched, and is solid and in good order to-day.

Q. You say it has never been repaired? A. Never.

Q. What else did you put down? A. I have done—the most of the work that I have done—were in cellar floors—damp cellars.

Q. I am speaking about street work. They don't run any wagons over cellar floors? A. I have done no street work at all, with the exception of the entrance; in fact, I never laid a street.

Q. Have you put down any footways anywhere? A. Yes; I put $4,800 worth of work for the Government at Annapolis.

Q. I am talking about this city? A. There are footways in different parts of this city that I have put down.

Q. Where did you put them down? A. I could hardly describe them now. It was when the thing was new, and they were getting it in patches and everybody saying it was a humbug.

Q. Did you put anything down about the Agricultural Department? A. I put it all down with the exception of extending the lower grade; but with the footway in Tenth street to the building, and all around the building, and the walks in front of the building—I did the whole of it.

Q. When did you lay this? A. I think it was in 1872.

Q. Are those footways or carriageways? A. It is a carriageway—the driveway from Twelfth street up to the building.

Q. That is what I am inquiring about. A. That is a carriageway.

Q. How has that stood? A. It is in good order, and looks as well to-day as any street you have got in the city.

Q. How long has it been there? A. From 1868 to the present day.

Q. What did you charge for putting down that street work that you have spoken of—that patch on Pennsylvania avenue, and at the other places? A. I think we got $1.35 for it.

Q. Who did the grading for it? A. There was no grading to do. It was put on the sidewalk; we took the bricks up.

Q. It is sidewalk, then? A. That was sidewalk, but over at the Agricultural Department we got $1.75 per yard for the 4-inch pavement thoroughly rolled, they doing the grading. On $6,000 worth of work there, at that rate, I cleared $4,000.

Q. You would not lose any money at that rate; you put that at $1.75? A. Yes sir.

By the Chairman: Q. That is, the total receipts were $6,000? A. That was it.

By Representative Wilson: Q. And the profits were $4,000? A. That was it. It was done in a very crude way; it was a commencement. I had but few men. They were very glad to have it, and it was the cheapest thing they ever got.

By the Chairman: Q. You were satisfied with that profit? A. I was, indeed, and would have been willing to go on at that price, and was very sorry the board came in and put me out.

Q. Is that the pavement for which you put in your bid for Four-and-a-half street? A. That is the pavement. I will give you an explanation——

Q. That is the pavement for which you put in your bid for Four-and-a-half street? A. Yes, sir.

Q. Did that include the two feet of grading? A. Every bid; there would have to be no grading on it.

Q. That bid included two feet of grading? A. Yes, sir.

Q. Are you familiar with Four-and-a-half street, from Maine avenue or Missouri avenue to the Arsenal gate? A. I ride up and down a good many times.

Q. What is the character of the ground; is it a street that requires much grading? A. No, sir; I don't think it would average a foot of grading. I question whether there is over half of it. I was very anxious to have that street.

Q. That street has since been improved with the McAdam pavement? A. Yes, sir; I don't know about its being an improvement. It is a McAdam; they do not think it is an improvement.

Representative Wilson. Will some of you gentlemen tell me what the board price for the McAdam was?

Governor Shepherd. One dollar and fifty cents.

Representative Wilson. Does that include the grading of the street?

Governor Shepherd. Yes, sir; it includes two feet of grading.

Representative Wilson. It just states at board rates.

By the Chairman. Q. You stated that you understood that concrete was to be put over this macadamized pavement? A. Yes, sir; I don't know that it is so; that was the general report. I saw it in the papers that such was the anticipation.

Q. Did you see any statement that there had been any contract of that kind let? A. No, sir.

Q. Do you know whether any contract has been let? A. I do not.

Q. That is a mere rumor? A. I give it as such; it is a mere rumor.

Representative Wilson. That is all I want to ask Mr. Smith.

Mr. Mattingly. I will ask a few questions.

The Chairman. Take the witness.

By Mr. Mattingly: Q. When did you first begin laying concrete pavements? A. I think in 1867 or 1868.

Q. You have had considerable experience in it, have you? A. I had; and the Board of Public Works came in.

Q. Until they came in power? A. Yes, sir.

Q. Did you stop work at that time? A. I closed out very soon after that.

Q. What have you been doing since? A. Looking at their work to, see if I could learn anything.

Q. You have paid pretty close attention to it, have you not? A. I have indeed, because I had nothing else to do.

Q. You ought to know something about it. A. I think I do.

Q. You are the man we want. A. You have got me now; you had me two years ago.

Q. I understood you to say, I think, that you had watched the Arlington pavement daily while it was being laid? A. I did.

Q. And also the pavement on Madison place and Pennsylvania avenue? A. Yes, sir.

Q. Who was that Arlington pavement laid by—under whose superintendence? A. I believe it was laid under the superintendence of this man, Parison; said to be the Scharf pavement.

Q. How thick was the Arlington pavement? A. Six inches; you can tell yourself by measuring it. You can go and tear up pieces now, and you will find it six inches.

Q. You are certain of that? A. Yes, sir. I was questioned very closely, two years ago, on that point, and I stay right there.

Q. You say now what you did then? A. I do, indeed.

Q. Then the pavement on Pennsylvania avenue and these other concrete pavements are of the same thickness? A. With the exception of where there was soft places, or mud-holes, where they have dumped in loads and filled them in. I am speaking of the general pavements.

Q. That is what I am talking about. How thick was your pavement at the Agricultural Department? A. Four inches.

Q. You are very positive that the Arlington pavement and the pavement on Pennsylvania avenue—you having watched it daily—is only six inches in thickness? A. It is six inches from where it leaves the curb. From the top of the curb you measure it down, until you strike the concrete, and from there down until you strike the dirt, it is only six inches.

Q. State what the composition of your patented pavement is? A. It was a gas tar with fine tar or rosin, whichever was the most convenient; that was the mixture.

Q. It had no broken stone in it at all? A. It had either broken stone or gravel.

Q. Did you have any broken stone in it? A. No, sir; gravel was cheaper already broken.

Q. Did you ever lay a broken stone concrete pavement anywhere? A. No, sir; I could get gravel cheaper already broken.

Q. You preferred gravel? A. I did; it is harder; the river will wash gravel as hard as flint. I got the gravel; it is cheaper than broken stone. I thought it was better.

By Mr. Merrick: Q. What size gravel? A. From the size of a walnut to sand, so that it would mix and fill up the interstices, and not, like big broken stone, leave cavities all through.

Q. So that if it was pure gravel the smaller the better? A. It wanted a certain size, and then the finer, to work into the interstices and make a solid mass, and all coated, so that when it was thoroughly rolled it was like one solid, homogeneous mass; there was no cavities in it.

Q. Was that sprinkled with the tar before it was laid down? A. Every bit that I ever laid.

Q. Mixed with the tar before it was put down? A. Yes, sir; as the Arlington pavement will show.

By Mr. Mattingly: Q. You think your patent is the proper mode of making a concrete pavement, do you? A. That is a question I don't know as it is worth while for me to answer.

Q. I want to know your opinion; you are here as an expert. A. I thought so when I was laying.

Q. What do you think now? A. I think this a better pavement than the generality of pavements we have got here; that is my experience now.

Q. You think it is better than that on Pennsylvania avenue? A. I do, for this reason, it has never had to be patched so much to keep it in repair.

Q. That is your test? A. That pavement was not laid in accordance with the bid and specifications in which it was to be laid.

Q. That is your opinion? A. The proof will show on the record.

Q. Have you ever laid your pavement on a roadway where there is any considerable travel? A. Nothing more than I have told you, over there to the Arlington, from the fact that I never have had any opportunity or I certainly should have done it when I put in my bids if I could have got the contract.

Q. You made a proposal to the Navy Department on one occasion to lay your pavement at the Naval Academy, at Annapolis, did you not? A. I did, and got the money.

Q. What did you get? A. I got $4,800 per month.

Q. What a yard? A. I got $1.50 for pavement an inch and a half thick, and the whole thing cost me $700, and I got $4,800.

Mr. Mattingly. This is a pretty profitable business.

Witness. They liked it at the Navy Department first-rate, and it is a very good pavement.

Q. Did you propose to the Naval Department to lay your pavement in the stoephouse in the Naval Academy? A. I did lay it; that is where I got my money—a part of it.

Q. Didn't you propose to lay your pavement there three inches thick for $2.25 per square yard? A. No; never any such proposition was my bid; did I propose. I put it down and got my pay.

Q. You have seen the letter of Secretary Robeson, addressed to Mr. Shepherd, dated April 8, 1872, have you not? A. Never saw it or heard of it.

Q. Didn't you hear of it at the last investigation? A. Never. I understood there had been some women sent down there to make some investigation by the board; I don't know what the result was.

Q. You understood that? A. I understood had been sent down there to make some investigation. The officers of the Naval Academy told me they had been down there and had written to the Board of Public Works.

The Chairman. That is entirely irrelevant.

Witness. I know it is not evidence, but I thought it would probably reply to his question:

Q. I understood you to say that in this Pennsylvania pavement four or five inches thickness of cobblestone was laid as a base; is that so? A. I believe so.

Q. You believe that? A. I do.

Q. You watched it daily? A. I did.

Q. Closely? A. Yes, sir.

Mr. Jewett. I understood Mr. Smith to say four or five; it might have been four!

Witness. Four or five; it might have been four. I didn't say exactly, but I should judge from the show that there was on the curb.

Q. Did I understand you correctly that there was no asphalt on this pavement? A. If there was, I don't know where they got it, for I never saw any around that they were using.

Q. What would you estimate the cost of that pavement to be? A. Of Pennsylvania avenue?

Q. Yes, sir? A. It ought to have been inside of $1, properly managed.

Q. On the last investigation what did you testify as to what would be the cost of that pavement? A. I don't know. I think it was 75 cents per yard.

Q. Give us an idea how you made that up? A. I think you have got it there in that book.

Q. This book is not in evidence before this committee. You can state briefly. A. It is a good while ago, and if you will just let me have that book to refresh my memory I will make you a statement of it.

Mr. Merrick. It is but right, I think, that the testimony should be submitted to him before he is catechised in reference to it.

Witness. I went into particular details two years ago, when the matter was more fresh in my mind than it is now.

Q. Can you give us some explanation as to how you figure out that result? A. I can give you some. I don't know as it would be very satisfactory. But in the first place——

Representative Jewett. Is it for the purpose of testing Mr. Smith's recollection by his previous testimony?

Mr. Mattingly. No; he says that pavement would cost seventy-five cents a yard. I want to know how he figures out that result.

Representative Jewett. How much does he swear on his previous testimony? This is for the purpose of testing his recollection as to his testimony here, is it not?

Mr. Mattingly. No, sir; it is for the purpose of testimony in court.

Witness. I was asked that question, and asked to go into——

Mr. Merrick. I submit to the committee that if his testimony, which is advertised, is to be used in this connection, it is but fair to the witness that the testimony should be submitted to him, and the question asked whether he adheres to that or departs from it.

The Chairman. Undoubtedly. But, as I understand it, at this particular moment Mr. Mattingly is asking him how he makes up the present estimate. He says the pavement would cost seventy-five cents per yard to-day. Mr. Mattingly asks him, at this juncture, how he makes that up.

Mr. Merrick. That is perfectly legitimate. But I was only objecting——

The Chairman. If the witness cannot make it up in detail from recollection——

Witness. I have not that.

The Chairman. I understood the witness to say that. What is your next question, Mr. Mattingly?

Mr. Christy. If it is deemed important, I think the witness should be given time to make a careful statement; it requires a calculation.

Representative Wilson. Give him an opportunity hereafter, without detaining us now.

Mr. Stanton. It didn't require any time for him to make that estimate.

Witness. The general remarks that I made two years ago and now are the same in my mind; but to go into details, and give figures to make out that thing, is another thing.

The Chairman. You are not able to do that at this moment?

Witness. Not without having time to go and make calculations. I don't want to appear foolish before the committee, and make a statement two years ago and make one now that don't correspond with it.

By Mr. Mattingly: Q. Isn't your recollection pretty fresh to-day from the daily examination you made of that work during its progress as to how the work was done? A. That could easily be fresh, because they have been doing it every day for two years, and I have been seeing it. I can't answer that question.

Q. Can't you answer what would be the cost of the broken stone per cubic yard, and the mixing it? A. Are you asking me what it cost these men, or what it cost me?

Representative Wilson. What is the reasonable worth, is the question.

Q. I am asking you your basis upon which you say it could be done for 75 cents per yard? A. Exactly. But I made that basis on what material, and what the men were to be had for when I was in business, and that was two years ago. Since then they have let out the whole city, nearly, to be paved. They have brought men and carts from a distance; great competition as regards labor; and in many instances I know that it has taken ten men to do the work that I used to do with one, because there was no election depending upon my men's votes.

Q. Now, to return to the subject-matter, what would the crushed stone cost per square yard? A. I never had any crushed.

Q. Then you don't know what it would cost? A. No, sir.

Q. How came you to form any estimate of the cost of crushed stone, then, in that pavement? A. I found an estimate of my way of laying that pavement. I didn't ever say that I could lay, as these men laid it, for that price, because I was going to get a deal more work out of my men. I would not have used broken stone, but I would have used gravel, which I said was better.

Q. Suppose you are laying a pavement—I am not asking you about your laying your pavement, but about the pavement that was actually laid there? A. That is a matter that you can very readily get at, I think. You can tell how many yards of cobblestone it would take to make a cubic yard, how many surface yards of Pennsylvania avenue it would take to make a cubic yard, and then take John O. Evans' charges for crushing, you can then tell.

Q. In your statement of seventy-five cents a yard for laying that pavement do you mean to say the pavement that was actually laid there, or that it would have cost you seventy-five cents a yard to lay your pavement there? A. What I said was it would have cost me seventy-five cents per yard to have laid my pavement there when I was in the business, and the way I was laying.

Q. Didn't you swear on the last investigation that the pavement as actually laid there could be laid at a net cost of 75 cents a yard? A. Provided I had done it. I didn't say that it didn't cost more than that.

Q. Do I understand you to say now that you could have laid that pavement as it is laid there at a net cost of 75 cents per yard? A. When I was in the business?

Q. Yes. A. I do, and have said that all the time, and stay right there.

Q. Did you authorize Messrs. Bartlett & Williams to put in a bid to the Board of Public Works for your pavement? A. Never.

Q. Do you know whether they did? A. I know if they did it was a fraud, because I don't know that I ever spoke to one of them. They might have put in some other "Smith," but not my "Smith."

Q. Yours is the only concrete pavement? A. Indeed it is not.

Q. What other Smith has a concrete pavement? A. I know of one, and I don't know how many more there are. I know of one that put down a sample here, about eight feet square, when I first put mine down, and I think he has never put down any since. It broke up in about two weeks.

Q. You said that in the bids that you did give to the board, or authorized to be given, of $2.25 for one street, and $2.85 for another, the reason you didn't get the contract was the bids were too low; that there was no margin. What did you mean by that? A. That was my impression.

Q. What did you mean by there being no margin? A. From the fact that the men who bid higher got the work.

Q. I don't understand yet what you meant by saying that there was no margin—no margin for what? A. Well, I suppose that there was not enough profit to divide.

Q. Divide between whom? A. That I don't know.

Q. What is your reason for making that statement here to this committee? A. My reason is, that I think if I had bid higher I would have got that contract; that is all.

Q. For the reason, as I now understand you to say, that there would have been a marginal profit which you could have divided with some one? A. With some one, yes, sir; I don't know who that one would have been.

Q. Who let the contracts? A. The Board of Public Works.

Q. Would there have been any division between anybody else than the Board of Public Works and you under those circumstances? A. I can't say.

Q. Have you any foundation whatever for making such a statement? A. Only my own surmise, from the fact that I was the lowest bidder, and that I was the pioneer in the work, and that bids that were put in by men who never laid a foot of that work, at a much higher figure, got the contracts.

Q. And that is your reason for giving your suspicions to this committee; that if you had put in higher bids at a larger rate, so that there would have been a marginal profit for division, you would have got the contract? A. That is exactly my suspicion. I have been told (I don't know how true it is) that in New York when they make a bid——

The Chairman. That is not to come in.

By Mr. Merrick: Q. Initial transaction. Would like to ask if there were any men there at a starving margin at $2.85, putting down the gravel in your bid, could there not have been as much margin there as in that way they did it down with Indianapolis? A. I cannot tell; everybody, outside of me, understands, would know that—what margin there was.

Q. Would of you have had as much money on your bid as the others had on theirs, on the kind of pavement they did put down? In other words, the bids at $2.85 and $2.25 were, as I understand, as much as the others? A. I think they had the most margin.

Q. Then was not much difference, was there? A. I don't know as there was a great deal, but I think they had more, with only two inches of concrete out of the six.

Q. Take the bids the way they were in; which had the most margin? If they had done it according to the contracts, which would have had the most margin? A. I think I would have had them.

The Chairman. You think that you had more margin to go on than they had if they had gone to work honestly? A. They didn't know that; they didn't know how much mine was going to cost; they hadn't laid any. It was an experiment when they started.

By Representative Hubbell: Q. You didn't tell the board how much you had to divide? A. No, sir.

By Mr Mattingly: Q. You pride yourself upon the specimen of your pavement at the Agricultural Department? A. It is a pretty good pavement; it is the first that was ever laid.

Q. Has it ever been repaired? A. Some of it has, and some of it has not. You must not make anything out of that, for I don't know a street here that has not been repaired in three to six months from the time it was laid, except the Arlington.

Q. Don't you know that your pavement was regarded by the Board of Public Works as utterly worthless for carriage walks? A. Why shouldn't they, when they were going to run out the honest bidder.

Q. Don't you know that anybody else, who knows anything about concrete or asphalt pavements, thinks that it is a worthless pavement? A. I didn't know that. It is the first intimation I ever heard of that.

By Mr. Christy: Q. One other question, and only one. Is there any deposit accompanying those bids made in your interest? A. One thousand dollars.

Q. Was there any arrangement to give bonds? A. I believe there was bonds to be given when the contract was awarded.

By Representative Wilson: Q. Did you see the walks put down through Rawlins' square?

Witness. Where is Rawlins' square.

Representative Wilson. I cannot locate it myself. Where is that square, gentlemen?

By Mr. Mattingly: Q. (To witness.) Don't you know where that square is? A. No, sir.

By Representative Wilson: Q. Do you know Farragut square by that name?

Witness. Is that the square near the Arlington—that lays in there?

Mr. Christy. That is Scott square.

Representative Wilson. Don't you know, gentlemen, where Rawlins' square is?

Mr. Mattingly. I do not know, really, which is Rawlins' square.

Governor Shepherd. It is between Eighteenth and Nineteenth streets, and New York avenue runs through it. It is just opposite the new State Department.

By Representative Wilson, (to witness.) Do you know where Farragut square is? A. No, sir.

Q. Do you know where P street circle is, between Nineteenth street and Massachusetts avenue? A. I do.

Q. Did you see the walks put down there at the P street circle? A. I did not see them put down, but I have since seen them.

Representative Wilson. If you did not see them put down, I have no questions to ask.

The Chairman. Gentlemen, have you any thing further with this witness?

Mr. Christy. No, sir.

The Chairman. You are discharged.

Mr. Merrick. I beg leave, at this point, if the committee please, in justice to ourselves as counsel for the memorialists, and in justice to Mr. Riggs, to read a letter to the committee touching his relations to this investigation.

Mr. Merrick then read as follows:

WASHINGTON, D. C., 24th March, 1874.

RIGGS & CO.,

Hon. W. M. Merrick:

DEAR SIR:—My attention has been called to the testimony given by Mr. Kilbourn in relation to me. I did not send any message to him through his book-keeper. In the petition which I signed, no charges are made. I have said in conversation as I said in the petition, that I made no charges, but I asked that the charges made by others, my fellow-citizens, should be examined. I do not regret having signed the memorial, and trust that a full examination will be made of the charges.

Yours truly, GEO. W. RIGGS.

I ask that that paper may be filed with the committee.

Mr. Harrington. Is the letter read for the purpose of contradicting what Mr. Kilbourn said yesterday.

Mr. Merrick. It is for the purpose of setting Mr. Riggs right before this committee, as to his attitude, and the counsel who have used Mr. Riggs' name in connection with other memorials.

The Chairman. It is introduced here for whatever it is worth, I presume.

Mr. Harrington. Well, that isn't much.

TESTIMONY OF LEWIS CLEPHANE.

Lewis Clephane, sworn and examined:

By Mr. Christy: Q. You are collector, I believe, of the District of Columbia? A. Yes, sir; I am at the present time.

Q. Your attention has been called to the matter of the assessment of your property in the fall of 1871? A. Yes, sir.

Q. You may state the amount of that assessment. A. I believe the amount, as appearing in my own name, is, as stated in the charges filed here, about the same.

The Chairman. Q. What is that? A. I have just stated that the amount in the charges is, I believe, what appears on the books in my name. That was all the property, I believe, assessed to me on the book in my own name.

By Representative Wilson. Q. Did you have other property? A. Yes, sir.

Q. What is it? A. Well, I have stocks and other real estate in conjunction with other parties, but it does not appear in my name.

Q. In conjunction with whom have you real estate? A. I have it with Mr. Acker and Mr. Vandenburg. I have an interest also in the Islerwood estate. I scarcely know really who compose the company holding that estate. It was a company made up some years ago for the purpose of establishing a zoological garden, which project, however, has never been carried out.

Q. Do you have any interest in what is known as the real estate pool?

The Witness. Of Kilbourn & Latta?

Representative Wilson. Yes, sir.

Witness. No, sir; none whatever.

Q. You are not one of the beneficiaries of that trust? A. No, sir; in no way whatever.

By Mr. Merrick: This other real estate that you have; were you in possession of it at that time, or have you purchased it since? A. The Islerwood property I was in possession of at that time. I do not know about the other, whether I held it at that time or not. I have really forgotten the time of purchase. It is a square of ground that we purchased for the purpose of securing gravel and sand from to use in our work.

Q. You own the whole of the Islerwood property. A. No, sir.

Q. What interest have you? A. That is an undivided interest in it yet. I really don't know how much I own in my own.

Q. What was the value of it worth at that time, I mean the market value? A. I do not speak of what it would sell it for now. A. I think it was worth about three hundred dollars.

Q. And what did you pay? A. I think it was divided into shares.

Q. You have one share? A. I think I have sixteen shares.

By Mr. Mattingly: Q. Did you consider that the bonds that you gave were sufficient security for the debts that you gave them? A. Yes, sir.

Q. Do you know of your own knowledge that the bonds that you gave were accepted by the Board of Public Works to keep the streets in repair for three years, in your opinion? A. I certainly did.

Mr. Christy. I object to this testimony. I do not see how it is competent to testimony which we are investigating.

Representative Wilson. We will take care of that.

Mr. Christy. I have no doubt that this was the opinion of the time.

By Representative Wilson: Q. What was your wealth, approximate, at that time? A. I really do not know that I can intelligently state.

Q. Can you give us an approximate value? A. I cannot.

Q. Can you give within fifty thousand dollars of it? A. Yes, sir, I can.

Q. Within fifty? A. Yes, sir.

Q. Within ten? A. I think, possibly, I was worth at that time fifty thousand dollars.

Q. What is the amount of the obligations into which you entered? A. I scarcely know that. But I do not suppose that we took the aggregate upon a bond. We took each bond separately by itself.

By Representative Wilson: Q. Have you any idea of the aggregate amount of the bonds which you entered into? A. I cannot tell just now.

Q. Can you give within $50,000 of it? A. I do not think I can.

Q. Can you give within $100,000 of it. A. Certainly I could.

Q. What is it? A. I should think perhaps $100,000, or perhaps about $150,000; that is, if you take the aggregate amount.

Representative Wilson. That is what I am getting at. And these bonds were conditioned for keeping these streets in repair. A. Yes, sir.

By Mr. Christy: Q. When you speak of the aggregate amount of bonds that you have executed as security, you refer to all the bonds you executed in reference to these improvements in all this time, do you; or do you limit the period say where? A. I should refer, possibly, to the earlier bonds.

Q. Now, I ask you what is the aggregate amount of your obligations of all bonds executed by you as principal and surety? A. That I could not tell just now. It is a matter of record.

Q. I understand you to say you could approximate within one hundred thousand dollars? A. I think I might within that.

Q. Within fifty thousand of it? A. I do not really know that I could do that.

The Chairman. That must be in the records here.

Mr. Christy. So I thought. That was not my inquiry, but I did not wish the committee to be misled by the response, or the witness himself to innocently led into a mistake.

Witness. I have not been led into a mistake. I simply say I have no recollection about it. And that it is a matter of record. I do not deny going on these bonds, of course; and I have always regarded myself as perfectly good for the amount of any obligations that I have assumed.

Mr. Christy. That is not the question I am now asking.

The witness. I was driven to answer a question which I said I really could not answer definitely. I am bound by the record, of course.

Q. You stated you could approximate within fifty thousand dollars? A. I said I thought I might. I do not know whether I could even do that.

TESTIMONY OF FRANKLIN MACE.

Franklin Mace sworn—examined by Mr. Christy.

Q. Where do you reside? A. Montgomery county, Maryland, near Rockville.

Q. Where did you reside in the fall of 1871? A. At that place.

Q. Do you know one John R. Kidwell? A. I do.

Q. Was he a resident of this city at that time? A. He was a resident of Georgetown.

Q. You may state if you had any interest in August, 1871, or at any time preceding that, in letters patent covering an improved patented pavement—concrete? A. I think it was in May, 1871, that I obtained an interest in the Scharf patent.

Q. Why do you say "original?" Was there more than one? A. It was the first patent.

Q. Was there one subsequently issued? A. Yes, sir. That one was issued in April, 1869.

Q. The one you refer to now was issued in April, 1869? A. Yes, sir.

Q. Were there any others issued? A. There was a Scharf & Farmston patent issued in January, 1872, I think.

Q. Was there any pavement known as the Scharf pavement—patents for any pavements known as the Scharf pavement—issued between 1869 and 1872? A. No, sir.

Q. What was the extent of your interest in that Scharf pavement—the original? A. I controlled two-thirds interest in this District. In fact, I had control of two-thirds of the whole patent.

Q. Now you may state any negotiations you had with John L. Kidwell in regard to this Scharf pavement when they began, and when they ended? A. Some time——

Mr. Mattingly. I would like to know what this has to do with this charge?

Mr. Christy. I am quite willing to explain that we make a charge against Jno. L. Kidwell, as one of the conspirators; and we propose to connect him directly with this matter of the purchase of the pavement from Mr. Mace. I say that with confidence, and we say likewise that we expect to connect Lewis Clephane and John O. Evans, at the time of this purchase, which we deem exceedingly material; and also the condition of the purchase at the time contracts were awarded, which was in August, 1871.

The Chairman. You can ask him if he sold to Mr. Kidwell.

Mr. Christy. The only question in my mind was whether I was permitted to ask the direct question, he being my witness.

Representative Hamilton. You had better ask him the direct question.

The Chairman. It will facilitate the examination.

Mr. Christy. I am very glad indeed to adopt the suggestion of the committee.

Q. When did you sell an interest in this to John L. Kidwell? A. I never sold him any.

Q. Did you sell any interest in that to John O. Evans? A. I made an arrangement with John O. Evans to lay the Scharf pavement here.

Q. When? A. I think it was on the 31st day of August, 1871.

Q. With whom did you have that negotiation—with John O. Evans directly, or through the intervention of some one else? A. By the intervention of Mr. Kidwell. I had been talking with Mr. Kidwell about it. Our first conversation took place probably about the early part of May, 1871.

Q. When was the arrangement perfected? A. On the 31st of August I went to Dr. Kidwell, as a friend—I had known him for years—and asked him whether anything could be done with the Scharf pavement here, and told him at that time I could control it for this District.

The Chairman. It is not necessary to go into all that detail.

Q. Subsequently, did you have any conversation with John O. Evans? A. I met John O. Evans some time before the latter part of August—probably about the 25th.

Q. Are you enabled to say it was in the month of August? A. Yes, sir.

Q. How? A. I knew it was but a few days prior to the arrangement, to the consumation of our agreement.

Q. You may state directly whether you did sell your interest or any portion of it to John O. Evans? A. I never sold any.

Q. He was to lay the Scharf pavement here on royalty? A. That was the nature of the arrangement then.

Q. What was the extent of the royalty he was to pay you? A. Fifteen cents per square yard.

Q. Did you know anybody else in that negotiation? A. I understood that Mr. Kilbourn and Mr. Clephane.

Q. From whom did you understand that? A. I think it was talked over. Mr. Kilbourn was with Mr. Evans at the time. We met first at Mr. Kilbourn's office. I think Mr. Clephane's name was probably mentioned at that time as one of the parties.

Q. Was that the pavement subsequently laid under your patent? A. They claimed to have laid under the second patent.

Q. When did they begin to lay the pavement, say on Pennsylvania avenue, between Madison place and Fifteenth street? A. I think it was in October, 1871, they began to lay that—latter part of September or the early part of October.

Q. At that time did the Scharf pavement No. 2 have any existence? A. Yes, sir.

The Chairman. Mr. Mace—

Senator Stewart. Let him go ahead.

Representative Hubbell. I do not see the materiality of it.

Mr. Christy. In the first place I will state that the very first issue presented to us in the answer of these gentlemen is that certain parties petitioned to John O. Evans & Co. to lay a pavement, and that it was to be the Scharf pavement, and which was to correspond in all respects with the pavement laid in front of the Arlington. I have called the other witnesses to show that they did not in fact lay such a pavement as that laid in front of the Arlington. Now I want to show that they did not even lay the Scharf pavement.

The Chairman. You can show that.

Q. What knowledge have you of their laying that pavement? A. When I called on Mr. Evans to pay me royalty, which I will state was to be paid quarterly, in December, I called upon him for the payment. He then, for the first time, told me that he was not laying my patent; that the Board of Public Works had decided he was laying the second patent.

The Chairman. When was that? A. That was in December, 1871.

By Mr. Mattingly: Q. Did I understand you to say, Mr. Mace, whether or not Mr. John L. Kidwell, was interested in this matter? A. That I do not know. He stated he was not.

Q. You do not know that he was? A. No, sir.

Q. He was no party to your contract? A. No, sir.

Q. Was your contract with Mr. Evans in writing? A. Yes, sir.

Q. Have you got it here? A. I think I have.

Q. You have mentioned it in conversation on the other side? A. I have a copy of it.

Mr. Christy. We are looking for it.

Mr. Mattingly: Q. There is litigation pending about this subject now, is there not? A. Yes, sir.

By Representative Wilson: Q. Did you ever examine to see whether they did lay your pavement or not? A. I examined they were laying it.

Q. Did you ever examine to see whether they did or not? A. I was working pretty closely.

Q. What did you see about it? A. They used all the material I used, except some very inferior quality.

Q. What was it they used that was of an inferior quality? A. The asphalt was of a very inferior quality.

Q. Where did it come from? A. I think they brought it from New York, from what I understood. I cannot say that positively.

Q. Do you wish us to understand that, with the exception of the quality of asphalt, they did lay a pavement corresponding with your patent? A. Yes, sir; I think so. Some of the sand they used was very inferior; there was a good deal of earth mixed with it.

Q. In other words, the committee is to understand from you that they did lay your patent, excepting that they did not use as good materials as they ought to use? A. That is what I think.

By Mr. Mattingly? Q. You have claimed a royalty, have you? A. Yes, sir.

Q. And you have filed a bill to ascertain the amount that is due you? A. Yes, sir.

Q. Now under the contract did Mr. Evans have an option about laying the pavement under different patents? A. No