

PROCEEDINGS
OF THE
COMMON COUNCIL.

ADJOURNED SESSION.

CHAMBER OF THE COMMON COUNCIL OF THE }
CITY OF INDIANAPOLIS, }
TUESDAY, OCTOBER 26, 1869, 7½ O'CLOCK, P. M. }

The Common Council met pursuant to adjournment.

Present—His Honor, the Mayor, Daniel Macauley, in the chair,
and the following members :

Councilmen Brown, Cottrell, Gimber, Harrison, Heckman, Kahn,
Kennington, Locke, Marsee, Newman, Pyle, Thalman, Thoms,
Weaver, Whitsit, Wiles and Woodburn—17.

Absent—Councilman Shepherd—1.

Mr. Wiles moved that the rules be suspended, for the purpose of
hearing reports from city officers and passing appropriation ordi-
nances.

Mr. Cottrell moved to amend, by also taking up the report of the
Committee on Sewarage.

The question being on the amendment, the ayes and noes were
called.

Those who voted in the affirmative were Councilmen Brown, Cottrell, Gimber, Heckman, Kennington, Marsee, Thalman, Thoms and Whitsit—9.

Those who voted in the negative were Councilmen Harrison, Kahn Locke, Newman, Pyle, Weaver, Wiles and Woodburn—8.

So the amendment was adopted.

The question then being on the motion as amended.

Those who voted in the affirmative were Councilmen Brown, Cottrell, Gimber, Heckman, Kennington, Marsee, Thalman, Thoms and Whitsit—9.

Those who voted in the negative were Councilmen Harrison, Kahn, Locke, Newman, Pyle, Weaver, Wiles and Woodburn—8.

So the rules were not suspended.

By unanimous consent, Mr. Kahn, from select committee, made the following report:

INDIANAPOLIS, Oct. 26, 1869.

To the Mayor and Common Council of the City of Indianapolis:

GENTLEMEN:—The special committee, charged with the investigation of the charge "that persons interested in the proposed South street sewer contract have declared that it was not intended to build any part of said sewer this year, but the object was to get said contract awarded now, and not do the work till next season, as it could then be done at twenty per cent. less than if constructed now," respectfully report that we have fully investigated the charge, by the examination of witnesses, and that we find the evidence so conflicting, that we cannot sustain the charge, and we submit herewith the written testimony taken in the case; and at the same time, the Committee are satisfied that Dr. Woodburn was perfectly warranted in bringing the charges upon the information he had received.

Signed by

LEON KAHN, Chairman,
And all the members of the Committee.

The following is the testimony:

Samuel Lefever, being sworn by the Mayor, said: The next day after the letting of the South street sewer, I met Mr. John Whitsit on Alabama street and Fort Wayne avenue. I was hauling dirt away from a cistern which he was having dug on the corner. I looked at him and said, in a joking manner, "you are the man who bid on the South street sewer." He replied that he was the man. After some further conversation on the subject of sewers, he said: "That sewer (referring to the South street sewer) could not be built this fall."

He then said the sewer could be built twenty per cent. cheaper next summer, and asked me if I did not think so? I replied that I thought it could. The whole conversation was carried on in a joking manner. I thought Mr. Whitsit was in earnest when he said the sewer could not be built this fall. My testimony in this case is unbiased by any prejudices whatever. Mr. Whitsit and I are, and have always been, on the best of terms. I did not know that the South street sewer was let; when I said the day after the sewer was let, I meant the day after the bids were opened. I thought that if the contract had been let at the time the conversation took place, a portion of it could have been built this fall—that part of it from East street to Pogue's run. Mr. Whitsit did not say that he would delay the work on the sewer until next spring, if he was awarded the contract. I believe that the work of constructing the sewer could be done 20 per cent. cheaper next spring than it can be done this fall. No man in the world can tell whether Mr. Whitsit could make \$10,000, or any profit at all, on the work, by delaying it until next spring, but I think he could make twenty per cent. by the delay. If he would build it this fall, at his contract price, I do not think he could make a dollar on the work. Brick are cheaper in the fall than in the spring; that is the general rule. On the morning of the conversation between Whitsit and myself, I asked him who his partner was, and he said he had none. I could not buy 600,000 hard brick easier in the fall than in the spring, but they would cost about the same price. I do not know who furnishes Mr. John Whitsit with brick. When the conversation occurred between us, no person was present besides ourselves. The liability to overflow from freshets would be greater in the spring than in the fall.

Cross-examined—I bid on the contract; Mr. Whitsit bid \$10 50 and I bid \$12 50 per foot on the work. I cannot tell what the difference was between my bid for the brick in the manholes and catch basins, and Mr. Whitsit's; my bid was \$28 per thousand for the brick. The difference between my bid and Mr. Whitsit's on the work was about \$4,600. I know what the bids were by hearing them read in the Council. I never told John Dillon or any other man that the work could be done 20 per cent. cheaper in the spring than in the fall. I told Dr. Woodburn, about two weeks ago, that it was not the intention of Whitsit to build the sewer this winter, and then told him that the work could not be done in 60 days. I think that if Mr. Whitsit builds the sewer at his contract price, he will lose money. I said the work could be done cheaper in the spring than in the fall, as labor is cheaper. I think that Mr. Whitsit's bid is too low for the work to be done this winter, and I think the bid would be no more than fair for next spring, but I do not think any certain calculations can be made now upon the cost of materials and work for next spring.

Captain W. D. Wiles—On last Saturday one week ago I met Mr. Court. Whitsit and another gentleman, on Bingham's corner, and was talking with them in regard to the South street sewer. During the conversation I remarked that this haste on the part of the friends of the sewer was unnecessary, as the sewer could not be built this fall, when Mr. Court. Whitsit said, (as I remember it): "That no person was green enough to suppose that any attempt would be made to build the sewer this fall."

C. E. Whitsit, sworn—I am not in any way, either directly or indirectly, interested with my brother in the contract for the South street sewer. I have been laying brick for fifteen or sixteen years, and in my experience I have learned that brick can be bought much cheaper in the fall than in the spring. The liability to overflows is much greater in the spring than in the fall. Brick work can be done in open wider weather. I have no brick to sell to any person, and cannot furnish them to my brother. I think the sewer would be as good if built this fall as if built next spring. So far as I

can see, my brother has intended, if he got the contract, to do the work this fall. Labor is cheaper in the latter part of the winter than it is in the fall.

Hiram Seibert, sworn—Am a street contractor, and have had five years of experience in working men; think I am competent to bid on work; am acquainted with the proposed location of the South street sewer; cannot tell whether the work could be done cheaper in the fall or in the spring, but I think the spring would be the worst season in which to do the digging. If I had the contract for this sewer, I would try to buy enough brick this fall to carry my work over until the kilns could be burnt in the spring, which would be about the 1st of June. Know Mr. Whitsit; had a conversation with him a few days after the bids on the sewer were read in Council. He then said that if the contract was awarded to him, he wished to furnish me the sand for the work of bouldering Maryland street, which I am at work on now. He said he was anxious to get his bond in at the next meeting of the Council, and that if the contract was awarded him, he would commence furnishing me the sand two or three days after the letting of the contract, as he desired to commence at once. My belief is that he contemplated finishing the section of the sewer between Pogue's run and East street this fall. I believe Mr. Whitsit would have made every effort in his power to complete the work, and I think he would have done as much as any man who bid.

Cross-examined—I do not think it probable that one of the bidders could have completed that section of the work contemplated this fall. I am satisfied that Mr. Whitsit contemplated commencing the work this fall, and that it was not his intention to wait until next spring before commencing it. I never heard any intimation of fraud in this matter until last night in the Council.

Mr. John A. Whitsitt, sworn—It was my intention, if the contract had been awarded to me, to commence the work immediately. I have made arrangements in anticipation of the awarding of the contract, to go on with the work. I have never agreed to give any man any portion of the profits which I might make out of the contract, but had intended to take my brother Jesse in as a partner.

John Marsee, sworn—I am not directly or indirectly interested in any way in the construction or letting of the contract for the South street sewer.

The Reporter of the *Indianapolis Journal*, was sworn, and testified that he was present during the conversation between Mr. Wiles and Mr. Whitsit, on last Saturday two weeks ago, and that he understood Mr. Whitsit to say that "he did not suppose anybody thought the friends of the sewer would try to have it all accomplished this fall; that they only hoped to get that portion between East street and Pogue's run completed this fall."

Which was concurred in, and the evidence ordered to be spread upon the minutes.

Mr. Brown offered the following resolution :

Resolved, That from the report of the evidence before the investigating committee, as read this evening, the Common Council believe that Councilman Courtland E. Whitsit is fully exonerated from any and all charges which may have been made of complicity with any supposed fraud in making a contract for the construction of the South street sewer.

The question being on the passage of the resolution.

Those who voted in the affirmative were Councilmen Brown, Cottrell, Gimber, Heckman, Harrison, Kennington, Kahn, Locke, Marsee, Newman, Pyle, Thalman, Thoms, Weaver, Wiles and Woodburn—16.

No Councilman voting in the negative.

So the resolution passed.

Mr. Wiles renewed his motion to suspend the rules, for the purpose of receiving officers' reports, and for passing the appropriation ordinance.

Those who voted in the affirmative were Councilmen Harrison, Kahn, Locke, Newman, Pyle, Thalman, ~~Thoms, Weaver, Wiles~~ and Woodburn—10.

Those who voted in the negative were Councilmen Brown, Cottrell, Gimber, Heckman, Kennington, Marsee and Whitsit—7.

So the rules were not suspended.

Mr. Marsee moved to suspended the rules, for the purpose of receiving reports from city officers and committees.

Mr. Brown moved to amend, by taking business in its regular order—beginning with the Board of Police.

Mr. Locke moved to adjourn.

Those who voted in the affirmative were Councilmen Harrison, Kahn, Locke, Newman, Pyle, Weaver and Wiles—7.

Those who voted in the negative were Councilmen Brown, Cottrell, Gimber, Heckman, Kennington, Marsee, Thalman, Thoms, Whitsit and Woodburn—10.

So the motion to adjourn was lost.

Mr. Whitsit moved that when the Council do adjourn, it adjourn to meet Wednesday, October 27, 1869, at 7½ o'clock p. m., and that the report of the Committee on Sewerage be made the special order.

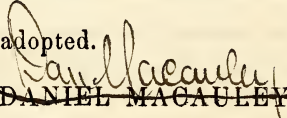
Pending the consideration of Mr. Whitsit's motion,

Mr. Thoms moved to adjourn.


Those who voted in the affirmative were Councilmen Harrison, Kahn, Locke, Newman, Pyle, Thoms, Weaver, Wiles and Woodburn—9.

Those who voted in the negative were Councilmen Brown, Cottrell, Gimber, Heckman, Kennington, Marsee, Thalman and Whitsit—8.

So the motion to adjourn was adopted.


~~DANIEL MACAULEY~~, Mayor.

ATTEST:


~~D. M. RANSELL~~, City Clerk.