

COUNCIL PROCEEDINGS.

(\$300.00) three hundred dollars.

And further be it resolved, That the Commissioners be given power to dispose of the roan team, now owned by the department, if they may deem it advisable to do so.

Referred to Fire Department Committee.

By Ald. Allmendinger:

Resolved, That the Board of Public Works be ordered to change the building of cross walks on Ashley and Liberty Sts. from cement to brick.

Referred to Sidewalk Committee.

By Ald. Brown:

Resolved, That a special committee of three be appointed to prepare specifications, for the city printing, ask for bids and report to the Council.

Adopted.

Pres. Hiscock appointed Ald. Brown, Prettyman, Taylor, as such committee.

By Ald. Prettyman:

Resolved, The committee on finance be requested to report to the Council the financial condition of the city funds, and an estimate of the necessary expenses during the ensuing year.

On motion the Council adjourned.

GLEN V. MILLS.

City Clerk.

COUNCIL CHAMBER,
ANN ARBOR, May 8, 1895. }

Special session.

Called to order by President Hiscock.

Roll called. Quorum present.

Absent, Ald. Moore, Koch.

Ald. Brown moved a call of the council.

Present — Ald. Maynard, Allmendinger, Snyder, Laubengayer, Brown, Ferguson, Taylor, Shadford, Prettyman, Coon, Butterfield, Cady, President Hiscock, also Albert M. Clark, the respondent.

Ald. Koch entered.

The President called the attention of the Alderman to the fact that he had detained the council and asked him what excuse he had to offer.

Ald. Koch stated that his business interests had detained him and asked

the pardon of the council for his action which resulted in the detention of the business of the council.

Ald. Maynard moved that the excuse of the Alderman be accepted and the council proceed to business.

Adopted.

The City Attorney presented the case of the City of Ann Arbor to the council.

The Clerk was directed to read the answer of Albert M. Clark to the charges.

The answer of Albert M. Clark, President of the Board of Public Works, of the City of Ann Arbor, to the charges exhibited against him by Charles H. Manly, an elector and then member of the Common Council of the City of Ann Arbor.

ANSWER TO CHARGE I.

Charge first is couched in the following language, "First. With official misconduct in the performance of the duties of his office."

The gravamen of the language under this charge is that, as President of the Board of Public Works, I voted to use in the construction of the lateral sewers what are known as Jackson tile and that I did, after a part of said tile had been laid and the contractors had more on hand to lay, cause said tile to be condemned and rejected by my vote and influence on said Board.

That immediately after this action, a representative of the Jackson Sewer Tile Company, one Smith, came to the City of Ann Arbor and visited me and promised me five per cent. of all the moneys to be paid by the City of Ann Arbor, for said tile, to said contractors, if said tile were used in the construction of said lateral sewers; and that thereafter and on the 20th day of October, 1894, by my vote and influence I caused a resolution to be passed by the Board of Public Works allowing the use of said Jackson sewer pipe or tile which had been condemned, and that thereby and through such corrupt influence I

29

MAY 8, 1895.

procured and permitted the use of such Jackson tile which I then and there knew to be inferior to other tile which it was then and there my duty to require to be used in the construction of said lateral sewers, the sewer tile manufactured by the Jackson Sewer Tile Company, which I well knew were greatly inferior to other sewer tile which it was my duty to require to be used in the construction of the lateral sewers.

In answer to this charge and specification I hereby solemnly aver that it is utterly and absolutely false in every particular, and I further aver that so far as I am personally concerned, and I believe so far as the Board of Public Works of the City of Ann Arbor is concerned, we nor either of us were ever consulted in any way by the contractors, by the citizens, by the Mayor or by the Common Council of the City of Ann Arbor in relation to the Jackson sewer tile until after the contractors had begun to lay said pipe.

According to my best recollection, Mr. E. W. Groves, one of the inspectors appointed by the Board of Public Works whose duty it was not only to supervise and inspect the laying of the tile but to reject any imperfect tile that was presented, called my attention to the breaking of one of the tile.

Thereupon arrangements were made by myself and the other members of the Board of Public Works to test said tile, and at our solicitation Prof. Greene made a test of the strength of the tile then being used and also tested certain other tile then presented to him for testing and it was found by this test, which was a concentrated load test, that the Jackson tile would not stand the amount of weight that certain other tile would stand. That is to say, it was found by this experiment that the Jackson tile would not stand the same concentrated test as certain other tile.

At that time I had no knowledge of what strength of tile would be required

or ought to be used in the construction of such a sewer. I had never had any experience in laying that sort of sewer or tile, and, upon this test being made, supposing it was a proper test, the Board of Public Works passed the following resolution:

“Resolved that the sewer contractors be informed by personal service of a certified copy of this resolution that the Board of Public Works are not satisfied with the Jackson tile now being used by the contractors, as they do not stand the crushing test that the Board think requisite. Also that the Board are satisfied with the tile manufactured by the Ohio Valley Fire Company and if the contractors wish to use any other brand the same may be presented to this Board for their consideration.”

At this meeting of the Board of Public Works one of its members, to wit, Mr. Schuh, was not present.

That after this meeting, both Mr. Smith and Mr. Crego, claiming to represent the Jackson Fire Clay, Sewer Pipe & Tile Co. applied to me as President of the Board of Public Works, for permission to be heard on the subject of the test applied, and in that application they called my attention to the fact that the test applied was the concentrated load test which was specially applied to a particular point upon the surface of the pipe. That while the tests was a proper test of its kind, it was not the test that the tile would be put to when put to use as contemplated in the sewers in the City of Ann Arbor. That the test to which the tile would be subjected when placed in the sewers, would be that of the distributed load test. That in applying the test of Prof. Greene, the tile was in no way supported and that, when placed in the sewer trench and properly bedded, the bedding would constitute a support to the tile or pipe, and that then the pressure would be that of the distributed load test, instead of the concentrated load test, as Prof. Greene had applied; and that, with such a test, their tile would

COUNCIL PROCEEDINGS.

be found abundantly sufficient.

They also called attention to the fact that they had been manufacturing this tile for a long period of years and that the tile had been used for the very purpose for which it was being used in the City of Ann Arbor and in various places throughout the State of Michigan, for a long period of years past, mentioning the City of Lansing, Kalamazoo, Jackson, Saginaw, Port Huron, Bay City, Grand Rapids and I think other places and calling attention to the fact that in some one or more of these cities, after having used their tile for a long period of years, they had now ordered a further supply of tile, showing that the use of the tile had proved its durability.

They also called attention to the fact that in some places this tile had been placed in sewers twenty-nine feet deep and had invariably stood the test and that in the last case the tile was bedded in clay soil, which it is understood has at least twenty-five per cent. greater pressure than any other soil.

From my investigation of this matter, I became satisfied that the representations in relation to the Jackson tile were true and that they were sufficient for the use to which they were put. Not only so, but it was then late in the season and it was desirable, if possible, that the sewers should be put in on or before the time mentioned in the contract, to wit, December 1st, and that the streets should be restored to their proper condition at as early a date as possible; and, if the contractors should be required to go elsewhere and purchase tile, the work would necessarily be delayed and the streets torn up and in a dangerous condition without any corresponding benefit to the city.

There was also another fact that had weight in my consideration and that was that the contractors had purchased a large quantity of the Jackson tile and had it then on hand and ready for use and, if they were required to discon-

tinue the use of this tile and purchase other tile, it would be a severe loss to them and so long as I was satisfied that the city would be abundantly cared for and protected by the use of the Jackson tile, I thought it my duty to consent to the use of the Jackson tile and, therefore, at the meeting of the Board called the 20th day of October, 1894, I offered the following resolution, which was carried:

“Resolved, that the sewer contractors be allowed to continue, until further notice, the use of the Jackson sewer tile, made by the Jackson Sewer Pipe Company that they now have on hand in this city.”

For this resolution every member of the Board voted.

I further aver that in all the interviews I ever had with either or both of the said representatives of said Jackson Fire Clay, Sewer Pipe & Tile Company, they never either of them, in any way, held out any inducement to me to accept the Jackson tile, they nor either of them, nor any other person for them, directly or indirectly, to give me five per cent., or any other per cent. of the cost of said tile, or any other consideration whatever for my vote or influence in the matter of accepting said tile; that I have never received anything directly or indirectly for my vote or influence in the matter of accepting said tile, otherwise than the consciousness of having done my duty thoroughly and honestly.

And I further answering say that for the purpose to which it was applied, the said tile or pipe was not inferior, in my judgment, to any other tile or pipe.

ANSWER TO CHARGE II.

The second charge is as follows: “Second. With being indirectly interested in the purchase of material to be used in public work.”

The specification under this charge is that I became and was interested in the use by the City of Ann Arbor, of certain sewer tile and that I was then and there to receive a certain commission for the

31

MAY 8, 1895.

Jackson sewer tile so used in the City of Ann Arbor in the construction of certain lateral sewers which were then being constructed in the city. That said tile was so used by and through the influence of said Clark, under the agreement aforesaid.

A full answer to this charge, and the specification under it, will be found in my answer to the first charge, and to that I refer for an answer to this, adding thereto the express denial that I was ever interested in any way, directly or indirectly, in the month of October, 1894, or in any other month in my lifetime, in the use by the City of Ann Arbor of certain sewer tile, in the construction of the lateral sewers in this city; and I further deny that I was to receive then and there, or at any other time, or that I ever did receive, or ever expected to receive, or was ever promised by anybody directly or indirectly a certain commission for the Jackson sewer tile, because the tile was made use of in the City of Ann Arbor in the construction of certain lateral sewers which were being constructed in that city.

ANSWER TO CHARGE III.

The third charge against me is as follows: "Third. With unfaithful performance of the duties of his office."

The specification under this charge is that, while a member of the Board of Public Works, I became and was a candidate for the office of street commissioner of the City of Ann Arbor, and that it was a part of the duty of the Board of Public Works to fill such vacancy and to appoint a street commissioner, and that I then and there importuned the other members of the said Board to appoint me to such vacancy, and by my unseemly conduct in my efforts to obtain such appointment delayed and obstructed the business of the city and hindered and delayed the business of the said city, to its great damage; and, finally, it being made to appear that I could not obtain such ap-

pointment to the office of street commissioner, I, by my vote and influence, procured the appointment to said office, of one Bassett, well knowing the said Bassett to be without experience or ability to properly perform the duties of said office, that said Bassett was then and there related to me in the marriage of my daughter to his son, to the great disgrace and scandal of the good people of the City of Ann Arbor.

To this charge and specification I desire to say, that being an American citizen, and, to the manner born, I have never been taught that it was a disgrace to be a candidate for a respectable and honorable position in any community; and I was a candidate for the office of street commissioner, made vacant by the death of Nelson Sutherland, but that I ever improperly or unseemly importuned the members of the Board to make that appointment is false.

My action in that respect is honorable and above board. That at the same time George Weeks was a candidate for the same position, and Jacob Schuh, one of the members of said Board, favored the appointment of said Weeks, while George W. Bullis, the other member of said Board was favorable to my appointment. I did not vote at all and finally withdrew my name.

That when my name was withdrawn, the name of Mr. Bassett, who is an honored and respected citizen of the City of Ann Arbor, was presented for the consideration of said Board, as will appear by the record of said ballot found on page 348 of the records of the action of said Board of Public Works of the City of Ann Arbor; and, on the first ballot, said Bassett having received a majority of all the votes was declared elected for that position.

And I point with pride to the conduct of the affairs of this city, as they have been administered by said Bassett in his official position as street commissioner of the City of Ann Arbor, and challenge

COMMON COUNCIL.

the closest scrutiny to the work he has performed, by the Common Council of the City of Ann Arbor and have no fears of the result of such investigation, and, before his term of office shall have expired, the citizens of Ann Arbor will find occasion to express their gratitude to the Board of Public Works for the election and appointment of Leonard Bassett to the position of street commissioner of the City of Ann Arbor.

It is also true that my daughter, Arda M. Clark, is married to Laverne Bassett, both of them graduates of the University of Michigan and whose reputations are public property of this city and will not suffer in comparison with the reputation of the distinguished gentleman who has urged these charges against me.

ANSWER TO CHARGE IV.

The fourth charge is as follows: "Fourth. With being inefficient and not qualified to perform the duties of his office."

The specification under this charge is as follows: That said Clark has not the necessary qualification for a member of the Board of Public Works, in this, that he is not possessed of the necessary knowledge and experience to properly judge of the kind, quality and character of the materials and labor required in conducting the public improvements of the City of Ann Arbor.

In answer to this personal attack made against me, I can only say that I was born in the Township of Saline, County of Washtenaw. Every day of my life my home has been among these people. I passed through the common school of the village of Saline, attended the Normal School of Ypsilanti for three years. I then returned and was Principal of the union school at Saline, where I was born and raised. I attended the University of Michigan about a year and a half, then, because of the condition of my father's health and my mother's health, I was compelled to re-

turn home to Saline, and from 1868 to 1885 I was engaged in the business of merchandising, principally, for the first few years, in drugs and groceries, then hardware and agricultural implements and selling grain, until I ceased to do business, and during a greater portion of that time I was also engaged in running a farm of two hundred and forty acres.

On the 24th day of August, 1887, like a great many other people, I came to the City of Ann Arbor principally for the purpose of educating my family and every member of my family, consisting of three children, are graduates of the University of Michigan. I have invested my money in this city and intend to make it my home for the balance of my life and, as far as I am able to judge of myself, I have been reasonably successful in all the branches of business I have ever engaged in.

I confess that I had no knowledge of the duties of the office of member of the Board of Public Works when appointed to that position by the Mayor of the City of Ann Arbor. I have given to it, since I have been in office, my most careful attention and have discharged my duties to the interest of the people of Ann Arbor to the best of my ability. I have endeavored at all times and under all circumstances to discharge my duties and the duties of that office to the best of my ability, and to the benefit, improvement and advancement of the City of Ann Arbor, and shall continue so to do so long as I retain the position.

That, while it was not my duty so to do, as member of the Board of Public Works, still I am responsible for the entire specifications which were adopted by the Common Council of the City of Ann Arbor for the building of the lateral sewers in this city. That, while the balance of the Board consulted in relation thereto and adopted them as they were formed, the labor of constructing them and the design was entirely my

MAY 8, 1895.

own.

That from the 12th day of September last until the third day of April inclusive, said Board of Public Works has held forty one meetings of record, and I believe as many more meetings that no record whatever was made of, besides almost daily consultations in relation to the affairs of the city, for all of which service I have never received, and never expect to receive any compensation whatever except the approval of my own conscience for duty well and faithfully done.

I do not speak of these things because I desire to, nor boastingly, but because of the unkind specifications and charges made against me, I am compelled to call attention to these matters.

All of which I most respectfully submit to the consideration of this Honorable Board as my answers to the charges and specifications presented against me, and hope my life and character will stand, at least, a fair comparison with the reputation and character of those who have so unkindly assailed me.

Respectfully yours,

ALBERT M. CLARK.

Attorney Thompson asked the privilege to present the case of the respondent at this juncture of the proceedings.

Ald. Brown moved that the rules be suspended and that Mr. Thompson be granted the privilege.

The motion prevailed as follows:

Yeas—Ald. Maynard, Snyder, Laubengayer, Brown, Ferguson, Taylor, Shadford, Prettyman, Coon, Butterfield, Cady, Pres. Hiscock—12.

Nays—Ald. Allmendinger, Koch—2.

Attorney Thompson presented the case of the respondent.

Glen V. Mills, clerk of the Board of Public Works, was called and sworn as a witness and examined.

Titus F. Hutzel was called and sworn as a witness and examined.

During the examination of the witness Attorney Thompson objected to the

introduction of certain testimony.

The objection failed as follows:

Yeas—Ald. Maynard, Allmendinger, Koch, Snyder, Laubengayer, Brown, Ferguson, Taylor, Shadford, Prettyman, Coon, Butterfield, Cady, Pres. Hiscock—14.

Nays—None.

Attorney Thompson further objected to the answer of certain questions relating to what Smith said to Hutzel about Clark.

The objection failed as follows:

Yeas—Ald. Maynard, Allmendinger, Koch, Snyder, Laubengayer, Brown, Ferguson, Taylor, Shadford, Coon, Butterfield, Cady, Pres. Hiscock—13.

Nays—Ald. Prettyman—1.

Ald. Maynard moved that the council adjourn until 1 o'clock P. M.

Lost.

Ald. Taylor moved that the council adjourn until 1:30 P. M.

Carried.

AFTERNOON SESSION.

Called to order by Pres. Hiscock.

Roll called.

Present—Ald. Maynard, Allmendinger, Koch, Snyder, Laubengayer, Brown, Ferguson, Taylor, Shadford, Prettyman, Coon, Butterfield, Cady, Pres. Hiscock, also Albert M. Clark, the respondent.

Charles H. Manly was called and sworn as a witness.

Titus Hutzel was recalled.

Herman Hutzel was called and sworn as a witness and examined.

The City Attorney offered the check and stub book of Herman Hutzel in evidence marked Exhibit A and B respectively.

Attorney Thompson offered an objection to the introduction of the stub book as evidence.

Ald. Koch moved that the council take a recess of 15 minutes.

After the expiration of the time specified the council reconvened.

Present—Ald. Maynard, Allmending-

COUNCIL PROCEEDINGS.

er, Koch, Snyder, Laubengayer, Brown, Ferguson, Taylor, Shadford, Prettyman, Coon, Butterfield, Cady, Pres. Hiscock, also Albert M. Clark, the respondent.

Herman Hutzel recalled.

George W. Bullis called and sworn as a witness and examined.

Watson R. Smith was called and sworn as a witness and examined.

Fred B. Crego was called and sworn as a witness and examined.

Ald. Brown moved that the council take a recess until 7:30 P. M.

EVENING SESSION.

Called to order by Pres. Hiscock.

Roll called.

Present—Ald. Maynard, Allmendinger, Koch, Snyder, Laubengayer, Brown, Ferguson, Taylor, Shadford, Prettyman, Coon, Butterfield, Cady, Pres. Hiscock, also Albert M. Clark, the respondent.

Fred B. Crego recalled.

Jacob F. Schuh was called and sworn as a witness and examined.

James A. Parkinson was called and sworn as a witness and examined.

William Stevenson was called and sworn as a witness and examined.

Samuel W. Beakes was called and sworn as a witness and examined.

Ald. Prettyman moved that the council adjourn to the court room.

Roll called.

Present—Ald. Maynard, Allmendinger, Koch, Snyder, Laubengayer, Brown, Ferguson, Taylor, Shadford, Prettyman, Coon, Butterfield, Cady, Pres. Hiscock, also Albert M. Clark, the respondent.

A. Kent Hale was called and sworn as a witness and examined.

Wm. J. Miller was called and sworn as a witness and examined.

Ald. Maynard moved that the council take a recess of ten minutes.

Adopted.

After the expiration of the time speci-

fied the council reconvened.

Roll called.

Present—Ald. Maynard, Allmendinger, Koch, Snyder, Laubengayer, Brown, Ferguson, Taylor, Shadford, Prettyman, Coon, Butterfield, Cady, Pres. Hiscock, also Albert M. Clark, the respondent.

The city attorney here stated that the case of the city rested.

Attorney Thompson moved that the council adjourn.

Ald. Prettyman moved that the council adjourn to 7:30 A. M. to-morrow.

Carried.

Council Chamber,
Ann Arbor, May 9, 1895.

Adjourned Session.

Called to order by Pres. Hiscock.

Roll called.

Present—Ald. Maynard, Allmendinger, Koch, Snyder, Laubengayer, Brown, Ferguson, Taylor, Shadford, Prettyman, Coon, Butterfield, Cady, Pres. Hiscock, also Albert M. Clark, the respondent.

Ald. Butterfield moved that the city attorney be not required to elect upon which charge he will argue the case, but that the respondent be allowed to offer testimony in response to all testimony which has been offered in support of the charges.

Ald. Prettyman moved as a substitute that charges 3 and 4 be dropped.

Lost as follows:

Yeas—Ald. Prettyman—1.

Nays—Ald. Maynard, Allmendinger, Koch, Snyder, Laubengayer, Brown, Ferguson, Taylor, Shadford, Coon, Butterfield, Cady, Pres. Hiscock—13.

Cyrenus G. Darling called and sworn as a witness and examined.

Albert M. Clark was sworn as a witness.

The sewer specification was offered in evidence as Exhibit C.

The stub book of Stevenson, Reed & Co. was offered in evidence as Exhibit

D.