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Frederic Graff Jr. Scrapbook, 1854-1857**

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Capt. Lyle said Mr. Ogden sent for them, and he knew him to be too much of a gentleman to tell a lie about it, and he left them go. They were, as appears from the testimony, dressed stone of considerable value. If these stones were given away by Mr. Ogden, he has committed a fraud upon the city, and if he sold them and has not accounted for the money it is a still greater fraud.

At the meeting on July 7th, Stephen R. O'Leary was called and sworn. From his testimony he appeared to be a sort of man of all work. He had been employed in the Water Department since about the time Mr. Ogden went into office—engaged in the machine shop—removing dead animals, &c. Remembers counting pipes—was engaged 35 or 36 days—presented a bill for \$43 50. Thinks there was nothing charged but days' work. Did nothing but work by the day, and yet the bill as presented, and it is supposed sworn to by him, is for

Eight days' counting pipes at Fairmount, at \$1 50 per day..... \$12 00
Fixtures and moving pipes..... 31 50

Total..... \$43 50

This witness also testified that he was employed by Lewis Smith, and worked for him during the whole time he was engaged in furnishing stone for the repairs of Fairmount dam—from the latter part of August to about the middle of November. According to his own testimony, he never did any thing but work by the day for the city, and hence the item of \$31 50 in his bill for fixtures and moving pipes is a fraud, and this leads naturally to the inference that the whole is a fraud, and in the absence of any testimony in explanation or contradiction in the fourth specification the charge therein contained may fairly be set down as proven.

Upon the fifth specification no testimony was taken. C. Henderson & Co. were set down on the list of witnesses for the second day, but as appeared from the paper returned were not subpoenaed. No member of the Committee appeared to know anything about Charles Henderson and James Ogden, brother of the Chief Engineer, who was the company of that firm, did not appear before the Committee.

Something was said about this firm being manufacturers of hollow ware, but there are numerous bills of theirs against the City, in the office of the Controller, approved by Samuel Ogden, for articles that are not hollow ware nor in any way connected with it, among which are the two mentioned in specifications 5 and 6, which are found in the office identically as there set down. If either of the members of this firm had been produced, there is scarce doubt but that some very important testimony would have been elicited from them concerning specification 6.

was examined except Mr. Ogden.

He testified that there was a hydraulic pump at the Schuylkill Works—that it is there yet and never had been away to his knowledge. But the bill of \$138 35 was paid by the City upon the certificate of correctness of Mr. Ogden, and it would have been much more to the point, if Henderson & Co. had never produced their books and showed that the work had been done and that the bill was just.

Upon the ninth specification Charles Fisher was examined at the meeting on July 7th. He testified that the firm of Bergdoll & Besotter, and himself had laid pipes on Landing Avenue and the Railroad—that they had purchased and furnished the pipe and materials and paid Geo. Esher, one of the Purveyors for the labor—that witnesses half of the bill for labor was over \$200.

George Esher was subpoenaed but did not answer when called, and therefore could not be examined.

In the examination of Charles Coulter, at the first meeting the undersigned endeavored to ascertain the names of some of the men who were at work at the laying of these pipes. The witness reported the water at the Spring Garden and Fairmount basins, and passed three or four times a day where these pipes were being laid. He said he might have seen Esher there, but could not be certain, and could only remember the names of two of the men at work, John Smith and Thomas Cody. Both of these names were in the subpoena for the second meeting, but it was stated that they could not be found.

The testimony of Charles Fisher proves beyond doubt that Esher was paid for his work, and it cannot be doubted that while he was engaged in doing it, he was receiving his salary as Purveyor of the Water Department. This is of itself a fraud, and in the total absence of evidence which he could so easily furnish, that he paid men with his own money, it may be fairly and justly inferred that the laboring men, as well as Mr. Esher were paid by the City, and the ninth specification may therefore be set down as conclusively proven.

Concerning the tenth specification, no testimony was taken. Esher was absent, and Nitsell was named in the subpoena for the second meeting, but it was stated he could not be found.

In the eleventh specification there is two mistakes. It was Lewis Smith, not John that it is alleged had the contract for furnishing the stone therein referred to, and it does not appear that they were charged at \$100 a scow load. But the testimony elicited by the Committee, and the natural inferences to be drawn therefrom, exhibits this stone furnishing transaction in the light of a most stupendous fraud.

In the first place, Lewis Smith, the contractor, appears to be a sort of general furnisher for the Water Department. It was accidentally drawn from him while under examination, that he had within the last two or three weeks furnished several thousand feet of oak timber, and this too while he is a farmer, residing in Montgomery county, and while Christopher Mason is in the receipt of ninety dollars a month, as Superintendent of Repairs, and the Chief Engineer is receiving his full salary, either of whom could have gone to the mill or the yard where it was sold, without employing any one as a go between.

From the testimony adduced, it appears that the stone in question were quarried on the Lemon Hill property, belonging to the City, close to the water—were removed by trucks into scows, and thence rowed or poled across a distance of about three hundred yards to the upper side of the dam, where after properly mooring the scows, they were thrown overboard into the water. And 1705 perch of stone—stone procured and furnished in this way, there was paid the enormous price of two dollars a perch.

It is a fact known to every building mechanic that good building stone can be purchased, to be delivered at the building, at from 90 cents to \$1 25 per perch, and for the latter price will be carted a distance of from two and a half to three miles. These stone, Mr. Mason stated under oath, were hardly good enough for building stone—they were rather too soft.

Of course the softer stone are the easier they are quarried. There was no quarry leave paid, for the quarry was owned by the city. There was no horses employed, and no hauling of any kind, except by the men with trucks, the distance of a few feet, into the scows, and there cannot be a doubt that a hundred contractors could have been found that would have furnished them at seventy-five cents a perch, and made a handsome profit by the operation. The Highway Department have contracted with Mr. George W. Cubber for the erection of the wing walls at the eastern end of Girard Avenue Bridge. By the terms of the contract the stone are to be of a very large size—are required to be dressed or smoothed on the outside, and to be well and substantially laid with good mortar. The stone are brought from the west side of the Schuylkill, and are furnished with all the materials necessary for laying them, and are well and substantially laid, and the whole cost for the work, finished and complete, is two dollars twenty-four and a half cents a perch.

other may supply coal. Thus every member of a committee on Water Works may have an immediate or direct pecuniary or personal interest in sustaining an officer that has so many sub-offices and so much patronage to dispense, no matter what may be his misdoings or mal-practices.

But the Committee, although they do not appear to have the sagacity to see it, have fully admitted the right to make, as well as the propriety of making anonymous charges against a public officer by their unanimous agreement to proceed with the examination as witnesses of the persons named in the anonymous paper.

And it is suggested that the promulgation of anonymous falsehoods can never do an honest public officer any harm. It is related of General Jackson that during his administration one of his appointees came to him with a complaint that some one had been circulating lies about him. "They have been telling lies on you have they?" says the old Hero, "well, never mind that—lies can't hurt you—only take care that they cannot tell any truths on you—lies never hurt anybody but the author or promulgator of them."

The undersigned was on the morning of June 30th, 1857, appointed a member of the Committee on Water Works, in the place of Samuel Pleasants, resigned, and attended the meeting of the Committee on the afternoon of that day, and presented a certificate of his appointment from the President of the Common Council. As many insinuations have been made about being smuggled on the Committee—improperly appointed, &c., it is proper here to state that not one word passed between the President of Common Council and the undersigned upon the subject of the appointment until Thursday, July 2d, two days after it was made. It may have been suggested—perhaps urged by others, but the undersigned had certainly nothing to do with procuring or soliciting it, as the President of the Common Council is no doubt willing to bear testimony.

The Committee on the day mentioned proceeded with the examination of the persons named in the anonymous paper, calling them in the order in which they are therein set forth.

The first called was Lewis Ourt who being sworn, testified that he was a blacksmith and machinist; had been in the employ of the Water Department for 40 years, and had worked at the shop in Cherry street, since the year 1819. Upon being questioned concerning the castings, log cylinders, copper float balls, wrought scrap iron and old brass named in the 1st, 2d, 3d, 7th and 8th specifications, he testified that all of those articles having been taken away from the shop in Cherry street—his testimony confirming those charges in regard to quality, the time they were taken and the fact that none of the materials had been weighed or any note or memorandum of them taken, before being taken away. Mr. Ourt testified further that both the Mr. Graff's had within his knowledge, at different times, sold old materials, but that always during their respective administrations, any thing sold was weighed previously to its being taken from the yard. Mr. Ourt did not know whose carts hauled the iron or other materials, or where they went to.

Samuel Miller and Thomas Connell, the next witnesses called, confirmed Mr. Ourt in every particular, so much so, that it was agreed that the sending away from the shop in Cherry street, the articles mentioned in the 1st, 2d, 3d, 7th and 8th specifications were fully proven, and that to save time the other witnesses need not be questioned concerning them.

Samuel Miller knew the man whose carts hauled away the cast iron; gave his name as McCrystal, Hugh McCrystal, had known him five or ten years, and that he lived in William street, near Spring Garden, at Fairmount.

In the interval that elapsed between the two meetings of the Committee, Hugh McCrystal was subpoenaed at the instance of the undersigned.

It will be observed that the charge is, that 24 loads amounting to nearly 20 tons of cast iron, the property of the City, was taken from the public yard in Cherry street, to the Foundry of Charles Henderson & Co. without having been weighed or its quantity in any way ascertained, and if it was not true, the carter that hauled it was a very person to disprove the charge. But neither Mr. Ogden who was sitting with the Committee during the whole of the first and nearly the whole of the second meeting, nor any of his friends suggested or even hinted at the calling of Mr. McCrystal to testify. Among the witnesses on Tuesday, July 7th, was Mr. Crystal, who upon being sworn testified that he had hauled some iron from the shop in Cherry street, about the year of August last; thought there was 24 loads hauled to Henderson & Co.'s foundry at Morris City; the Foundry Mr. Ogden used to own; it was not weighed at the yard; don't know that it was weighed at all; the orders were to take it to Henderson & Co.'s; had no orders to stop anywhere to get it weighed; to a question by Mr. Vasey, he said James Ogden of the firm of Henderson & Co., employed me to haul it and it was admitted that James Ogden is a brother of the Chief Engineer.

Now it is submitted that by this testimony the 1st, 2d, 3d, 7th and 8th of the charges made by this much censured anonymous paper, are clearly and substantially proven in every important particular, and members of Councils are thus enabled to calculate the value of that part of the majority report which says that "the charges against Mr. Ogden for malfeasance in office have not been sustained."

It is stated and repeated by Mr. Ogden's friends, that he received the money for these materials, and has since paid it to the City Treasurer.

But it is submitted that admitting the fact that monies paid to him in August, September and October last for articles sold belonging to the City, was paid by him into the Treasury on the 22d of June in this year, this does not in any way lessen or mitigate the wrong done.

Supposing for the sake of the argument that he did not really intend to give away the cast iron sent to Henderson & Co., but that it was a fair bona fide sale, ought not some one of the employees about the Cherry street shop to have made an entry of the quantity and price. And if any such entry was made, why, when the transaction is made the basis of a charge of malfeasance in office is not the book containing the entry produced, or why is there not some one thing done to show that the transaction was a legitimate and fair one.

But where it is asked, does the Chief Engineer derive the power or authority to sell any of the property of the City, no ordinance has been shown conferring it. If he can sell public property when and as he pleases, so can every Purveyor or Engineer tender appointed to office under him, and if he can at his will and pleasure sell the old iron belonging to the city, he can, upon the same principle, sell its coal, its iron pipes, its tools, and all its machinery. It will be said that both the Mr. Graff's were in the practice of selling old iron and other materials, but the answer to this is, that they held office under the old City, in which the laws and usages were different, and committees then could perform Executive duty, and might order things to be sold, besides it has been shown that when anything was sold by those gentlemen, the transaction was a fair and open one, and a proper entry was made of it upon the books of the office.

Among the witnesses examined on the first day, was Robert Sherred, who had been appointed by Mr. Ogden Engineer at the Kensington Works. By his testimony it appears that nine loads of dressed stone were taken from the yard or wharf of the Kensington works, in the Eighteenth Ward, some time between the 22d of July and the middle of October of last year, and taken to the Military Building in Race street, between Fifth and Sixth. That Captain Lyle and Mr. McFerran came for them, and requested him to procure a carter to haul them.

RICH DISCLOSURES

The Minority Report in the Ogden Pecuniary Case.

To the Select and Common Councils of the City of Philadelphia:—

The undersigned, a minority of the Committee on Water Works, in the matter of the investigation of the charges preferred against Samuel Ogden, Chief Engineer of the Water Works, submit the following

REPORT.

The charges that gave rise to this investigation are fully set forth in a paper, a copy of which is herewith annexed. They are, as will be seen, well written, bearing upon their face evidence of having been drawn up by a competent hand. They are numbered consecutively from one to twenty, and several of them refer to matters of record in the office of the City Controller.

It appears, from the testimony of Charles V. Hagner, Esq., member of Select Council from the Fifteenth Ward, that this paper was left some weeks ago at his residence, in his absence, by some one who did not leave his name. On looking at it hastily, seeing that there was no name appended, he was inclined at first to give it no attention, but on a closer examination, finding that several of the specifications referred to matters of record in the City Controller's office, he was induced to go to that office to examine into their accuracy, and, in making this examination, he was surprised to find them strikingly true.

Finding this state of things, he showed the paper to several members of Councils, and consulted with them as to the proper course to be pursued.

The sentiment of all to whom it was shown was that the charges should be examined into, and their truth tested, and under the advice and counsel of the members with whom he consulted, he gave the paper in charge of the Committee on Water Works.

Upon the paper being read before the Committee, it appears that Mr. Ogden and his friends strenuously objected to any investigation, for the reason that the paper preferring the charges was anonymous. The plain and common sense answer to this objection was, that those of them that referred to matters in the Controller's office had been ascertained to be true, and that nineteen men, all well-known to Mr. Ogden, were named in the paper as witnesses, who, if put upon oath, could sustain and prove the truth of the charges.

But this reasoning was in vain; a majority of the Committee, as appears by their proceedings, sustained the views of Mr. Ogden and his friends, and determined to make no investigation until they could find out the author or originator of the paper.

The next thing in the proceedings, and the first that met the public eye, is a communication from Samuel Ogden, Chief Engineer, to both branches of Councils, asking an investigation into his official conduct, and following close upon this there appeared in the newspapers a flashy advertisement, headed "Water Department of the City of Philadelphia," and signed "Joshua M. Raybold, Register," calling upon the person who had made the anonymous charges against the Chief Engineer, to appear before the Committee on Water Works, and sustain them.

The result of this advertising for witnesses was as might readily be anticipated—that nobody came to testify, and the Committee as appears by their proceedings, subsequently, at his own request, examined Mr. Hagner under oath, upon which occasion he stated what is herewith set forth concerning the manner in which the paper preferring the charges came into his hands, and the result of the examination made by him in the Controller's office, and after some unimportant proceedings, the Committee finally determined to subpoena the nineteen persons named in the anonymous paper, and to proceed with their examination on Tuesday, June 30, 1857, at 3 P. M.

Before proceeding to show what was proven by the witness examined, let us give a moment's attention to the objection so strongly urged and so much harped upon against the paper preferring the charges, viz: that it is anonymous.

An intelligent mind will readily perceive the great difficulty that exists in having charges of malfeasance in office made or preferred by any one, over his own proper signature. This difficulty of bringing to trial public officers for malfeasance or misdemeanor in office, has been known by those skilled in the affairs of government for ages.

Hence the provision in the Constitution of Pennsylvania, Article IX, Section 10, "that all public officers for oppression or misdemeanor in office, may be proceeded against criminally by information, without any preliminary examination; and without any finding or indictment by a Grand Jury. An information is a paper filed in the Criminal Court by the Attorney General in the nature of a narr in a civil suit or Bill in Equity, upon which the accused officer is placed upon his trial before a jury of his peers, and no oath is made nor is any witnesses required to testify until regularly subpoenaed by the public prosecuting officer."

Hence also, the origin of what is called the "Round robin" in the British navy, wherein the parties accusing an officer of oppression or misdemeanor, sign their names in a ring, so that it cannot be known who has been first to prefer the charges or append his name to the paper.

A glance at the charges made by the paper in question, will convince any intelligent mind that they could only be made, or rather the misdoings therein referred to could be developed only by some one in the employ of the Water Department. And suppose the author of the paper had made himself known. He would have been placed upon the witness stand, and been obliged under oath to tell from whom he obtained the information therein contained.

And the employee who furnished it, even if the charges were sustained, would be pointed at by the friends of the accused as an informer and a spy, and holding his place at the pleasure of the Engineer, would be immediately dismissed because of a lack of moral courage on the part of his co-employees arising from a fear of losing their places or any other of the numerous causes that operate upon the motives of men—he would stand in great danger of disgrace, and perhaps imprisonment for the crime of libel, when he had merely uttered and made known matters and facts that were strictly and literally true.

And where it is asked does there exist the least necessity for a responsible name to the charges preferred?

Those of them that refer to matters of record in the Controller's office can be examined by any member of Councils or any citizen, and it would have been a more appropriate and standing of one much more creditable to the character and standing of Mr. Ogden, if he and his friends had attempted a refutation, at least of those of the charges wasting their time in denouncing and applying foul and unmanly epithets to the party who made the charges and the Councilmen who asked an investigation.

It is not easy for a mind unskilled in the operations of a city government to conceive the difficulties that beset and surround those who would expose public abuses. The office of Chief Engineer of the Water Works is one of great power and patronage. That officer may appoint the son of a nobleman, or a nephew of another a Water Purveyor, the brother of a third to attend at engine, and the brother-in-law of a fourth to point one or two prominent and influential politicians to superintend repairs, or give them contracts to supply stone, or oak timber. So with the patronage and disbursements of the office. The brother of one member of Council may supply tallow in large quantities, and the employer of an-