

STENOGRAPHER'S MINUTES.

[In the Superior Court.]

Wm L. Garritee,

VS.

Mayor and City Council.

BEFORE

Hon. George W. Hobbs

and a jury.

Baltimore, March 13, 1879.

WITNESSES.

Direct. Cross. Re-Direct. Re-Cross.

Table with 4 columns: Name, Direct, Cross, Re-Direct, Re-Cross. Rows include William L. Garritee, James Legg, Charles A. Moran, and A. A. Dodge.

WILLIAM L. GARRITEE, SWORN.

BY MR. BONAPARTE:

Q. YOU ARE THE PLAINTIFF IN THIS CASE, ARE YOU ?

A. YES SIR.

Q. TELL THE JURY IF YOU ARE NOW IN POSSESSION OF ANY PROPERTY ON THE LINE OF THE PATAPSCO RIVER, OR THEREABOUTS, CLAIMING IT AS YOUR OWN, AND IF SO, HOW LONG YOU HAVE BEEN IN POSSESSION ?

A. I HAVE A CLAIM IN FEE SIMPLE OF SEVENTY-SIX ACRES ON THE PATAPSCO.

Q. IS THIS THE DEED, OR A COPY OF IT, UNDER WHICH YOU CLAIM  
: HANDING SAME TO WITNESS : ?

A. YES SIR.

Q. HAVE YOU BEEN IN POSSESSION OF THIS PROPERTY, CLAIMING IT AS YOUR OWN SINCE THE DATE OF THAT DEED : 2ND. OF AUGUST, 1869. : ?

A. YES SIR.

Q. : BY MR. HINKLEY : THE WITNESS HAS SAID SEVENTY-SIX ACRES:  
HERE YOU HAVE ONE HUNDRED AND FIFTY-ONE ACRES ?

A. ONE HUNDRED AND FIFTY-ONE ACRES ALTOGETHER IN THE WHOLE TRACT, BUT A PORTION OF THAT, SEVENTY-FIVE ACRES, ON THE UPPER PART OF THE CREEK, HAS BEEN SOLD OFF.

Q. EIGHT THOUSAND DOLLARS WAS THE PRICE FOR THE WHOLE ONE HUNDRED AND FIFTY-ONE ACRES ?

A. THAT IS THE ORIGINAL PURCHASE, I THINK.

: DEED INTRODUCED ABOVE, BETWEEN SOPHIA C. REED AND WILLIAM L. GARRITEE, DATED AUGUST 2ND. 1869, READ IN EVIDENCE. :

Q. : BY MR. BONAPARTE. : YOU HAVE BEEN IN POSSESSION OF THESE SEVENTY-SIX ACRES EVER SINCE YOU OBTAINED POSSESSION UNDER THAT DEED ?

A. YES SIR.

: PAGE ONE. :

Q. AT WHAT TIME DID YOU GIVE UP POSSESSION OF THE OTHER SEVENTY-FIVE ACRES ?

A. ABOUT A YEAR AGO, OR A LITTLE OVER.

Q. THEN YOU HAD BEEN IN POSSESSION OF THE ENTIRE ONE HUNDRED AND FIFTY-ONE ACRES UP TO THE TIME OF THE COMMENCEMENT OF THIS SUIT ?

A. YES SIR, UP TO THAT TIME.

Q. IS THERE ANY OTHER PIECE OF PROPERTY IN THE VICINITY OF THE PIECE YOU HAVE JUST SPOKEN OF IN WHICH YOU HAVE ANY INTEREST OR OWNERSHIP ?

A. THERE IS THE ADJOINING TRACT OF TWELVE HUNDRED YARDS---THE BRICK-YARD PROPERTY---RUNNING DOWN TOWARDS SOLLERS' POINT.

Q. EXPLAIN WHAT YOU MEAN BY TWELVE HUNDRED YARDS.

A. THE PROPERTY RUNNING FROM THE BRICK-YARD, FROM THE JOINING OF THE PROPERTY MENTIONED IN THIS PAPER, DOWN TO SOLLERS' POINT.

Q. TWELVE HUNDRED YARDS OF WATER FRONT ?

A. YES SIR.

Q. HOW LONG HAVE YOU BEEN IN POSSESSION OF THAT PROPERTY ?

A. SINCE THE DATE OF THE PAPER. I DON'T REMEMBER THE DATE EXACTLY.

Q. SEE IF THAT IS THE PAPER UNDER WHICH YOU CLAIM TITLE : HANDING WITNESS PAPER :?

A. THAT IS THE PAPER.

Q. : BY MR. HINKLEY : THIS PAPER IS DATED JULY, 1868. YOU GOT THIS BEFORE THE OTHER.

A. A LITTLE WHILE BEFORE THE OTHER.

Q. THIS IS THE LEASE OF THE PROPERTY UNDER WHICH YOU CLAIM ?

A. YES SIR; FROM THE CREERY BRICK MACHINE COMPANY.

LEASE INTRODUCED ABOVE, DATED 22ND. JULY, 1868, BETWEEN JOHN E. STANLEY, TRUSTEE, OF THE FIRST PART, THE CREERY BRICK MACHINE COMPANY OF THE SECOND PART, AND WILLIAM L. GARRITEE OF THE THIRD PART, READ IN EVIDENCE. :

Q. : BY MR. BONAPARTE : DESCRIBE <sup>what use you have made of</sup> THE HUNDRED AND FIFTY-ONE ACRES OF FEE SIMPLE PROPERTY THAT YOU WERE IN POSSESSION OF UNTIL ABOUT A YEAR AGO ?

A. AFTER I HAD PURCHASED THE BRICK YARD I FOUND THAT THE CLAY WAS GOOD, BETTER EVEN THAN ON THE YARD---A LITTLE BETTER---AND I PURCHASED IT FOR THE CLAY AND THE WATER RIGHTS MORE THAN ANYTHING ELSE.

Q. YOU ARE NOW REFERRING TO THE FEE SIMPLE PROPERTY ?

A. TO THE FEE SIMPLE PROPERTY. I HAD PURCHASED THE BRICK-YARD PROPERTY. AND I FOUND THAT THE CLAY WAS VERY GOOD ON THE OTHER PROPERTY, AND I THEN SOUGHT TO PURCHASE THAT FOR THE CLAY AND THE BENEFIT OF THE WATER. THE WATER WAS VERY DEEP ON THAT SIDE, AND THEN IT WAS A GREAT PLACE OF PUBLIC RESORT. I THINK WE HAVE LANDED TWELVE HUNDRED PERSONS THERE FROM THE STEAMBOAT "MARYLAND" AT ONE TIME.

Q. STATE, IF THERE ARE ON THAT PROPERTY ANY IMPROVEMENTS OR BUILDINGS ?

A. YES SIR; THERE WAS A LARGE FRAME HOUSE NEAR ABOUT THE CENTRE OF THE PLACE.

Q. FOR WHAT PURPOSE IS THAT USED ?

A. THAT USED TO BE USED FOR A HOTEL WHEN I GOT IT. WILLIAM GEORGE REED HAD RENTED IT FOR HIS MOTHER FOR A HOTEL, AND THEY WANTED ME TO RENEW. I NOTIFIED THEM TO QUIT; THAT I DID NOT INTEND TO RENT IT FOR HOTEL PURPOSES AT ALL; AND IT HAS NEVER BEEN RENTED BY ME FOR ANY SUCH PURPOSE AS THAT.

Q. WHAT USE HAVE YOU PUT THOSE PREMISES TO SINCE ?

A. DIFFERENT WORKMEN HAVE OCCUPIED IT FROM TIME TO TIME. I HAVE HAD A NUMBER OF APPLICANTS TO RENT IT FOR LAGER BEER PURPOSES AND FOR A HOTEL.

Q. HAVE YOU EVER USED THIS PROPERTY FOR ANY MEANS CONNECTED WITH EXCURSIONS THERE FROM THE CITY ?

A. I HAVE LET IT OUT AT SO MUCH PER DAY, OFTEN. I WOULD NEVER LET ROUGH PARTIES HAVE IT. SUCH AS SUNDAY-SCHOOLS, CHURCH SOCIETIES, AND DIFFERENT ONES, WE WOULD LET HAVE IT.

Q. HAVE YOU DERIVED ANY REVENUE FROM THE PROPERTY, DURING THE TIME YOU HELD IT, FROM LETTING IT OUT TO EXCURSION PARTIES; IF SO, TELL THE JURY ABOUT WHAT YOUR RATE HAS BEEN?

A. I NEVER LET IT OUT FOR LESS THAT \$20---I MAY ONCE OR TWICE HAVE LET IT OUT FOR \$15 PER DAY; BUT \$20 WAS THE USUAL RATE.

Q. FOR WHAT PURPOSES HAVE YOU USED THE PIECE OF LEASE-HOLD PROPERTY REFERRED TO HERE ?

A. FOR THE MANUFACTURE OF BRICKS.

Q. DO YOU MANUFACTURE THE BRICKS ON THE PREMISES ?

A. ON THE PREMISES.

Q. WHAT DO YOU DO WITH THE BRICKS AFTER THEY ARE MANUFACTURED, IN THE WAY OF TRANSPORTING THEM ?

A. WE SEND THEM TO BALTIMORE IN SCOWS, AND HAVE SHIPPED THEM FROM THE WHARF IN VESSELS TO ANNAPOLIS AND THE EASTERN SHORE---TO DIFFERENT PLACES THROUGH THE STATE.

Q. TELL THE JURY IF, SINCE YOU HAD POSSESSION OF THIS PROPERTY AND BETWEEN THAT TIME AND THE DATE OF THE COMMENCEMENT OF THIS SUIT, YOU HAVE HAD ANY DIFFICULTY IN REGARD TO THE DEPOSITING OF DIRT OF ANY DESCRIPTION ON YOUR PROPERTY OR IN FRONT OF IT. TELL THE JURY ALL

YOU KNOW ABOUT THAT.

A. I HAVE HAD A GREAT DEAL OF TROUBLE FROM ABOUT 1873 UP TO THE VERY PRESENT TIME---WITHIN TWO WEEKS---OF THIS SUIT COMING ON.

Q. PLEASE DESCRIBE WHAT HAS BEEN DONE THAT HAS GIVEN YOU TROUBLE ?

A. THE DUMPING COMMENCED BELOW AT SOLLERS' POINT, IN VERY LARGE QUANTITIES, AND THEN THEY CAME UP TO THE BRICK-YARD; THEN THEY CAME UP ON THE WILLOW SPRINGS.

Q. THAT IS THE FEE SIMPLE PROPERTY ?

A. THAT IS THE FEE, YES SIR. AND IN THE BOTTOM, WHERE THE WATER WAS VERY DEEP, ON THE BRICK-YARD PREMISES, THEY WERE DUMPING CONTINUALLY, DAY AFTER DAY, AND I HAD A GREAT DEAL OF TROUBLE. WE HAD NO BOATS, BUT SOMETIMES CRABBERS OR FISHERMEN WOULD BE THERE. THEY WOULD SEE ME ON THE SHORE AND THEY WOULD SHOOT IN AND THEN PUT OUT. I WOULD TRY TO CATCH THEM, AND WOULD GET A BOAT TO ROW AFTER THEM, AND THEY WOULD PUT UP STEAM AND ~~THE~~AWAY THEY WOULD GO.

Q. YOU SPEAK OF "THEY." JUST SAY WHAT KIND OF CRAFT OR VESSEL IT WAS THAT CAME THERE AND DUMPED IN THIS MANNER ?

A. THEY WERE TUG-BOATS. SOME WOULD BRING ONE SCOW, SOME WOULD BRING TWO, SOME THREE, SOME FOUR, UP TO SIX, I THINK, DUMPING SCOWS.

Q. WHEN DID YOU COMMENCE TO BE TROUBLED WITH THIS DUMPING ?

A. ABOUT 1873.

Q. ABOUT FOUR YEARS AFTER YOU HAD HAD THE FEE SIMPLE PROPERTY, AND ABOUT FIVE YEARS AFTER YOU HAD HAD THE LEASE-HOLD PROPERTY ?

A. YES SIR.

Q. STATE ABOUT HOW FREQUENTLY THIS DUMPING WOULD TAKE PLACE. IF YOU CANNOT RECOLLECT EXACTLY, GIVE A ROUGH ESTIMATE?

A. AFTER THE MONTH OF MARCH OR APRIL, WHEN THE CONTRACTS WOULD

BE GIVEN OUT, IT WAS CONSTANT ALL THE TIME. I USED TO GO DOWN, SOME DAYS, EVERY DAY. I HAVE COUNTED FROM NINE O'CLOCK TILL FIVE O'CLOCK FROM FIFTEEN TO TWENTY TUG-BOATS DUMPING---COMING AND GOING ALL THE TIME.

Q. WERE THESE TUG-BOATS DRAWING SCOWS AT THE TIME ?

A. YES SIR; DRAWING MUD SCOWS.

Q. STATE WHAT EFFECT UPON THE WATER, ALONG THE FRONT OF YOUR PREMISES, BOTH FREEHOLD AND LEASEHOLD, HAS BEEN PRODUCED BY THIS DUMPING ?

A. WELL, AS I HAVE STATED BEFORE, I FOUND---AT LEASE BELIEVE, THE CLAY TO BE VERY VALUABLE; AND ON THE LOWER PART OF THE BRICK-YARD LINE UP TO WITHIN A VERY SHORT DISTANCE OF THE WHARF THEY HAVE DEPRIVED ME ENTIRELY OF BUILDING WHARVES UNLESS AT A VERY HEAVY COST.

Q. EXPLAIN TO THE JURY EXACTLY HOW YOU MEAN THAT ?

A. OUR WHARF AT THE BRICK-YARD IS ABOUT 200 FEET LONG, I SUPPOSE. AT THE END OF THE WHARF THERE WAS EIGHT OR NINE FEET OF WATER WHEN I WENT THERE ORIGINALLY. IN THE HOLLOW, BELOW, AT THE LOWER END OF THE LINE, AND AT THE CENTRE, WHERE THERE IS GOOD POTTERS' CLAY, WHERE I HAVE BEEN OFFERED A DOLLAR A TON FOR IT, I CANNOT GET IT OUT AT THIS TIME, NOR AT ANY TIME DURING THE DUMPING THERE, UNLESS I WERE TO BUILD A WHARF A GREAT DISTANCE OUT. OF COURSE, WITHOUT BUILDING A COSTLY WHARF I WOULD NOT BE ABLE TO GET THE CLAY OUT.

Q. WHAT YOU MEAN TO SAY IS, THAT IT IS IMPOSSIBLE TO OBTAIN ACCESS WITH VESSELS TO YOUR WATER LINE IN ITS PRESENT CONDITION ?

A. YES SIR; BELOW THE WHARF.

Q. NOW, HOW WAS IT AS TO THAT BEFORE THIS DUMPING TOOK PLACE--- WHAT WAS THE CONDITION OF THE WATER THERE THEN ?

A. WE ALWAYS HAD GOOD, BOLD WATER IN THE BOTTOM BELOW, AND WE

COULD GET IN WITHIN FIFTY FEET OF THE SHORE . A WHARF THAT WOULD COST \$200 AT THAT TIME WOULD NOW COST THOUSANDS IN ORDER TO GET OUT TO SHIP. THE ADVANTAGE, I CLAIM, IS THE CLAY AND THE WATER. THE LAND BACK IS NOT WORTH MUCH.

Q. HOW HAS THIS DUMPING AFFECTED THE WATER FRONT OF YOUR FEE SIMPLE PROPERTY ?

A. THE FIRST TIME I MEASURED IT, WE HAD BETWEEN EIGHT AND NINE FEET OF WATER. THE LAST TIME I MEASURED WE HAD ABOUT FROM FIVE TO FIVE AND A HALF FEET AT THE WHARF, AT THE FRONT.

Q. : BY MR. M'LANE : WHICH IS THE WHARF ON: THE FEE SIMPLE PROPERTY ?

A. ON THE LEASEHOLD PROPERTY. WE USED IT FOR BOTH. WE HAD ANOTHER WHARF FOR THE PASSENGERS; IT WAS BETWEEN THE TWO; AND WE USED THAT WHARF FOR THE FEE AS WELL AS FOR THE LEASEHOLD.

Q. STATE HOW THIS WHARF THAT YOU SPEAK OF IS LOCATED ? I UNDERSTAND IT IS ON THE LEASEHOLD PROPERTY ? NOW HOW IS IT LOCATED WITH REFERENCE TO THE FREEHOLD PROPERTY ? IS IT NEAR IT OR IS IT AT THE OTHER END ?

A. IT IS ABOUT 200 YARDS FROM THE FREEHOLD.

Q. NOW HAS THE DUMPING HAD THE EFFECT OF DIMINISHING THE DEPTH OF WATER IN FRONT OF THE FREEHOLD PROPERTY, AS WELL AS IN THE FRONT OF THE LEASEHOLD ?

A. YES SIR.; ABOVE THE WHARF WHERE THEY WOULD RUN IN ON RAINY DAYS, THEY WOULD RUN IN AND DUMP OUT ON THE FREEHOLD.

MR. HINKLEY: THE WITNESS STATES THAT THE FREEHOLD LAND IS ABOUT 200 YARDS FROM THE LEASEHOLD.

MR. BONAPARTE: NO; FROM THE WHARF. THE FREEHOLD AND THE LEASEHOLD ADJOIN. THE WHARF IS ABOUT 200 YARDS DOWN



ON THE WATER LINE FROM THE POINT OF JUNCTION OF THE  
FREEHOLD AND THE LEASEHOLD; THE FREEHOLD BEING NEARER  
TO THE CITY, BEING THE UPPER PORTION, AND THE LEASEHOLD  
BEING THE LOWER PART.

Q. STATE NOW WHETHER YOU HAD ANY INTERVIEWS WITH ANY OF THE OF-  
FICIALS OF THE CITY OF BALTIMORE IN REFERENCE TO ~~ANY OF~~ THESE TRANS-  
ACTIONS; IF SO, STATE WHEN THEY OCCURRED, WHOM THEY WERE WITH, AND  
ALL ABOUT IT ?

A. FROM 1873 I HAD AN INTERVIEW EVERY YEAR UP TO 1878.

Q. WITH WHOM ?

A. MY FIRST INTERVIEW WAS WITH MR. CONSTANTINE. THAT WAS IN  
1873 AND 1874.

Q. STATE WHAT YOU SAID TO HIM AND WHAT HE SAID TO YOU ?

A. I MET HIM ON NORTH ST., ONCE. I MET HIM ON CALVERT ST.  
ONCE. I MET HIM RIGHT BY THE OLD MAYOR'S OFFICE ONCE--THREE TIMES;  
AND THEN I THINK THE FOURTH TIME WAS BY THE COURT HOUSE. I STATED  
TO HIM THAT HE WAS DUMPING ON ME, AND THAT I WANTED HIM TO STOP; THAT  
THEY HAD COME FROM SOLLER'S POINT UP, NOW, ON MY LINE; THAT MY CLAY  
WAS VALUABLE, AND I WAS HOLDING IT FOR A BETTER PRICE; THAT I DID  
NOW WANT HIM TO DUMP THERE; THAT I MAY WANT TO BUILD A WHARF AT THE  
LOWER END OF MY LINE. HE STATED TO ME THAT HE HAD NO CONTROL OVER  
IT; THAT IN HIS REPORT TO THE CITY GOVERNMENT HE HAD MADE A REPORT THAT  
THEY SHOULD BUY ON EACH SIDE OF THE HARBOR AND BUILD SEA WALLS, BUT  
THEY DID NOT ACCEPT HIS PROPOSITION, AND HE WAS GOING TO DUMP WHEREVER  
HE COULD FIND GROUND. I TOLD HIM I THOUGHT THAT WAS THE NEAREST POINT  
TO BALTIMORE EXCEPT THE CANTON COMPANY'S GROUND, AND THEY HAD STOPPED  
HIM THERE. MR. BAKER TOLD ME THAT HE HAD STOPPED HIM FROM DUMPING IN  
THE HOLLOW. SAYS I, ' ' YOU ARE GOING TO AVAIL YOUR-SELF BY TAKING THE

NEAREST GROUND, THEN.' HE SAID HE HAD NOTHING TO DO WITH IT AT ALL; HE WAS TO FIND A DUMPING GROUND WHEREVER HE COULD. I THINK HE REFERRED ME TO HIS REPORT; THAT HE HAD REPORTED TO THE CITY THAT THEY SHOULD BUY, AND THAT IT WOULD PAY THEM VERY HANDSOMELY TO BUILD SEAWALLS ON EACH SIDE TO SAVE THE SEDIMENT GOING INTO THE CHANNEL. I TOLD HIM THAT APPROPRIATIONS HAD BEEN MADE BY THE STATE AND THE GOVERNMENT, AND THAT THIS STUFF WAS ALL GOING OUT INTO THE CHANNEL.

Q. WAS THERE ANYTHING SUBSTANTIALLY DIFFERENT THAT HAPPENED IN YOUR SUBSEQUENT INTERVIEWS ?

A. AFTERWARDS I MET HIM AGAIN AND TOLD HIM HE WAS STILL DUMPING. WELL, HE DID NOT SEEM TO PAY ANY ATTENTION TO IT; HE COULDN'T HELP IT. HE NEVER DENIED IT. HE ALWAYS ADMITTED THAT HE WAS DUMPING. OR HIS MEN, RATHER.

Q. DID YOU EVER HAVE ANY INTERVIEW WITH ANY OTHER CITY OFFICIAL BESIDES MR. CONSTANTINE ?

A. AFTER THE CITY COUNCIL ABANDONED THE CITY YARD, I WAS INTERESTED OF COURSE, IN WATCHING THE PAPERS. WHEN I WOULD FIND, IN THE MORNING PAPERS, ANYTHING IN REGARD TO THE DUMPING OR THE CONTRACTS,--- I FOUND THAT MR. HUTTON WAS APPOINTED ON THE HARBOR BOARD, AND I MADE IT MY DUTY TO GO AND SEE HIM. JUST AFTER HE WAS APPOINTED THE DUMPING COMMENCED AGAIN.

Q. STATE ABOUT THE DATE OF THAT ?

A. I DO NOT EXACTLY REMEMBER THE DATE; BUT IT WAS DIRECTLY AFTER HE WAS APPOINTED. THERE WERE CONTRACTS GIVEN OUT TO MR. CONSTANTINE AND TO THE NEW YORK COMPANY.

Q. WAS IT IN THE YEAR 1876 ?

A. 1876, I THINK.

Q. PLEASE STATE YOUR INTERVIEW WITH MR. HUTTON.<sup>2</sup>

A. I HAD AN INTERVIEW WITH MR. HUTTON---THAT IS THE GENTLEMAN THERE, I BELIEVE---AND TOLD HIM THAT THEY WERE DUMPING ON ME. HE SAID HE DID NOT KNOW ANYTHING ABOUT THAT; BUT THAT HE KNEW HIS BUSINESS. WELL, I WENT BACK AND REPORTED TO MR. GEORGE H. WILLIAMS, MY COUNSEL, TO WHOM I HAD BEEN TALKING FOR SEVERAL YEARS ABOUT THIS VERY MATTER.

∴ DEFENDANT'S COUNSEL OBJECT TO LATTER PART OF LAST ANSWER. ∴

Q. WERE YOU PRESENT AT ANY INTERVIEW BETWEEN MR. WILLIAMS AND MR. HUTTON ?

A. NO SIR.

Q. THE SUBSTANCE OF YOUR INTERVIEW WITH MR. HUTTON WAS THAT HE KNEW HIS OWN BUSINESS ?

A. THAT HE KNEW HIS OWN BUSINESS AND WOULD ATTEND TO IT.

Q. DID YOU AT ANY TIME SEE THE MAYOR OF THE CITY IN CONNECTION WITH MR. WILLIAMS ?

*Mistake "the matter" perhaps*

A. I WENT TO THE MAYOR'S OFFICE SHORTLY AFTERWARDS, BUT I DID NOT SEE HIM. I MET MR. VANSANT NEAR FAYETTE ST., BY THE LITTLE MONUMENT THERE, AND I TOLD HIM I HAD BEEN TO HIS OFFICE. HE SAID,, "WELL, I DIDN'T SEE YOU; I WOULD RATHER SEE YOU IN THE OFFICE; IT DON'T MATTER IF YOU HAVEN'T MUCH TO SAY---I AM IN A HURRY." I TOLD HIM MY VISIT TO HIM; THAT THE CITY AGENT WAS DUMPING ON ME---WAS DUMPING VERY LARGELY, ---THIS SEDIMENT AND MUD AND FILTH. "WELL, ∴ HE SAYS ∴ MY DEAR SIR, I CANNOT DO ANYTHING FOR YOU." SAYS I, "YOU ARE THE MAYOR, AND I THINK YOU OUGHT NOT TO INJURE ME KNOWINGLY IF I COME TO YOU AND TELL YOU THAT YOU ARE INJURING THE PROPERTY." SAYS HE, "I HAVE NOTHING AT ALL IN THE WORLD TO DO WITH IT, AND I DO NOT INTEND TO BOTHER MY MIND: MR. CONSTANTINE IS THE MAN WHO ATTENDS TO THE DUMPING." THAT WAS ALL THE CONVERSATION BETWEEN US.

Q. ∴ BY MR. M'LANE ∴ DID YOU SAY THIS WAS AFTER YOUR HAVING

SEEN MR. HUTTON OR BEFORE ?

A. AFTER I HAD SEEN MR. HUTTON.

Q. : BY MR. BONAPARTE : DO YOU MEAN MR. HUTTON OR MR. CONSTANTINE ?

A. OH, THE INTERVIEW WAS AFTER I HAD SEEN MR. CONSTANTINE---  
THE FIRST INTERVIEW.---NO, I DIDN'T GO TO SEE THE MAYOR, ) I THINK  
(Commas) MR. LATROBE WAS IN, WHEN MR. HUTTON WAS THERE.

Q. THIS WAS IN THE ADMINISTRATION OF MAYOR VANSANT, AND AFTER YOUR INTERVIEW, THAT YOU HAVE DESCRIBED WITH MR. CONSTANTINE ?

A. YES SIR.

Q. DID YOU EVER REMONSTRATE WITH THE OFFICERS IN CHARGE OF THE TUG-BOATS OR SCOWS ?

A. WELL, WHENEVER I COULD GET A FISHING-BOAT---WE HAD NO BOATS---WHENEVER I WOULD SEE A BOAT COMING IN I WOULD START AFTER THEM; THEY WOULD DUMP, AND IF THEY SAW ME COMING DOWN THEY WOULD PUT UP STEAM AND COME TO TOWN. I HAD A COLORED MAN : ROBERT GREEN : TO ROW ME TO CANTON WHARF TO TRY AND CATCH ONE OF THEM---TO GET ABOARD.

Q. TELL THE JURY, IF YOU PLEASE, WHAT IS THE CHARACTER OF THE STUFF THAT HAS BEEN DUMPED THERE---ITS GENERAL COLOR AND APPEARANCE ?

A. OF COURSE, WHEN THEY WOULD DUMP, I COULD SEE THAT IT WAS DARK MUD. I COULD NOT SEE THE CHARACTER OF IT AT THAT DISTANCE; BUT WHEN THE WIND WOULD BLOW VERY HARD FROM THE NORTH-WEST, AND THE TIDE WAS VERY LOW, I COULD SEE THE BLACK MUD THAT WAS NEAREST THE SHORE, AND SOMETIMES GRAVEL AND SAND; BUT A GREAT DEAL OF BLACK MUD AND HOOPS AND PANS AND POTS, AND A GREAT DEAL OF DIFFERENT KINDS OF STUFF I COULDN'T ENUMERATE, THAT HAD DRIFTED UP ON THE SHORE---FILTH. WHEN THE TIDE WAS VERY LOW I COULD SEE KNOLLS 20 AND 30 FEET APART IN THE WATER---IN SOME PLACES 20 FEET APART, AND THERE WOULD BE ANOTHER ONE,

AND ANOTHER ONE, UP NEAR THE TOP OF THE WATER.

Q. YOU SAW, IN WHAT WAS ORDINARILY LOW WATER, KNOLLS OF SOME SUBSTANCE ?

A. YES SIR; OF SEDIMENT.

Q. AT A DISTANCE OF PERHAPS 20 FEET FROM EACH OTHER ?

A. YES SIR; SOMETIMES MORE THAN 20 FEET APART.

Q. ALONG THE FRONT LINE OF YOUR PROPERTY ?

A. ON THE FRONT LINE; SOMETIMES FIVE OR SIX HUNDRED YARDS OUT, AND FARTHER, AND THEN DOWN NEARER THE SHORE---AT DIFFERENT POINTS.

Q. STATE WHETHER YOUR PROPERTY HAS BEEN AS PROFITABLE SINCE THIS DUMPING, IN THE YEAR 1873, AS IT WAS PREVIOUSLY ?

A. I DON'T THINK IT HAS BEEN, IN THE LAST TWO OR THREE YEARS BACK. PARTIES WHO WERE HIRING THE GROUNDS FOR EXCURSIONS DIDN'T KNOW ANYTHING OF THE DUMPING, AND THEN WE HADN'T AS GOOD CONVENIENCES, MAYBE---DIDN'T MAKE IT A PUBLIC RESORT ALTOGETHER.

MR. M'LANE: ARE YOU EXAMINING THE WITNESS, NOW, AS TO THE DAMAGE TO HIS PROPERTY UP TO THE CHANGE OF ORDINANCE IN 1876 ? I SUGGEST THAT, MAY IT PLEASE THE COURT, BECAUSE I THINK THERE IS A GOOD DEAL OF CONFUSION IN THE TESTIMONY OF THE WITNESS ABOUT THE DUMPING. MY BROTHERS UPON THE OTHER SIDE WILL REMEMBER THAT THERE ARE TWO SUITS: THE FIRST ONE IS AGAINST THE CITY FOR THE DAMAGE WHICH HE CLAIMS WAS DONE PRIOR TO 1876, AND THEN THERE IS A SUIT AGAINST THE CONTRACTORS WHO DUMPED SUBSEQUENTLY. I AM QUITE SURE THAT A GREAT DEAL OF THE TESTIMONY OF THE WITNESS, AS TO THE EXTENT OF THE DUMPING RELATES ENTIRELY TO SINCE 1876.

: HELD, THAT THE TESTIMONY IS ADMISSIBLE, AS GOING TO THE

MEASURE OF DAMAGES, UP TO THE TIME OF THE BRINGING OF SUIT. :

Q. YOU HAVE STATED THE EFFECT UPON YOUR FREEHOLD PROPERTY AS AN EXCURSION RESORT. HAVE YOU ANY MEANS BY WHICH YOU COULD ESTIMATE THE LOSS OF PROFITS FROM THE DIMINISHED USE OF THIS GROUND SINCE THIS DUMPING HAS OCCURRED ?

A. I NEVER KEPT ANY REGULAR ACCOUNT---NEVER HAD ANY PUBLIC RESORT THERE; AND WHEN PARTIES WOULD COME TO ME TO RENT IT MY SON WOULD GET THE MONEY : \$20 : AND LET THEM GO.

Q. STATE ABOUT HOW OFTEN DURING THE SUMMER, YOU WOULD, AS A GENERAL THING, RENT THIS PROPERTY, AND FOR HOW MUCH, EACH TIME ?

WELL, I WOULD RENT SOMETIMES FIFTEEN OR TWENTY TIMES TO THE KIND OF SOCIETIES I SPOKE OF. I COULD HAVE RENTED THREE, FOUR OR FIVE TIMES A WEEK TO ALL KINDS OF SOCIETIES; I HAD APPLICATION AFTER APPLICATION. BUT I WOULDN'T ALLOW ANYTHING TO GO THERE BUT WHAT WE CALL GOOD SOCIETY.

Q. THE KIND OF SOCIETIES THAT YOU DID RENT TO, YOU WOULD RENT TO FROM FIFTEEN TO TWENTY TIMES IN THE COURSE OF THE SEASON ?

A. YES SIR.

Q. HAVE YOU RENTED THIS PROPERTY AT ALL WITHIN THE LAST THREE OR FOUR YEARS ?

A. THE LAST TWO OR THREE YEARS I HAVEN'T RENTED IT AT ALL.

Q. WHAT EFFECT HAS THIS DUMPING HAD UPON THE USE OF THIS PROPERTY AS A FISHING GROUND ?

A. WELL, THE SEINE HAULERS THAT USED TO COME IN ON THE SHORE--- I WOULD SEE DURING THE WEEK, SOMETIMES, THREE DIFFERENT SETS OF SEINE HAULERS; *within the last three years;* SOMETIMES THEY WOULD STOP AT THE SPRING AND GET WATER. I WOULD GO DOWN AND ASK THEM WHY THEY DIDN'T HAUL THE SEINE ANY MORE ON

THE SHORE.

: OBJECTED TO AS HEARSAY. :

: THE WITNESS, RESUMING. :

I WILL SPEAK OF MY OWN KNOWLEDGE. I SAW MR. FONTZ'S AND MR. MC.ALLISTER'S MEN PUT OUT THEIR SEINES, AND I SAW THAT THEY HAD TO TAKE THE SEINES UP. THEY WENT OUT AND RAISED IT UP, AND THEN PULLED IT AGAIN, AND THEY WOULD HAVE TO TAKE IT UP; THEY COULDN'T DRAW IT INTO THE SHORE FOR THE MUD. THAT WAS BELOW THE BRICK-YARD, AND THEN I SAW THEM ABOVE THE BRICK-YARD, AND THEY HAD TO TAKE THEIR SEINE UP.

Q. YOUR TESTIMONY IS THAT YOU SAW, YOURSELF, THE DIFFICULTY OR IMPOSSIBILITY OF DRAWING IN THE SEINE ON ACCOUNT OF THIS NEW MUD ?

A. THEY COULDN'T DRAW IT IN AT ALL; THEY HAD TO TAKE IT UP.

Q. TELL US WHETHER THE FISHING, OR THE STATE OF THE FISHING, WAS A MATTER OF ANY IMPORTANCE AS TO THE DESIRABILITY OF THIS PLACE FOR AN EXCURSION RESORT ?

A. IT ALWAYS <sup>was</sup> CONSIDERED SO, AND I GAVE NUMBERS OF GENTLEMEN PERMITS TO GO THERE AND CATCH WHITE PERCH OFF THE WHARF, AND TAYLORS. IT WAS CONSIDERED TO BE A DESIRABLE PLACE BY A GREAT MANY GENTLEMEN. THEY GOT ORDERS FROM ME TO GO THERE AND FISH. WITHIN THE LAST THREE YEARS THERE HAS BEEN NO WHITE FISH CAUGHT THERE---NOTHING BUT SUN-FISH, CAT-FISH AND EELS.

Q. IT SEEMS BY THAT LEASE, WHICH WAS READ IN EVIDENCE, THAT YOU LEASED THIS PROPERTY FOR A LONG TIME, PAYING FOR IT A RENTAL CALCULATED ON THE AMOUNT OF BRICK CLAY, OR BRICKS, THAT YOU SHIPPED FROM THE PREMISES. NOW, STATE WHAT AMOUNT OF BRICKS, ABOUT, YOU GENERALLY SHIPPED FROM THESE PREMISES BEFORE THIS DUMPING OCCURRED, AND WHAT AMOUNT, IF ANY, YOU HAVE SHIPPED SINCE ?

MR. HINKLEY: THE WORDS ARE, "EVERY THOUSAND BRICKS SHIP-

PED OR SENT OFF."

Q. I WILL MODIFY THE QUESTION, AND MAKE IT BRICKS THAT YOU HAVE EITHER SHIPPED OR SENT OFF OF THE PREMISES. STATE IN GENERAL TERMS, THE EFFECT OF THIS DUMPING UPON YOUR BUSINESS AT THE BRICK-YARD ?

A. MR. BONAPARTE, I HAVE NEVER CARRIED ON <sup>business</sup> TO A VERY LARGE EXTENT. I BOUGHT THE CREERY BRICK MACHINE COMPANY OUT AT AUCTION AT A VERY LOW FIGURE, AND I HAVE BEEN TRYING TO GET UP A COMPANY. I OWNED A YARD ON CARROLL'S FIELD AT THAT TIME, AND MY INTEREST WAS AT CARROLL'S FIELD PRINCIPALLY. I HAD TO MAKE UP BRICKS ENOUGH FOR A CERTAIN AMOUNT TO PAY OFF MY RENTS, AND ONE THING OR OTHER. WITHIN THE LAST TWO OR THREE YEARS THE BUSINESS HAS GONE DOWN A LITTLE.

Q. FOR THE TWO OR THREE YEARS LAST PAST YOU HAVE MANUFACTURED, I UNDERSTAND YOU TO SAY, NO BRICKS AT ALL THERE ?

A. NO BRICKS AT ALL THERE. WITHIN THE LAST TWO OR THREE YEARS I HAVE NOT MANUFACTURED ANY BRICKS AT ALL.

Q. WHAT IS THE MOST CONVENIENT WAY OF SENDING OFF OR TRANSPORTING BRICKS FROM THESE PREMISES ? IS IT BY LAND OR WATER ?

A. IT IS TOO FAR TO HAUL. IT IS CONSIDERED ABOUT FIVE MILES FROM THE CITY. YOU CANNOT HAUL BRICKS THAT FAR. YOU CAN SCOW THEM UP---PUT ABOUT FORTY TO SIXTY THOUSAND ON A SCOW, AND WE PAY THREE OR FOUR DOLLARS FOR A TOW UP TO THE CITY.

Q. WHAT IS THE MANNER OF LOADING THE BRICKS ON THE SCOW ?

A. WE TAKE THEM RIGHT OUT OF THE KILN AND PUT THEM RIGHT INTO THE SCOWS---WHEEL THEM OUT AND UNLOAD THEM.

Q. WHAT EFFECT HAS THIS DUMPING HAD UPON THE MEANS OF LOADING VESSELS ALONG THE FRONT OF THAT BRICK-YARD ?

A. WELL, SINCE THE DUMPING THERE THE TIDE HAS GOT HIGHER SOMEHOW OR OTHER---WASHED OVER THE WHARF. THE TIDE SEEMS TO COME OVER AND



WASH THE BANK DOWN, AND HAS WASHED THE PLANKS OVER OUR WHARF. SINCE THEY HAVE BEEN DUMPING BELOW THE TIDE COMES UP HIGHER---I DO NOT UNDERSTAND THE THEORY OF IT---AND HAS WASHED OUR BANKS DOWN.

Q. HOW HAS THIS DUMPING AFFECTED THE SHIPPING OF THE BRICKS FROM ANY OTHER PART EXCEPT THE WHARF ?

A. UNLESS I WERE TO BUILD A WHARF OUT ABOUT SIX OR EIGHT HUNDRED YARDS, I COULDN'T SHIP ANY BRICKS AT ALL FROM THE LOWER PART.

Q. : BY MR. HINKLEY : YOU HAVE NOT BUILT IT ?

A. BUT I WOULD HAVE TO BUILD IT.

Q. : BY MR. WILLIAMS : YOU HAVEN'T GOT THE MONEY ?

A. IT TAKES SOME MONEY TO BUILD A WHARF OUT THAT LENGTH.

Q. : BY MR. BONAPARTE : YOU SAID THAT YOU COULD NOT, IN THE PRESENT STATE OF THE WATER FRONT, SHIP FROM ANY POINT EXCEPT FROM THE WHARF ?

A. YES SIR. BEFORE, WE COULD BRING THE SCOWS UP ON THE SAND; BUT NOW WE CANNOT. WITHIN THE LAST THREE YEARS THERE HAVE BEEN TWO VESSELS WRECKED FIVE HUNDREDS YARDS FROM THE WHARF. THEY RAN INTO THE MUD AND WERE WRECKED---A PUBLIC HIGHWAY.

: LATTER PART OF LAST ANSWER RULED OUT. :

Q. : BY THE COURT. : HOW MUCH WATER DOES A SCOW DRAW WHEN LOADED ?

A. WE HAVE PUT THEM UP TO THE WHARF IN TWO FEET OF WATER AND TWO AND A HALF FEET, UP TOWARDS THE SHORE, AND THEN AS SHE LOADS DOWN WE PUSH HER OUT. WE PUT HER UP ON THE SAND.

Q. HOW MUCH WATER DOES A LOADED SCOW DRAW ?

A. SOME SCOWS LOAD DOWN FOUR AND A HALF TO FIVE FEET.

Q. WHAT IS THE DEPTH OF A SCOW ?

A. THEY ARE NOT SO VERY DEEP---SOME FOUR OR FIVE FEET; BUT WE

PILE THEM UP HIGH.

Q. HOW DEEP DOES THE PILING UP SUBMERGE THE SCOW ?

A. I AM NOT MUCH OF A BOATSMAN; BUT WHEN SHE COMES IN LIGHT, SHE DRAWS TWO AND A HALF FEET OF WATER, AND AS WE LOAD HER DOWN WE PUSH HER OUT. WHEN SHE GETS LOADED TO HER REGULAR DEPTH, OF FOUR AND A HALF TO FIVE FEET OF WATER, WE SEND HER OFF. SHE DRAWS FIVE FEET OF WATER LOADED, AND WE JUST PUSH HER OUT AS WE LOAD HER, TO THREE FEET OF WATER, FOUR FEET OF WATER, AND FIVE FEET OF WATER. BUT THERE ARE SOME SCOWS THAT TAKE ONE HUNDRED AND TWENTY TONS, OR ONE HUNDRED AND TWENTY CUBIC YARDS, AND THEY DRAW MORE.

Q. : BY MR. BONAPARTE. : YOU HAVE OWNED THIS PROPERTY ABOUT THERE FOR SOME TIME. ARE YOU SUFFICIENTLY WELL ACQUAINTED WITH THE VALUE OF PROPERTY GENERALLY ABOUT THERE TO BE ABLE TO MAKE AN ESTIMATE AS TO WHAT YOUR PROPERTY IS WORTH ?

A. I DO NOT ESTIMATE BRICK-YARD PROPERTY ON THE ESTIMATE OF FARMS, AT ALL.

Q. I AM SPEAKING OF YOUR FEE SIMPLE PROPERTY ?

A. I ESTIMATE THAT FOR THE WATER AND THE CLAY. I HAVE LEASED, OFF AND ON, FOR THE LAST THIRTY-FIVE YEARS, BRICK CLAY FROM CHARLES CARROLL AND JAMES CARROLL, AND MOST ALL THE BRICK MEN ABOUT BALTIMORE, AND I HAVE ALWAYS PAID A DOLLAR ROYALTY, UNTIL I GOT THIS LEASE, TO CHARLES CARROLL AND JAMES CARROLL FOR THE LAST THIRTY-FIVE YEARS, OFF AND ON.

Q. WHAT IS THE MEANING OF A DOLLAR ROYALTY ?

A. A DOLLAR ROYALTY FOR EVERY THOUSAND; THAT IS, SIX THOUSAND FOUR HUNDRED DOLLARS AN ACRE FOR CLAY. I THINK, AS EVERY MAN THINKS, : AND WHAT WE WILL TRY TO PROVE :, THAT THIS IS THE BEST BRICK CLAY IN MARYLAND.

Q. BY THIS LEASE YOU WERE TO PAY A ROYALTY OF TWENTY-FIVE CENTS ?  
A. ON THE LEASE; THAT IS, SEVENTEEN HUNDRED AND SOME ODD DOLLARS PER ACRE.

Q. THEREFORE THE DIFFERENCE BETWEEN THE PROFIT, IN OTHER WORDS, IS AT THE RATE OF SEVENTY-FIVE CENTS ON THE THOUSAND BRICKS ?

A. ON THE THOUSAND BRICKS. THE CLAY IS WORTH A DOLLAR A THOUSAND. I WAS OFFERED A DOLLAR A TON FOR A HUNDRED TONS BY MR. PARR LAST YEAR; BUT I WAS SICK AND WASN'T ABLE TO GET IT OUT.

Q. HAD THIS DUMPING ANY EFFECT ON YOUR ABILITY TO GET IT OUT ?

A. WELL, I COULD HAVE GOTTEN SOME FROM THE UPPER PART OF THE WILLOW SPRINGS PLACE---COULD HAVE WHEELED IT DOWN TO THE SHORE. BUT AS TO GETTING OUT THE POTTERS' CLAY BELOW, I COULDN'T GET IT OUT AT ALL UNLESS I BUILT A WHARF, AND THAT WHARF WOULD COST ME FROM SIX TO EIGHT THOUSAND DOLLARS.

Q. PREVIOUS TO THE DUMPING, I UNDERSTAND YOU TO SAY, YOU COULD HAVE BROUGHT SCOWS IN TO THAT POINT ?

A. YES, SIR. IT IS A GOOD, HARD BOTTOM---A SAND AND GRAVEL BOTTOM ALL ALONG THAT SHORE, CLEAR TO THE END OF THE LINE.

Q. IT SEEMS FROM YOUR TESTIMONY THAT YOU SOLD ABOUT HALF OF THIS TRACT OF LAND ABOUT A YEAR AGO ?

A. YES, SIR; A LITTLE OVER A YEAR AGO.

Q. AT WHAT RATE DID YOU SELL THAT ?

A. WELL, SIR, I WAS OFFERED FOUR HUNDRED DOLLARS AN ACRE; AND THEN AGAIN I HAD SOLD THE LAND FOR FIVE HUNDRED DOLLARS AN ACRE---A PORTION OF IT. BUT TIMES GOT SO STRINGENT, AND I OWED SOME MONEY, THAT I HAD TO SELL THIS AMOUNT FOR \$250 AN ACRE---THIS PART.

Q. WHAT WAS ABOUT THE TIME OF THESE OFFERS---WERE THEY BEFORE OR AFTER 1873, WHEN YOU SAY THIS DUMPING COMMENCED ?

A. AFTER 1873.

Q. ABOUT WHAT TIME ?

A. I THINK IT WAS ABOUT 1874 OR 1875.

Q. WHAT WAS THE DATE OF THE SALE TO MR. PARR ?

A. I THINK IT WAS IN FEBRUARY OF LAST YEAR, 1878.

Q. THESE OFFERS OF LARGER PRICES, AND THE PARTIAL SALE YOU SPEAK OF, I UNDERSTAND YOU, WERE IN THE YEAR 1874 ?

A. YES, SIR; 1874 OR 1875. THE DEPRECIATION OF REAL ESTATE HAS GONE DOWN. PROPERTY WAS WORTH THEN \$500. BUT I ALWAYS CONSIDERED THAT THAT CLAY PROPERTY WAS WORTH A DOLLAR ROYALTY; THAT WAS BETWEEN SIX AND SEVEN THOUSAND DOLLARS PER ACRE.

Q. : BY MR. HINKLEY. : DID YOU SAY YOU MADE SALES AT \$400 PER ACRE ?

A. NO, SIR; I WAS OFFERED \$400; \$250, OR A LITTLE MORE, IS WHAT I MADE SALES FOR---THE ONLY SALE.

Q. : BY MR. BONAPARTE. : AT THE TIME OF THESE LARGER OFFERS I UNDERSTAND THAT YOU DECLINED TO SELL ?

A. I DECLINED ALL BUT ONE, ON A CERTAIN AGREEMENT TO GIVE ME A GROUND RENT OF SOME THIRTY THOUSAND DOLLARS, I THINK, AND SO MUCH MONEY, I SIGNED THE CONTRACT. BUT THEY DIDN'T COME UP EXACTLY AND THE THING WAS THROWN UP. MR. DODSON WAS THE AGENT.

Q. WHAT WAS THE RATE OF THAT TRANSACTION ?

A. ABOUT \$500 AN ACRE.

Q. NOW BETWEEN THE TIME OF THESE TRANSACTIONS--THESE OFFERS OF \$400 AND THIS UNCONSUMMATED SALE OF \$500 THAT YOU SPEAK OF---DID THIS DUMPING CONTINUE ?

A. IT CONTINUED EVERY YEAR UP TO THE PRESENT TIME.

Q. AND WAS THE STATE OF THE WATER FRONT CONSTANTLY GETTING WORSE?

A. WELL, I THOUGHT THE MORE THEY FILLED THE WORSE IT GOT. THEY WERE GOING OUT INTO DEEPER WATER. THEY COULDN'T GET IN UNLESS THE TIDE WAS HIGH. IF THE TIDE WAS HIGH THEY WOULD COME IN. I HAVE SEEN THEM DUMP IN THE ARM OF THE CHANNEL COMING INTO COLGATE'S CREEK.

Q. HAD THERE BEEN ANY DUMPING IN FRONT OF THIS PROPERTY OF 75 ACRES THAT YOU SOLD ?

A. I DON'T THINK THERE WAS. YOU SEE, THE CANTON COMPANY'S GROUND RAN OUT A LONG DISTANCE---THE FLATS. A STEAMBOAT CANNOT COME OVER THE FLATS; THEY COME IN FRONT OF THE WILLOW SPRINGS HOUSE. BUT THIS IS ALL DEEP WATER ON THIS SIDE. THE 75 ACRES IS FROM THE HOUSE DOWN TOWARDS SOLLERS' POINT. WE COULD HAVE CAPTURED THEM IF THEY HAD GOT INTO THE CHANNEL AND UP THE CREEK.

Q. : BY MR. WILLIAMS. : THE 75 ACRES<sup>e</sup> YOU SOLD WAS NOT INJURED BY THE DUMPING ?

A. NO, SIR; WE DO NOT CLAIM ANYTHING.

Q. WAS IT AFFECTED IN ITS VALUE ?

A. NO, SIR. IT WAS THE DEEP WATER THERE : INDICATING UPON PLAT. :

Q. : BY MR. BONAPARTE. : WHAT DO YOU THINK YOU COULD GET IN THE MARKET FOR A PIECE OF YOUR PROPERTY WHERE THIS DUMPING HAS BEEN GOING ON IN FRONT OF IT ?

Q. WELL, I AM SURE I COULDN'T SAY---I DO NOT SUPPOSE OVER \$50 OR \$75 AN ACRE. I DO NOT KNOW MUCH ABOUT THE VALUE OF LAND BACK OF THERE.

Q. HOW MUCH MONEY COULD YOU HAVE GOTTEN BEFORE THIS DUMPING OCCURRED ?

A. WELL, AS I SAY, I COULD HAVE GOTTEN \$500 AN ACRE.

Q. <sup>h</sup>TEN THE DEPRECIATION, ACCORDING TO YOUR ESTIMATE, IS ABOUT FROM \$300 TO \$400 PER ACRE ?

A. I THINK THERE HAS BEEN SOME LAND SOLD VERY LATELY FOR ABOUT

\$75 TO \$100.

CROSS-EXAMINATION.

BY MR. HINKLEY :

Q. HOW LONG SINCE THAT YOU HAVE BEEN MAKING ANY BRICKS THERE ?

A. I DO NOT THINK THERE HAS BEEN ANY BRICKS MADE THERE FOR ABOUT  
THE LAST TWO OR THREE YEARS.

Q. TWO YEARS OR THREE YEARS ?

A. ABOUT THREE YEARS, I THINK.

Q. I THINK YOU SAID THAT THE BRICK BUSINESS HAD GONE DOWN A LIT-  
TLE OF LATE YEARS ?

A. YES, SIR; CONSIDERABLY.

Q. SINCE WHEN ?

A. THE LAST THREE YEARS.

Q. YOU SAID SOMETHING ABOUT BUYING MR. CARROLL'S PROPERTY ?

A. NO, SIR; I SAID I LEASED IT. I LEASED ALL THE BRICK-YARDS IN  
1874 THAT I COULD LEASE IN CARROLL'S FIELD, AND SOLD THEM.

Q. THAT WAS IN 1874 ?

A. 1873 OR 1874, OR MAY BE EARLIER. I LEASED THREE OR FOUR BRICK-  
YARDS AND SOLD THEM ALL. I WOULD HAVE LEASED ALL THE CLAY OF THAT SEC-  
TION OF THE CITY IF I COULD HAVE GOT IT. I LEASED ONE FROM CHARLES CAR-  
ROLL AND ONE FROM JAMES CARROLL, AND SOLD THEM AT A LARGE BONUS.

Q. DID YOU CARRY THIS CREERY BRICK-MACHINE COMPANY, THAT YOU SAY  
YOU BOUGHT, DOWN ONTO THIS LAND THAT WE ARE NOW SPEAKING ABOUT ?

A. IT WAS ALREADY THERE. THE PAPER SPEAKS OF IT.

Q. YOU BOUGHT THAT MACHINE THERE ?

A. I BOUGHT EVERYTHING THRE---WHARF RIGHTS, AND EVERYTHING. I  
BOUGHT EVERYTHING THAT WAS THERE, OR SUPPOSED TO BE.

Q. WHAT WAS THERE: ANY MACHINERY ?

A. YES, SIR.

Q. WHEN DID YOU BUY THAT COMPANY THERE ?

A. ON THE DATE OF THAT PAPER---THE DATE OF THE LEASE. I BOUGHT IT A LITTLE BEFORE THAT; THEY DIDN'T GIVE THE LEASE RIGHT AWAY. I DIDN'T GET THE PAPERS UNTIL THREE OR FOUR WEEKS AFTER.

Q. DID YOU CARRY ON UNDER THAT COMPANY?

A. NO, SIR; I HAD NOTHING TO DO WITH THE COMPANY. I WAS TRYING TO GET UP A COMPANY OF MY OWN. THAT IS WHAT I BOUGHT IT FOR.

Q. DID YOU GET UP A COMPANY ?

A. I DID NOT SUCCEED, AND THEN I HAD TO GO AND MAKE ON MY OWN ACCOUNT. I AM STILL TRYING TO GET UP A COMPANY.

Q. WHAT CONDITION IS YOUR WHARF IN THERE NOW ?

A. AS I STATED BEFORE, SINCE THE FILLING UP THERE, THE WATER HAS WASHED ALL THE PLANK OFF THE TOP OF THE WHARF, AND THERE IS NOTHING THERE BUT THE PILES AND THE CROSS-TIES.

Q. IS YOUR WHARF IN A CONDITION NOW TO BE USED ?

A. I COULD PUT IT IN CONDITION.

Q. PLEASE ANSWER MY QUESTION : IS IT IN CONDITION NOW TO BE USED ?

A. ONLY A PORTION OF IT.

Q. YOU CANNOT USE IT WHEN THERE IS A PORTION GONE, CAN YOU ?

A. YES, SIR; I CAN PUT SCOWS IN FIVE FEET, FOUR FEET OR THREE FEET OF WATER, OR TWO FEET OF WATER. I CAN GET THREE FEET AT THE END OF THE WHARF, I SUPPOSE---TWO AND A HALF TO THREE FEET, I SUPPOSE.

Q. DO YOU MEAN THE OUTER END ?

A. NO, SIR; AT THE INNER END---NEARER THE SHORE.

Q. YOU MEAN AT THE SIDE ?

A. I MEAN THE FIRST PART OF IT GOING OUT FROM THE LAND.

Q. HOW LONG IS THAT WHARF ?

A. THAT WHARF IS ABOUT TWO HUNDRED FEET. I RECKON.

Q. WHAT PORTION OF THAT WHARF IS AT THIS MOMENT, OR WHEN YOU BROUGHT SUIT, IN A FIT CONDITION TO BE USED---HOW MANY FEET FROM YOUR LAND OUT ?

A. WELL, TWO YEARS AGO THE WHARF WAS ALL THERE, EXCEPT A SMALL PORTION OF THE BOARDS THAT HAD BEEN WASHED OFF--TWO YEARS OR TWO AND A HALF YEARS AGO.

Q. HOW LONG SINCE HAS IT BEEN THAT THAT WHARF WAS USED ?

A. WELL, IT HAS NOT BEEN USED MUCH SINCE I STOPPED MANUFACTURING BRICKS.

Q. ABOUT HOW LONG ?

A. ABOUT THREE YEARS, I THINK I STATED. I SENT SOME JOBS AWAY SOMETIMES IN A SCOW.

Q. DO YOU MEAN AT THE PRESENT TIME ?

A. NO SIR; SOME TIME AGO. THE LAST JOB I SENT WAS UP TO STRICKER STREET, TO THE ORPHANS' ASYLUM.

Q. HOW MUCH WOULD IT TAKE TO FINISH YOUR WHARF. YOU COULD PUT IT IN REPAIR, COULD YOU NOT ?

A. I SUPPOSE SO, FOR ABOUT \$150.

Q. HOW MUCH WATER IS AT THE END OF THE WHARF ?

A. THE LAST TIME I MEASURED THERE WAS ABOUT FIVE FEET, MAY BE FIVE AND A HALF FEET.

Q. SUPPOSE YOU HAD FORTY THOUSAND BRICKS THERE; COULD YOU SEND THEM OFF WITH THE WHARF IN ITS PRESENT CONDITION ?

A. I COULD SEND THEM OFF FROM THE SHORE---PUT THEM ON THE SAND---UP ON THIS SIDE OF THE SHORE.

Q. IN HOW MUCH WATER ?



A. I SUPPOSE YOU COULD PUT HER UP ON THE SAND IN ABOUT TWO FEET OF WATER AND LOAD HER, AND WHEN THE TIDE COMES IN, IN THE EVENING, PUSH HER OUT. THE TIDE COMES IN EVERY EVENING. WE HAVE LOADED THEM THAT WAY ON THE SAND AND THEN WOULD PUSH THEM OUT AT HIGH TIDE. THE TUG-BOATS DIDN'T COME CLOSE TO THE WHARF UNLESS IT WAS ON DARK DAYS.

Q. AFRAID THAT YOU WOULD CATCH THEM ?

A. I DON'T KNOW WHAT THEY WERE AFRAID OF; BUT THEY WERE ALWAYS WATCHING ME, APPARENTLY.

Q. YOU SAY THAT IF YOU HAD THE BRICK THERE YOU COULD GET THEM AWAY IN SOME WAY ?

A. OH, YES. THERE IS ALWAYS SOME WAY IF A MAN IS WILLING.

Q. IF HE HAD THE BRICKS THERE HE COULD GET THEM AWAY SOME WAY ?

A. COULD GET SOME OF THEM AWAY.

Q. SUPPOSE YOU HAD A HUNDRED THOUSAND BRICKS THERE, COULD YOU GET THEM AWAY ?

A. WELL, I MIGHT. BUT I COULDN'T GET THEM AWAY THE SAME AS I DID BEFORE. I COULDN'T PUSH THE SCOW OUT IN THE MUD.

Q. WHAT IS THE REASON THAT NO BRICKS HAVE BEEN MADE THERE FOR THREE YEARS ?

A. OF COURSE I DON'T LIKE TO SPEAK OF MY PRIVATE BUSINESS. I WILL ANSWER THE QUESTION IN TWO WAYS. I HAD MANUFACTURED A GREAT MANY BRICKS IN THE FIELD---

Q. THREE YEARS AGO ?

A. SOME THREE OR FOUR YEARS AGO. I HAD SOLD A GREAT MANY BRICKS TO BUILDERS AND TO THE LAND COMPANIES---TO MILES WHITE AND A GREAT MANY OTHERS, AND I GOT A GREAT MANY BILLS SCATTERED ON THE LIEN RECORD OF BALTIMORE CITY, AND I WASN'T SUCCESSFUL IN COLLECTING THOSE

BILLS; HENCE I COULDN'T GO ON AND MANUFACTURE TO THAT EXTENT THAT I MANUFACTURED BEFORE. OTHERWISE---THE HARD TIMES COMING ON---I WOULD HAVE CONTINUED TO MANUFACTURE THEM. THE TIMES GETTING EVERY YEAR WORSE, HOPING THE NEXT YEAR IT WOULD BE BETTER, I FOUND ALL MY CAPITAL GONE---LOST BY THE DIFFERENT BUILDERS AND LAND COMPANIES AND MILES WHITE'S MEN, AND HENCE I HAVE NOT BEEN ABLE TO MANUFACTURE BRICKS AS I DID FORMERLY. THAT HAS BEEN ONE REASON. HENCE I HAVE BEEN TRYING TO GET UP A COMPANY AND I HAVE GOT A PARTY NOW WHO HAS AGREED TO PUT IN SO MUCH MONEY. I LOST MY CAPITAL ENTIRELY.

RE-DIRECT EXAMINATION.

BY MR. WILLIAMS:

Q. YOU SAID THAT YOU COULD SHIP FROM THE NORTH SIDE OF THE SHORE--NORTH OF THE WHARF. DO YOU MEAN BY THAT TO SAY YOU COULD NOT SHIP ANY FROM THE REMAINING SHORE YOU HAVE, SOUTH OF THE WHARF ?

A. I COULD SHIP THEM UP THIS WAY, NORTH OF THE WHARF.

Q. BUT CAN SCOWS APPROACH THE SHORE, TO THE SOUTH ?

A. IN SOME PLACES, WHERE IT IS NOT FILLED IN BETWEEN.

Q. THIS 1200 <sup>yards</sup> ~~FEET~~ OF LEASEHOLD, CAN THE SCOWS APPROACH THERE ?

A. NO SIR; NOT BELOW. THEY WOULD NOT COME VERY CLOSE TO THE WHARF. SOMETIMES THEY WOULD COME TWENTY FEET---FIFTY FEET---FROM THE WHARF. ALL BELOW THAT IS FILLED UP. NORTH, IS UP TOWARDS THE WILLOW SPRING---THE FEE. YOU CAN'T APPROACH ANY OF THE LOWER PART AT ALL.

Q. BUT AS TO THE UPPER PART ?

A. WHEN THEY COME UP TO THE WHARF WE COULD REACH THEM, AND UNDERNEATH THE WHARF THERE IS NOTHING BUT THE BLACK DREGS THAT HAS WASHED UNDER. THE POTTERS' CLAY, WHERE WE PAID A DOLLAR A TON, IS WHERE WE CANNOT APPROACH.

Q. YOU HAVE GOT SOME BRICKS THERE NOW, READY TO DELIVER, HAVE YOU NOT ?

A. THERE ARE SOME FEW THERE.

Q. HOW MANY ?

A. I COULDN'T SAY. THERE ARE SOME UNBURNED BRICKS; MAYBE A KILN.

Q. : BY MR. M'LANE : HOW FAR BELOW YOUR WHARF IS THIS DEPOSIT OF POTTER'S CLAY THAT YOU SPEAK OF ?

A. THERE IS A VERY LARGE BODY OF IT ABOUT FIVE HUNDRED YARDS EAST OF THE WHARF---A VERY LARGE BODY. MR. FISHER WAS DOWN TO LOOK AT IT. AND THEN THERE IS SOME BELOW, NEAR THE LOWER LINE, AND THEN THERE IS SOME ABOUT EIGHT HUNDRED YARDS---TWELVE HUNDRED.

Q. : BY MR. WILLIAMS. : FROM THE WHARF TO THE EASTWARD, TOWARDS SOLLERS' POINT, ALTHOUGH YOU COULD SHIP FROM THE SHORE WEST, WOULD IT BE AT THE SAME EXPENSE AS SHIPPING FROM JUST IN FRONT, OR AT AN INCREASED EXPENSE ?

A. IT WOULD BE AT AN INCREASED EXPENSE, BECAUSE WE WOULD HAVE TO PUT A PLATFORM OUT.

Q. DO YOU KNOW HOW MUCH THE INCREASE OF EXPENSE WOULD BE --- WOULD THERE BE ANYTHING BESIDES CARTAGE AND LOADING ?

A. WE WOULD HAVE TO WHEEL SOME DISTANCE BEFORE WE COULD GET TO THAT POINT WHERE THEY HAVE BEEN FILLING UP ON THIS SIDE OF THE WHARF, AND WE WOULD HAVE TO BUILD A PLATFORM OUT IN TWO AND A HALF FEET OF WATER, WHICH WOULD BE A CONSIDERABLE DIFFERENCE IN THE WHEELING, OR EVEN TO PUT THE CARS THERE.

Q. CAN YOU SAY HOW MUCH MORE EXPENSE PER 100,000 BRICKS. WHAT WOULD BE THE DIFFERENCE OF SHIPPING A HUNDRED THOUSAND BRICKS RIGHT ON THE SAND, IN FRONT ?

A. RIGHT IN FRONT OF THE WHARF WE TAKE THEM OUT OF THE KILNS. THE DIFFERENCE IN EXPENSE WOULD BE ABOUT TWENTY-FIVE CENTS A THOUSAND. I THINK ABOUT THAT.

Q. : BY THE COURT. : HAVE YOU BEEN OBLIGED TO DISCONTINUE THE MANUFACTURE AND SHIPMENT OF BRICKS BECAUSE OF THE OBSTRUCTIONS PUT IN- TO THE RIVER IN FRONT OF YOUR PROPERTY ?

A. NOT ALTOGETHER---NOT ON THE UPPER LINE; BUT ON THE LOWER LINE, ON THE LEASEHOLD LINE, I HAVE.

Q. WOULD YOU BUT FOR THAT OBSTRUCTION HAVE MANUFACTURED BRICKS THERE ?

A. WITHIN THE LAST THREE YEARS BACK MY MEANS HAVE NOT BEEN SUFFICIENT TO CARRY ON, AND THE TRADE HAS BEEN VERY DULL. WE HAVE BEEN LOOKING FORWARD TO THE TIMES GETTING BETTER, AND AS SOON AS THE TIMES GET BETTER I WANT TO GO TO MANUFACTURING. BUT HAVING CREDITED ALL MY MONEY WITHIN THE LAST THREE YEARS, I HAVE NOT BEEN ABLE TO MANUFACTURE MUCH.

Q. : BY MR. BONAPARTE. : PREVIOUS TO THE THREE YEARS BACK YOU WOULD HAVE MANUFACTURED BUT FOR THESE OBSTRUCTIONS ?

A. YES, SIR.

Q. : BY MR. M'LANE. : I UNDERSTOOD YOU TO SAY THAT YOU STOPPED MANUFACTURING THREE YEARS AGO ?

A. I THINK ABOUT THAT TIME.

Q. YOU WERE NOT PREVENTED FROM MANUFACTURING THREE YEARS AGO. ON THE CONTRARY, YOU HAVE TESTIFIED THAT YOU DID MANUFACTURE ?

A. I WAS PREVENTED FROM GETTING MY BRICKS OUT AND SHIPPING THEM FROM BELOW THE WHARF---ALL THE WAY BELOW.

Q. HOW DID YOU GET THOSE OFF THAT YOU HAD MANUFACTURED PRIOR TO THREE YEARS AGO ?

A. BECAUSE I HAD THE KILNS RIGHT IN FRONT OF THE WHARF, AND IF I HAD BUILT A WHARF ON THE LOWER END, IN THE CENTRE, I WOULD HAVE HAD TO PUT A LITTLE WHARF THERE TO SHIP.

Q. WERE YOU PREVENTED FROM MANUFACTURING OR SHIPPING PRIOR TO THREE YEARS AGO ?

A. I WAS PREVENTED FROM TAKING MY CLAY OUT THERE. I WAS OFFERED A DOLLAR A TON FOR IT, AND I COULDN'T TAKE IT OUT.

Q. WHEN WAS THAT ?

A. THAT WAS LAST YEAR. THREE YEARS AGO I WAS OFFERED A DOLLAR A TON BY MR. BLANCHE TO BRING IT UP TO BALTIMORE. HE WAS A POTTER. HE KEPT HERE ON CAROLINE ST. I THINK. HE TOLD ME TO BRING HIM UP SOME, AND HE SAID HE WOULD TAKE IT AT A DOLLAR A TON.

Q. DO YOU SAY THAT YOU DID NOT SELL HIM BECAUSE YOU COULD NOT GET IT OUT ?

A. BECAUSE I COULD NOT GET IT OUT---ON ACCOUNT OF THIS FILLING.

Q. HOW MUCH DID HE OFFER TO TAKE ?

A. HE TOLD ME TO SEND HIM A SCOW LOAD OR TWO.

Q. HOW MANY TONS WOULD THAT BE ?

A. SOME HOLD FORTY TONS AND <sup>some</sup> HOLD SIXTY.

Q. HOW MANY SCOW LOADS DID HE SAY HE WOULD TAKE ?

A. HE DIDN'T SAY. HE ASKED ME TO SEND HIM A SCOW LOAD. HE DIDN'T SAY WHAT KIND OR WHAT SIZE. THERE ARE DIFFERENT SIZES. I HAVE HAD THEM TO HAUL 40,000 BRICKS.

Q. DO YOU TELL THE JURY THAT YOU WERE PREVENTED, BY THIS SEDIMENT FROM MANUFACTURING BRICKS PRIOR TO THREE YEARS AGO ?

A. IF I HAD SUCCEEDED IN GETTING UP A COMPANY THERE, I WOULD HAVE BEEN PREVENTED FROM GETTING MY BRICKS AWAY; EXCEPT THIS ONE SPOT, WHERE THE KILNS ARE IN FRONT OF THE WHARF NOW. 1100 YARDS, I COULDN'T

GET THEM OUT FROM THE KILNS.

Q. WAS IT THE FAILURE TO GET UP THE COMPANY OR INABILITY TO SHIP THE BRICKS ?

A. IT WAS MY INTENTION TO LEASE SIX YARDS THERE.

∴ LAST QUESTION REPEATED ∴

A. I TOLD YOU THAT MY CAPITAL WAS GONE WITHIN THE LAST THREE YEARS, AND I COULDN'T MANUFACTURE TO THAT EXTENT, AND I THOUGHT I HAD BETTER WAIT AND TRY TO GET UP A COMPANY. I THINK I HAVE TOLD YOU THAT TWICE ALREADY. I AM TRYING NOW STILL; BECAUSE THERE IS A BETTER DEMAND NOW FOR BRICKS.

Q. ∴ BY MR. BONAPARTE. ∴ LET US UNDERSTAND ABOUT THAT TRANSACTION OF A DOLLAR A TON. YOU WERE OFFERED A DOLLAR A TON FOR A CERTAIN AMOUNT OF POTTERS' CLAY FROM YOUR LAND ?

A. YES SIR.

Q. WERE THERE ANY SIMILAR TRANSACTIONS ?

A. THERE WAS AN APPLICATION TO ME TWO DAYS AGO WHERE I COULD SELL A LARGE QUANTITY AT EIGHTY CENTS OR A DOLLAR A TON.

Q. WHAT PREVENTED YOU FROM DOING THAT ?

A. I CAN'T GET IT OUT NOW.

Q. ∴ BY MR. HINKLEY ∴ THAT IS NOT WHAT YOUR LEASE WAS FOR ?

A. THAT UP BY THE WILLOW SPRING I COULD GET OUT BY GETTING IT UP ON THE SHORE---SOME PORTION OF IT. IN OTHER WORDS, GENTLEMEN, I THINK THE CLAY IS WORTH A DOLLAR ROYALTY THERE. IF I COULD LEASE SIX BRICK-YARDS THERE, I WOULD HAVE A ROYALTY OF SEVENTY-FIVE CENTS COMING IN. THAT IS WHY I BOUGHT THE YARDS IN CARROLL'S FIELD. I BOUGHT TWO YARDS THERE. I BOUGHT IT ON SPECULATION---A PORTION OF IT.

MR. HINKLEY: I THINK, MAY IT PLEASE YOUR HONOR, THAT THIS IS OBJECTIONABLE, BECAUSE IT IS A QUESTION OF WHAT WOULD

BE HIS PROFITS IF HE COULD DO SUCH AND SUCH A THING.

THE WITNESS: I GOT A THOUSAND DOLLARS TO GIVE UP MY RIGHT  
TO ONE LEASE.

MR. HINKLEY: I OBJECT TO THE WITNESS BEING ALLOWED TO RUN  
ON. HIS SPECULATION I RATHER THINK IS OUTSIDE OF THE  
FAIR AND REGULAR LIMIT OF WHAT WOULD BE THE NATURE OF  
DAMAGES---PROSPECTIVE PROFITS---UPON AN UNCERTAINTY.

THE COURT: SO FAR AS THE QUESTION PRESENTS ITSELF TO MY  
MIND NOW, IT IS THE ACTION OF A PARTY WHO ALLEGES HIM-  
SELF TO BE INJURED BY AN OBSTRUCTION PLACED IN THE PUB-  
REASON OF  
LIC HIGHWAY, BY WHICH HE CLAIMS THAT HE HAS SUSTAINED  
SOME SPECIFIC DAMAGE. NOW IN THAT VIEW HE MUST PROVE  
THE SPECIFIC LOSS---NOT PROBABLE OR CONTINGENT LOSS---  
NOT A POSSIBLE LOSS. IT IS NOT A MATTER OF OPINION  
WHICH WOULD ENTITLE THE JURY TO FIND THE EXTENT OF LOSS;  
BUT IT MUST BE SPECIFIC PROOF ; NOT THAT IF THIS THING  
OR THAT THING HAD NOT OCCURRED HE WOULD NOW HAVE IN HIS  
POCKET SO MANY DOLLARS. ~~THAT IS THE MODE OF PROVING~~  
~~A LOSS.~~

-----0-----  
JAMES LEGG, SWORN:

BY MR. BONAPARTE:

Q. TELL THE JURY WHAT IS YOUR BUSINESS ?

A. I AM IN THE TUG-BOAT BUSINESS AT PRESENT.

Q. ARE YOU AN OFFICER OF A TUG-BOAT NOW ?

A. YES SIR.

Q. WHAT WAS YOUR BUSINESS FROM THE YEAR 1873 TO THE YEAR 1876 ?

A. I WAS EMPLOYED BY THE CITY AS MATE ABOARD THE TUG-BOAT

"TIGRESS," TOWING MUD FROM THE HARBOR.

Q. WHAT WAS THIS MUD CONTAINED IN, AND WHERE DID IT COME FROM ?

A. IT WAS CONTAINED IN A SCOW AND CAME FROM DIFFERENT PARTS OF THE HARBOR.

Q. CAME FROM THE DREDGING MACHINES THERE ?

A. YES SIR.

Q. WHAT DID YOU DO WITH THIS MUD ?

A. TOOK IT DOWN TO THE DUMPING GROUND AND DUMPED IT OUT OF THOSE SCOWS.

Q. WHO DIRECTED YOU WHERE TO DUMP IT ?

A. I WENT BY THE DIRECTION OF THE CAPTAIN OF THE TUG-BOAT.

Q. DO YOU KNOW WHO DIRECTED THE CAPTAIN ?

A. NO, I CANNOT SAY POSITIVE WHO DIRECTED HIM.

Q. DID YOU EVER ACT AS CAPTAIN YOURSELF ?

A. YES SIR.

Q. DURING THE TIME THAT YOU WERE CAPTAIN, AND DURING THE TIME THAT YOU WERE MATE ALSO, OF THIS CITY TUG, WHERE DID YOU DEPOSIT THE MUD DURING THESE YEARS, FROM 1873 TO 1876 ?

A. DOWN AT WILLOW SPRINGS.

Q. IS THAT THE PROPERTY THAT HAS BEEN TESTIFIED ABOUT AS BELONGING TO MR. GARRITEE ?

A. I BELIEVE SO.

Q. ABOUT HOW OFTEN WOULD YOU TAKE THESE MUD SCOWS DOWN THERE ?

A. SOMETIMES TWICE AND SOMETIMES THREE TIMES A DAY.

Q. HOW MANY SCOWS WOULD YOU GENERALLY TAKE AT A TIME ?

A. I HAVE TAKEN AS HIGH AS SIX AND EIGHT.

Q. I BELIEVE THESE SCOWS ARE CALCULATED TO HOLD THIRTY-FIVE CUBIC YARDS ?

A. YES SIR.



Q. SOMEWHERE FROM TWO TO THREE HUNDRED YARDS WOULD BE BROUGHT DOWN AT A TOWING ?

A. YES SIR.

Q. WHATEVER THE AMOUNT OF DEPOSIT THAT YOU MADE DURING THESE YEARS I SPEAK OF, YOU PUT DOWN ON THIS PROPERTY THAT HAS BEEN TESTIFIED ABOUT ?

A. FROM WHAT I CAN UNDERSTAND FROM MR. GARRITEE'S EVIDENCE, WE PUT IT ON HIS LEASED PROPERTY.

Q. ABOUT HOW FAR FROM THE SHORE DID YOU GENERALLY PUT IT ?

A. WHEN WE FIRST STARTED TO TAKE MUD DOWN THERE, WE SHOVED THE SCOWS IN PRETTY NEAR THE SHORE; I COULDN'T TELL THE EXACT DISTANCE, BECAUSE THE SCOWS WERE SHOT IN <sup>and</sup> I WAS OUT ON THE BOAT. WE WENT AS NEAR AS WE COULD WITH THE BOAT, AND SHOT THE SCOWS IN WITH A LONG LINE.

Q. LATER WHERE DID YOU DUMP ?

A. THAT WAS THE LAST DUMPING GROUND I WAS TO.

Q. WHEN YOU COMMENCED TO DUMP THERE YOU PUT THE SCOWS AS NEAR AS POSSIBLE IN SHORES ?

A. YES SIR.

Q. AFTERWARDS HOW FAR FROM THE SHORE DID YOU DUMP ?

A. MAYBE TWO OR THREE HUNDRED FEET.

Q. WHAT WAS THE REASON OF YOUR GOING OUT THAT FAR SUBSEQUENTLY WHEN YOU HAD COMMENCED DUMPING IN NEAR THE SHORE ?

A. FOR THE SIMPLE REASON IT FILLED UP SO THAT WE COULDN'T GET ANY NEARER TO THE SHORE.

Q. WERE THERE ANY OTHER TUG-BOATS EMPLOYED AT THAT TIME BY THE CITY AND ENGAGED IN THIS WORK BESIDES YOURS ?

A. YES SIR; THERE WERE FOUR OF THEM.

Q. DO YOU KNOW WHERE THEY ALSO DUMPED ?

A. ALL THOSE THAT TOOK DOWN SCOWS DUMPED DOWN THERE. THERE WAS ONE TOLLED OFF TO TOW BOX SCOWS TO THE SEA-WALL. SOME DAYS WE WOULD HAVE IT AND SOME DAYS ANOTHER BOAT WOULD HAVE IT.

Q. ONE BOAT WAS TOLLED OFF, AS I UNDERSTAND YOU, TO CARRY BOX SCOWS DOWN TO THE SEA-WALL ?

A. YES SIR.

Q. THE OTHER THREE WERE EMPLOYED IN HAULING THESE OPEN SCOWS ?

A. YES SIR.

Q. AND THOSE THREE TUGS DUMPED ON THIS PROPERTY ?

A. YES SIR.

Q. YOU HAVE SPOKEN OF THE NUMBER OF LOADS AND SCOWS THAT YOU GENERALLY TOOK DOWN THERE. DID THE OTHER TUGS DO ABOUT THE SAME AMOUNT OF WORK?

A. ABOUT THE SAME AMOUNT.

Q. WHAT WAS THE NAME OF THE CAPTAIN OF YOUR BOAT ?

A. CHARLES S. MORAN.

Q. WHAT OFFICIAL OF THE CITY WAS IT THAT HAD ALL THIS MATTER UNDER HIS DIRECTION ?

! QUESTION OBJECTED TO BY DEFENDANT'S COUNSEL AS INCOMPETENT. !

Q. DO YOU KNOW WHAT PERSON HAD THIS MATTER IN CHARGE ?

A. MR. CONSTANTINE.

Q. ! BY MR. HINKLEY. ! WHY DO YOU SAY THAT ?

A. BECAUSE HE WAS APPOINTED BY THE MAYOR AND COUNCIL.

*Confirmed by the*  
1

! TWO PREVIOUS ANSWERS RULED OUT. !

Q. ! BY MR. BONAPARTE. ! WHEN YOU ACTED AS CAPTAIN OF THIS BOAT, FROM WHOM DID YOU RECEIVE YOUR INSTRUCTIONS IN REGARD TO WHAT WAS TO BE DONE ?

A. I RECEIVED IT FROM CAPTAIN COLINE.

Q. WHAT POSITION DID CAPTAIN COLINE OCCUPY ?

A. CHIEF ENGINEER OF THE DEPARTMENT.

Q. WAS THAT THE DEPARTMENT GENERALLY KNOWN AS THE CITY YARD ?

A. YES SIR.

Q. DID YOU EVER SEE MR. DANIEL CONSTANTINE ABOUT THE DREDGING OPERATIONS AS TAKING ANY PART IN THEM ?

A. IN THE HARBOR, BUT TO THE BEST OF MY KNOWLEDGE NOT DOWN THE RIVER, WHERE WE DEPOSITED THIS MUD.

Q. WHEN WERE YOU FIRST IN THE EMPLOY OF THE CITY ?

A. DURING MR. BANKS' ADMINISTRATION, IN 1867, I THINK.

Q. WHERE DID YOU DUMP AT FIRST ?

A. AT THE MARINE HOSPITAL. I WENT TO WORK ON THE 5TH. DAY OF DECEMBER, 1867.

Q. DID YOU BETWEEN THIS TIME AND THE TIME THAT I ASKED YOU OF BEFORE, THAT IS SOMEWHERE ABOUT THE YEAR 1873 TO 1876, CHANGE THE GROUNDS ?

A. YES SIR; WE HAD SEVERAL DUMPING GROUNDS.

Q. WHY DID YOU CHANGE THEM ?

A. BECAUSE WE HAD ORDERS, I SUPPOSE; I DON'T KNOW ANYTHING ELSE. I DIDN'T GET ANY ORDERS; I SUPPOSE MY CAPTAIN DID.

Q. FROM 1873 TO 1876 YOUR DUMPING GROUND WAS ALONG BY THE WILLOW SPRINGS ?

A. I THINK WE DUMPED THERE IN 1874 AND 1875---TWO SEASONS.

Q. BEGINNING IN 1874 ?

A. I THINK SO.

Q. YOU HAVE TESTIFIED, AS YOU UNDERSTOOD MR. GARRITEE'S TESTIMONY, THAT YOU DUMPED ON THE WATER FRONT OF HIS LEASEHOLD PROPERTY ?

A. YES SIR.

Q. WAS IT THE PART ABOVE OR THE PART BELOW THE WHARF ?

A. THE PART BELOW, TO THE EASTWARD.

Q. HOW NEAR TO THE WHARF DID YOU GO ?

A. WELL, I SUPPOSE WE CAME, MAYBE, WITHIN FIFTY YARDS OF THE WHARF

Q. COULD YOU GIVE A ROUGH ESTIMATE OF ABOUT HOW MUCH MUD AND DIRT, AND SO ON, WAS DUMPED DOWN THERE DURING THAT TIME ?

A. NO SIR; I COULD NOT. IT WAS SOMETHING I NEVER TOOK ANY PARTICULAR NOTICE OF. I WENT THERE TO DO THE WORK AND I NEVER NOTICED HOW MUCH MUD WAS TAKEN DOWN. THESE SCOWS COULD BE CALCULATED UP, THOUGH.

Q. ABOUT HOW LONG WOULD A SEASON LAST ? ---THOSE TWO SEASONS THAT YOU SPOKE OF ?

A. ALL THE OPEN SEASON. IT WAS ONLY WHEN ICE PREVENTED US. IT WAS ABOUT NINE MONTHS, MAYBE---TEN MONTHS, SAY.

Q. AND YOU WOULD WORK EVERY DAY DURING THOSE NINE MONTHS ?

A. NO SIR, NOT EVERY DAY. SOME DAYS WE WOULD BREAK DOWN AND COULDN'T RUN, AND SOME DAYS WE WOULD LAY TO TO CLEAN OUR BOILERS, AND SO ON.

Q. HOW MUCH OF THIS FRONT OF MR. GARRITEE'S PROPERTY, AS HE DESCRIBED IT, DID THIS DUMPING COVER---HOW FAR DID IT RUN DOWN ?

A. I SHOULD JUDGE FROM WHERE WE FIRST STARTED TO DEPOSIT MUD TO WHERE WE STOPPED, NEXT TO THE WHARF, PERHAPS IT WAS HALF A MILE, MAYBE. FROM SOLLERS' FLAT UP TOWARDS THE WILLOW SPRINGS SHORE.

Q. DO YOU KNOW WHAT KIND OF STUFF IT WAS---THIS MUD THAT WAS SO DEPOSITED ?

A. SOME OF IT WAS RIGHT SOFT. SOME OF IT WAS GRAVEL---DIFFERENT KINDS OF SEDIMENT.

Q. WAS IT A KIND OF STUFF THAT WOULD BE LIKELY TO DRIFT ?

A. I SHOULD JUDGE THE MUD WOULD WASH WHEN A HEAVY SEA WAVE WAS ON.

Q. IN WHAT FORM WAS THIS MUD DUMPED ?

A. THE SCOWS ARE WOUND UP BY A CRANK. THEY WERE SHOT IN, THE SCOWMAN STRIKES A PALL AND THE DOORS FLY OPEN FROM THE SIDES.

Q. WHAT FORM OF OBSTRUCTION WOULD THIS DUMPING MAKE ON THE BOTTOM ?

A. IT WOULD FILL UP. THE SOFTER THE MUD OF COURSE THE MORE IT WOULD SPREAD. IF IT WAS HARD IT WOULDN'T SPREAD SO MUCH.

Q. IT WOULD FORM A KIND OF MOUND ?

A. YES SIR.

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CHARLES S. MORAN, SWORN:

BY MR. BONAPARTE:

Q. WHAT IS YOUR BUSINESS ?

A. I AM A COLLECTOR NOW.

Q. WHAT WAS YOUR BUSINESS FROM THE YEAR 1873 TO THE YEAR 1876 ?

A. I HAD CHARGE OF THE TUG-BOAT "'TIGRESS'" OF THE PORT WARDEN'S DEPARTMENT.

Q. WAS THE "'TIGRESS'" ONE OF THE CITY TUGS ?

A. YES SIR.

Q. DO YOU KNOW THE LAST WITNESS : JAMES LEGG : WHO TESTIFIED ?

A. YES SIR.

Q. WAS HE ON THE SAME BOAT WITH YOU ?

A. HE WAS; HE WAS MATE OF THE BOAT.

Q. WHAT WERE YOU OCCUPIED IN DOING DURING THOSE YEARS ?

A. TOWING MUD FROM THE HARBOR.

Q. WHAT DID YOU DO WITH THE MUD ?

A. WE DEPOSITED IT IN DIFFERENT PARTS OF THE RIVER---ON DIFFERENT DUMPING GROUNDS.

Q. WHAT WAS YOUR PRINCIPAL DUMPING GROUND AT THAT TIME ?

A. WE DEPOSITED A GREAT DEAL AT THE MARINE HOSPITAL, AND THEN ON THE NORTHERN SHORE OF THE RIVER. WE DEPOSITED IN TWO OR THREE PLACES.

Q. HOW WAS IT ABOUT THIS PLACE GENERALLY CALLED WILLOW SPRINGS ?

A. WE DEPOSITED THERE, I BELIEVE, TWO SEASONS, 1874 AND 1875.

Q. WHO SELECTED THE DUMPING GROUNDS FOR YOU ?

A. I AM NOT POSITIVE WHETHER I RECEIVED MY ORDERS FROM THE CHIEF ENGINEER OR WHETHER I RECEIVED THEM FROM CAPTAIN CONSTANTINE. ONE OF THOSE GENTLEMEN, THOUGH, WENT DOWN WITH ME AND SHOWED ME WHERE TO DUMP THE SEDIMENT. I CANNOT REMEMBER WHETHER IT WAS THE PORT WARDEN OR WHETHER IT WAS THE CHIEF ENGINEER; IT WAS ONE OF THEM WHO WENT DOWN ON THE BOAT WITH ME, WHICH HE GENERALLY DID WHEN WE WERE DEPOSITING MUD OR CHANGING OUR DUMPING GROUND.

Q. DO YOU KNOW WHETHER MR. CONSTANTINE KNEW OF YOUR DUMPING ON THIS GROUND ?

A. OH, YES SIR.

Q. AT THAT TIME HOW MANY SCOWS DID YOU TAKE DOWN ?

A. FROM FOUR TO SIX, AND SOMETIMES SEVEN.

Q. HOW OFTEN IN THE COURSE OF A DAY ?

A. ABOUT THREE TOWS GENERALLY. SOMETIMES WE WOULD HAVE LARGER SCOWS. TWO OF THOSE AND TWO SMALL ONES WOULD BE ABOUT A TOW.

Q. THERE WERE OTHER TUG-BOATS THAT WERE EMPLOYED BY THE CITY AT THAT TIME ALSO, WERE THERE NOT ?

A. YES SIR; THERE WERE THREE BOATS TOWING TO THE DUMP. ONE

BOAT ALWAYS WENT TO THE SEA-WALL.

Q. THESE BOATS TOWED CONTINUALLY ?

A. YES SIR; WITHOUT SOME ACCIDENT OCCURRED, OR CLEANING DAY, OR SOMETHING LIKE THAT.

Q. DO YOU REMEMBER ON WHAT PART OF THIS WILLOW SPRINGS PROPERTY YOU DUMPED DURING THOSE TWO SEASONS ?

A. WELL, WE DUMPED TO WHAT MIGHT BE TERMED TO THE EASTWARD OF THE WHARF, AT THE BRICK-YARD.

Q. HOW NEAR TO THE SHORE DID YOU DUMP ?

A. WHEN WE FIRST COMMENCED DUMPING THERE WE WENT VERY CLOSE TO THE SHORE.

Q. AFTERWARDS YOU DUMPED FARTHER OUT ?

A. AS IT FILLED UP WE COULDN'T PUT THE SCOWS IN AS WE DID AT FIRST.

Q. DO YOU KNOW WHAT OFFICIAL POSITION, IF ANY, MR. CONSTANTINE HELD AT THAT TIME ?

A. HE WAS PORT WARDEN.

Q. WAS HE THE PERSON IN CHARGE OF ALL THESE DEPARTMENTS IN RELATION TO THE DREDGING OF THE HARBOR ?

A. YES SIR; HE APPOINTED ME TO MY POSITION THERE AND PAID ME OFF.

Q. ABOUT WHAT DISTANCE OF THIS SHORE DID YOU DEPOSIT MUD ON DURING THAT TIME ?

A. I SHOULD JUDGE ABOUT HALF A MILE ALONG THE SHORE.

Q. BY MR. WILLIAMS. IT WAS PRETTY THOROUGHLY WELL DUMPED, THE WHOLE HALF MILE, I SUPPOSE ?

A. YES SIR.

CROSS-EXAMINATION.

BY MR. HINKLEY:

Q. HOW NEAR TO THE WHARF WAS THE DUMPING DONE ?

A. I SUPPOSE I NEVER WENT CLOSER TO THE WHARF THAN ONE HUNDRED AND FIFTY YARDS. I WAS VERY PARTICULAR ABOUT DUMPING THERE---TO GET WELL BELOW THE WHARF AT ALL TIMES.

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A. A. DODGE, SWORN:

BY MR. BONAPARTE:

Q. WHAT IS YOUR BUSINESS ?

A. I AM A CONTRACTOR FOR DREDGING RIVERS AND HARBORS.

Q. HAVE YOU DONE ANY WORK IN REGARD TO THE DREDGING OF THE HARBOR OF BALTIMORE CITY ?

A. I HAVE DREDGED IN THE HARBOR OF BALTIMORE CITY.

Q. AT WHAT TIME DID YOU DO THAT ?

A. IN THE YEARS 1873, 1874, 1875 AND 1876.

Q. DID YOU, DURING ANY PART OF THIS TIME, DO ANY WORK FOR THE CITY IN REGARD TO DREDGING OUT THE HARBOR OR TRANSPORTING AWAY THE MUD?

A. NO SIR; I DID IT FOR PRIVATE PARTIES; THAT IS, IN 1873, 1874 AND 1875.

Q. IN 1876 ?

A. I DID SOME WORK FOR THE CANTON OIL COMPANY.

Q. : BY MR. WILLIAMS. : DID THE CANTON OIL COMPANY DREDGE THE HARBOR ?

A. YES SIR; THEIR OWN WHARVES AND PROPERTY AND DUMPED IT.

Q. : BY MR. HINKLEY. : YOU NEVER DID ANYTHING FOR THE CITY ?

A. NOT FOR THE CITY GOVERNMENT. I DID FOR THE UNITED STATES GOVERNMENT AND FOR PRIVATE PARTIES.



Q. : BY MR. BONAPARTE : DURING THIS TIME THAT YOU WERE DREDGING DID YOU EVER PAY TO THE CITY OR TO ANY OFFICIAL OF THE CITY ANY SUM OF MONEY IN CONNECTION WITH A DUMPING GROUND FOR THE MUD THAT YOU WERE DREDGING OUT ?

MR. HINKLEY: THE ATTEMPT IS TO SHOW THAT THIS WITNESS PAID FOR THE USE OF DUMPING GROUNDS WHEN HE DUMPED FOR THE UNITED STATES AND PRIVATE PARTIES.

THE WITNESS: I DID NOT PAY THE GOVERNMENT FOR DUMPING, I PAID THE CITY FOR DUMPING.

MR. HINKLEY: THE QUESTION IS WHETHER THE WITNESS WHO WAS DUMPING FOR THE UNITED STATES AND FOR PRIVATE PARTIES PAID THE CITY FOR THE PRIVILEGE OF DUMPING SOMEWHERE. IS IT ADMISSIBLE, YOUR HONOR ?

THE COURT: I DO NOT THINK THE EVIDENCE IS ADMISSIBLE IN THE PRESENT FORM OF THE PLEADINGS. I THINK IT MAY BE MADE ADMISSIBLE BY AMENDING THE DECLARATION. LET THE PROOF COME IN AND IF THE DECLARATION NEEDS TO BE AMENDED, LET THE AMENDMENT BE MADE.

Q. ANSWER THE QUESTION AND STATE WHETHER YOU WERE DIRECTED BY ANY OFFICIAL OF THE CITY AS TO WHAT DUMPING GROUNDS YOU SHOULD USE ?

A. I WAS. THERE WAS A CITY OFFICIAL ABOARD MY BOAT. I COULD NOT TELL HIS NAME. I HAVE FORGOTTEN IT NOW; I KNOW THE GENTLEMAN, BUT I COULDN'T MENTION HIS NAME NOW.

Q. WHAT WERE THE DUTIES OF THIS OFFICIAL ?

A. TO SIT THERE AND DRAW HIS PAY, SEE WHERE I DUMPED AND TO EAT OUR GRUB.

Q. DID HE GIVE YOU ANY DIRECTIONS ABOUT DUMPING ?

A. HE DID.

Q. WHERE DID YOU DUMP WHILE YOU HAD THIS CITY OFFICIAL ABOARD ?

A. FROM WILLOW SPRINGS DOWN I SHOULD THINK PERHAPS FROM HALF TO THREE-QUARTERS OF A MILE.

Q. WILLOW SPRINGS IS THIS PROPERTY ABOUT WHICH THERE HAS BEEN SO MUCH TALK ?

A. YES SIR.

Q. WHAT PARTICULAR PORTION OF THAT PROPERTY DID YOU DUMP ON ?

A. WELL, WE DUMPED ALL ALONG IN FRONT OF IT.

Q. BOTH THE FREEHOLD AND THE LEASEHOLD ?

A. YES SIR; I HAVE DUMPED THERE.

Q. DID YOU DUMP ANYWHERE EXCEPT WHERE THIS CITY OFFICIAL DIRECTED YOU ?

A. NO SIR; HE ALWAYS WAS ABOARD THE BOAT.

Q. WHILE YOU WERE DOING DREDGING AND ALSO DUMPING, AT THIS TIME, DID YOU MAKE ANY OFFER OR ENTER INTO ANY NEGOTIATION WITH THE PLAINTIFF

: MR. GARRITEE : FOR HIS PERMISSION TO USE HIS GROUND AS A DUMPING GROUND?

: QUESTION OBJECTED TO BY DEFENDANT'S COUNSEL. :

MR. WILLIAMS: MR. GARRITEE WAS APPLIED TO BY PARTIES FOR PERMISSION TO DUMP THERE, AND WHO OFFERED HIM PAY, BUT HE DID NOT THINK THAT HE WAS AUTHORIZED TO GIVE THEM PERMISSION.

THE COURT: NEITHER THE CITY NOR MR. GARRITEE HAD ANY AUTHORITY TO AUTHORIZE ANYBODY TO GO AND OBSTRUCT THE HIGHWAY. IT SEEMS TO ME, FOR THE PURPOSE OF SHORTENING THE CASE, THAT THE PLAINTIFF HAS SUFFICIENTLY PROVED THAT THERE WAS AN OBSTRUCTION PLACED THERE. THAT IS NOT DENIED UPON THE OTHER SIDE; THEY ADMIT THAT DUMPING WAS DONE THERE. THEY MAY LOOK AT IT IN ANOTHER ASPECT, AS

NOT BEING AN INJURY TO YOU; THAT IS QUITE ANOTHER QUESTION. BUT IF YOU WERE TO MULTIPLY YOUR PROOF BY A THOUSAND WITNESSES IT WOULD NOT MAKE YOUR CASE ANY STRONGER.

MR. M'LANE. I DO NOT THINK THE FACT OF THE DUMPING IS IN DISPUTE AT ALL IN THIS CASE.

Q. DID YOU PAY ANY CITY OFFICIAL, OR THE CITY ANYTHING IN ANY FORM, FOR THE USE OF THIS DUMPING GROUND ?

MR. HINKLEY: WE EXCEPT TO THE ADMISSIBILITY OF THE EVIDENCE IN ANY ASPECT, BECAUSE THE PLAINTIFFS THEMSELVES HAVE PUT INTO THEIR DECLARATION THAT THE PAT<sup>A</sup>PSCO RIVER IS A PUBLIC NAVIGABLE STREAM.

THE COURT: THE QUESTION MAY BE ASKED SUBJECT TO WHAT I MAY DETERMINE HEREAFTER. IF I DETERMINE THAT THE EVIDENCE SHALL REQUIRE AN AMENDMENT TO THE DECLARATION, OR THAT IT IS INADMISSIBLE FOR ANY REASON, I SHALL SO SAY. I WILL ADMIT IT NOW SUBJECT TO EXCEPTION.

A. IN CONNECTION WITH THE ALBANY DREDGING COMPANY I DID. IT WAS DEDUCTED FROM MY BILL.

Q. WHAT DUMPING GROUND WAS IT THAT YOU SO PAID FOR ?

A. FROM WILLOW SPRINGS---ALL ALONG <sup>there</sup> ~~FOR~~ IN FRONT OF THAT PROPERTY.

Q. INCLUDING ALL THE FRONT OF THAT PROPERTY?

A. YES SIR; SOMETIMES WE WOULD DUMP ABOVE AND SOMETIMES BELOW.

CROSS-EXAMINATION.

BY MR. HINKLEY:

Q. WE DO NOT QUITE UNDERSTAND YOU AS TO WHAT MONEY WAS PAID AND TO WHOM IT WAS PAID, OR HOW IT WAS PAID, OR HOW DEDUCTED. PLEASE TO

MAKE IT PLAIN.

A. IN CONNECTION WITH THIS ALBANY DREDGING COMPANY, WE TOOK THE WORK FOR THE CANTON OIL COMPANY, AND WE HAD TO PAY THE CITY SO MUCH A YARD, OR FIVE PER CENT OF OUR BILL, AND THE ALBANY DREDGING COMPANY DEDUCTED THE MONEY FROM MY BILL.

Q. PAID THE CITY FIVE PER CENT ON WHAT ?

A. ON DREDGING.

Q. ON WHAT SUM OF MONEY ?

A. HAND ME THAT BILL, AND I WILL TELL YOU.

Q. YOU SAY ON THE DREDGING. OF COURSE YOU MEAN FOR SOME MONEY FOR WHICH THE DREDGING WAS DONE ?

A. YES SIR.

Q. FIVE PER CENT ON THE MONEY THAT THE ALBANY DREDGING COMPANY AND YOU TOGETHER EARNED ?

A. YES SIR; WHAT I EARNED MYSELF.

Q. BY MR. M'LANE. DID YOU NOT PAY THE ALBANY DREDGING COMPANY ?

A. I DID.

Q. WHAT CITY OFFICIAL DID YOU PAY ?

A. THE MAN THAT WAS ON THE TUG; I FORGET HIS NAME NOW. I PAID THE MAN THREE DOLLARS A DAY FOR SITTING THERE AND TELLING ME WHERE TO DUMP. I PAID THE ALBANY DREDGING COMPANY, AND THEY PAID THE CITY.

Q. DID YOU PAY THE CITY ANYTHING ?

A. NO SIR; I DID NOT. I PAID THE ALBANY DREDGING COMPANY.

Q. MR. HINKLEY. YOU SAID THAT YOU PAID THE CITY FIVE PER CENT ON DREDGING; THEN YOU SAID YOU PAID THE ALBANY DREDGING COMPANY "FIVE PER CENT ON MY WORK." YOU PAID THE MAN THAT WAS ON YOUR BOAT, DID YOU NOT ?

A. IT WAS DEDUCTED OUT OF MY PAY. I DIDN'T SAY THAT I PAID THE CITY. I GAVE THE MONEY TO THE ALBANY DREDGING COMPANY TO PAY TO THE CITY; THEY CHARGED IT AGAINST ME AND IT WAS DEDUCTED OUT OF MY BILL.

Q. BY THE ALBANY COMPANY ?

A. YES SIR.

Q. THEN IN POINT OF FACT YOU KNOW NOTHING WHETHER THEY PAID IT OR NOT, OF YOUR OWN KNOWLEDGE. YOU ONLY KNOW IT BY HEARSAY OR FROM WHAT SOMEBODY TOLD YOU. YOU DID NOT SEE IT PAID, AND YOU DO NOT KNOW WHETHER IT WAS PAID OR NOT. YOU SAY IT WAS DEDUCTED FROM YOUR BILL BY THE ALBANY COMPANY ?

A. YES SIR.

Q. (BY MR. WILLIAMS.) HOW DO YOU KNOW THAT THE CITY CHARGED THE ALBANY DREDGING COMPANY FOR IT.

A. MR. BRENNARD TOLD ME.

Q. DID YOU HAVE ANY DEALINGS WITH MR. CONSTANTINE ABOUT THIS MATTER ?

A. NO SIR; I DID NOT; ONLY DUMPED ALONGSIDE OF HIM. I DUMPED WHERE THEY DUMPED ALWAYS.---WHERE THE CITY SCOWS DUMPED.

Q. YOU SAW ~~XXXX~~ THE CITY TUGS DUMP <sup>AT THIS PLACE</sup> WHERE YOU TESTIFY YOU DUMPED ?

A. I DID.

∴ ADJOURNED. ∴

STENOGRAPHER'S MINUTES.

[In the Superior Court.]

W<sup>m</sup> L. Garritee,

VS

Mayor and City Council.

BEFORE

Hon. George W. Dobbin  
and a jury.

Baltimore, March 17<sup>th</sup> 1879.

WITNESSES.

Direct. Cross. Re-Direct. Re-Cross.

WITNESSES.	Direct.	Cross.	Re-Direct.	Re-Cross.
William Henry	45	—		
Benjamin F. Thomas	48	—		
Stephen Allen, (colored)	52	—		
Colvin Allen	56	—		
Charles E. Garritte, Esq.	58	69		
Daniel Constantine	70	73		
James Brangle	81	—		
William Shoemaker	82	84		
Breton Parr	85	—		
August Richsteine	88	89		
Mr. McGowan	91	94		
John Holloway	95	—		
Thos. J. Nitaffer	98	—		

BALTIMORE, MARCH 17, 1879.

*Plaintiff*  
: DEFENDANT PUTS IN EVIDENCE, SUBJECT TO EXCEPTION BY *Deft.* PLAIN-

TIFF, PORT WARDEN'S REPORTS FOR THE YEARS 1874 AND 1875. :

WILLIAM HENRY, SWORN:

Q. : BY MR. BONAPARTE : TELL THE JURY WHAT YOUR BUSINESS IS NOW AND WHAT IT WAS IN THE YEARS 1874 AND 1875 ?

A. AT PRESENT I AM AN OFFICER IN THE CITY HALL. IN 1874 AND 1875 I HAD CHARGE OF THE TUG-BOAT "ROBERT T. BANKS" ---A CITY TUG.

Q. WERE YOUR DUTIES DURING THOSE YEARS CONNECTED WITH THE DREDGING OPERATIONS IN THE HARBOR ?

A. YES SIR. MY DUTIES WERE TO TAKE THE LOADED SCOWS AWAY FROM THE MACHINES, WHEN THEY FILLED THEM, TO THE DUMPING GROUNDS. SOMETIMES I TOWED TO THE SEA-WALL, SOMETIMES TO CANTON PLACE, AND SOMETIMES DOWN TO SOLLERS' FLAT.

Q. HOW MANY TUG-BOATS WERE THERE IN THE EMPLOY OF THE CITY AT THAT TIME ?

A. FOUR.

Q. WHAT PROPORTION OF THEM TOWED TO THE SEA-WALL, AND WHAT PROPORTION TO THE OTHER DUMPING GROUND ?

A. THERE WAS ONE GENERALLY TOWED TO THE SEA-WALL, AND THREE TO THE OTHER GROUND.

Q. HOW LONG DID YOU DUMP ON THE GROUNDS OF THE CANTON COMPANY ?

A. WE DUMPED THE BEST PART OF ONE YEAR. I THINK WE STARTED TO DUMP ON THE CANTON GROUND IN THE LATTER PART OF 1873, AND PART OF 1874.

Q. DURING THE REST OF THAT TIME WHERE DID YOU DUMP ?

A. AFTER WE LEFT THE CANTON GROUND WE WENT BELOW THE CANTON GROUNDS. I BELIEVE THE BEST PART OF THAT BELONGED TO THE CANTON

GROUND, OFF WHAT IS CALLED SPAIN SHORE.

Q. DO YOU KNOW THE GROUND CALLED WILLOW SPRINGS ?

A. YES SIR.

Q. WAS THAT ON THE LINE OF THE COAST THAT YOU DUMPED ALONG ?

A. WE PASSED WHAT I CALLED WILLOW SPRINGS. WE DIDN'T DUMP ANY MUD ALONG THERE.

Q. DESCRIBE WHAT YOU CALL WILLOW SPRINGS ?

A. I ALWAYS HEARD WILLOW SPRINGS CALLED THAT BLUFF OF WOODS AFTER YOU LEAVE COLGATE'S CREEK, AND MOVE DOWN TO THE BRICK WALL. THERE IS A BRICK-YARD THERE.

Q. DID YOU DUMP IN FRONT OF THE BRICK-YARD ? /

A. NO SIR; WE DUMPED BELOW THE BRICK-YARD. WHEN WE FIRST STARTED WE WERE A GREAT DISTANCE BELOW THE BRICK-YARD. WE WERE DOWN AT SOLLERS' POINT AND THEN WE CAME UP.

Q. WHAT WAS THE NATURE OF YOUR DUMPING ?

A. WE RAN THE SCOWS IN TO THE SHORE AS FAR AS WE COULD GET THEM, AND LET THE MUD GO.

Q. HOW FAR DID YOU GET THEM IN AT FIRST ?

A. WELL, WHEN WE FIRST STARTED THERE, WE WOULD GET THEM IN PRETTY CLOSE TO THE SHORE.

Q. THEN AFTERWARDS, HOW MUCH FARTHER OUT DID YOU HAVE TO GO ?

A. A RIGHT GOOD DISTANCE OUT ---MAYBE SEVENTY-FIVE YARDS OR MORE. I COULDN'T SAY EXACTLY HOW FAR IT WAS.

Q. WHAT WAS THE REASON OF YOUR FIRST DUMPING <sup>as</sup> IN CLOSE AS POSSIBLE TO THE SHORE AND THEN AFTERWARDS GOING OUT FARTHER ?

A. OF COURSE AS WE LAID THE SEDIMENT THERE IT FILLED UP.

Q. DO YOU KNOW WHERE THIS PROPERTY OF MR. GARRITEE'S, WHICH HAS BEEN TESTIFIED ABOUT, IS SITUATED ?



A. I DO, SIR. THE PROPERTY, HE SAYS, IS ALONG THE BRICK-YARD.

Q. WAS THAT A PORTION OF THE DUMPING GROUND THAT YOU HAD FOR THE TWO YEARS ?

A. I KNOW WHERE WE DUMPED AT; I DON'T KNOW HOW FAR DOWN HIS PROPERTY GOES.

Q. DO YOU KNOW THE OLD WHARF ABOUT WHICH THERE HAS BEEN SOME TESTIMONY ? ---THE WHARF STANDING THERE AT PRESENT ?

A. YES SIR, I DO.

Q. HOW FAR DID YOU DUMP ON EITHER SIDE OF THAT WHARF ?

A. WE NEVER DUMPED ON THIS SIDE OF IT. WE DUMPED, I THINK, ABOUT FROM 150 TO 200 YARDS ON THE LOWER SIDE, TO THE EASTWARD.

Q. WHEN YOU SAY THAT, YOU SPEAK OF YOUR OWN TUG ?

A. YES SIR; MYSELF OF COURSE.

Q. THAT WAS ONE OF THE FOUR CITY TUGS . YOU ARE NOW, YOU SAY, EMPLOYED AT THE CITY HALL ?

A. YES SIR.

Q. DO YOU KNOW THE REASON WHY YOU STOPPED DUMPING ON THE CANTON COMPANY'S GROUND ?

A. NO SIR, I COULDN'T SAY EXACTLY WHAT WE STOPPED THERE FOR.

Q. ARE YOU PRETTY ACCURATE ABOUT THE DATE WHEN YOU STOPPED THERE?

A. THAT I AM NOT, EITHER, SIR. SOMETIMES I TOWED TO THE SEA-WALL; EVEN AFTER WE STOPPED DUMPING ON THE CANTON COMPANY'S GROUND I WAS TOWING TO THE SEA-WALL.

Q. YOU DO NOT REMEMBER WHAT DATE THAT WAS ?

A. NO SIR; I DO NOT.

Q. DO YOU REMEMBER WHETHER IT WAS BEFORE YOU BEGAN DUMPING DOWN TOWARDS SOLLERS' FLATS ?

A. WELL, I COULDN'T SAY EXACTLY. I THINK WE DUMPED SOME, AFTER

DUMPING AT SOLLERS' FLATS OFF OF SPAIN'S.

Q. THAT IS THE PART BELOW BELONGING TO THE CANTON COMPANY ?

A. YES SIR.

Q. : BY THE COURT. : THIS DUMPING TOOK PLACE IN CLOSE TO THE SHORE ?

A. YES SIR; THEY HAVE A LINE AND GIVE THE SCOWS A GOOD HEADWAY IN, AND LET THE LINE GO OUT THE FULL LENGTH. THE SCOWS WOULD GO IN A GREAT DISTANCE FARTHER THAN THE TUG-BOAT. THE TUG-BOAT DREW EIGHT FEET OF WATER.

Q. HOW MUCH DID THE SCOWS DRAW ?

A. WE HAD TWO SIZES THERE. THE SMALL SCOWS, I SHOULD JUDGE, WOULD DRAW ABOUT THREE TO FOUR FEET LOADED DEEP, AND THE LARGER SCOWS WOULD DRAW FIVE OR SIX FEET.

Q. : BY MR. WILLIAMS. : IN GIVING THEM THE RUN IN THEY WOULD GO QUITE ASHORE OF THEMSELVES---THEY WOULD STICK ?

A. THAT IS WHAT WE INTENDED THEM TO DO.

Q. : BY MR. BONAPARTE. : YOU HAVE TESTIFIED THAT YOUR REASON FOR DUMPING OUT FARTHER THAN WHERE YOU COMMENCED TO DUMP WAS THE FACT THAT THE GROUND BECAME FILLED UP, AND YOU WERE UNABLE TO GET THE SCOWS IN FARTHER THAN THAT ?

A. YES SIR; BECAUSE THE GROUND WE DUMPED ON FILLED UP.

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BENJAMIN F. THOMAS, SWORN:

MR. BONAPARTE:

Q. STATE WHAT IS YOUR PRESENT BUSINESS AND WHAT IT WAS IN THE YEARS 1874 AND 1875 ?

A. I AM A STEAMBOAT MAN, UNOCCUPIED AT PRESENT. IN 1874 AND 1875 I HAD CHARGE OF THE TUG-BOAT "BALTIMORE," A CITY TUG.

Q. WHAT WERE YOUR DUTIES AS CAPTAIN OF ONE OF THE CITY TUGS IN CONNECTION WITH THE DREDGING OF THE HARBOR ?

A. I TOWED THE SCOWS, WHEN THEY WERE LOADED FROM THE MACHINES, TO THE DUMPING PLACE, WHEREVER IT MIGHT BE.

Q. DURING THOSE TWO YEARS WHERE WERE YOUR DUMPING GROUNDS ?

A. FOR ABOUT SEVEN MONTHS IN 1874 I WAS DUMPING OPEN SCOWS AT SOLLERS' FLATS.

Q. DO YOU KNOW THIS PROPERTY OF MR. GARRITEE'S THAT HAS BEEN TESTIFIED ABOUT ?

A. ONLY WHAT I HEARD HIM SAY.

Q. YOU HEARD WHAT THE TESTIMONY WAS AS TO THE POSITION OF THAT PROPERTY ?

A. YES SIR.

Q. TELL THE JURY IF ANY DUMPING WAS DONE IN FRONT OF THAT PROPERTY BY YOU, AND IF SO, ABOUT HOW MUCH ?

A. WELL, IF HE OWNED 1200 YARDS BELOW WHERE THAT BRICK-YARD WHARF IS, OF COURSE WE DUMPED THERE SOMETIMES; BUT WE COMMENCED BELOW THAT AND DUMPED UP.

Q. HOW NEAR DID YOU GET TO THE WHARF ?

A. WELL, BETWEEN 150 AND 200 YARDS.

Q. DID YOU DUMP ANY ABOVE THE WHARF ?

A. NO SIR; I NEVER DUMPED ANY ABOVE THE WHARF.

Q. DID YOU DUMP ANY THERE IN 1875 ?

A. YES SIR; ABOUT FOUR OR FIVE MONTHS. THE BOAT WAS UNDERGOING REPAIRS---WAS REBUILT, AND THAT'S THE REASON I DIDN'T GET OUT.

Q. AS SOON AS YOU DID GET OUT, YOU COMMENCED TO DUMP THERE ?

A. YES SIR.

Q. YOU COMMENCED TO DUMP DOWN AT WHAT IS CALLED SOLLER'S POINT

AND DUMPED ALL THE WAY UP ?

A. YES SIR; DUMPED UP FROM THE FLATS.

Q. WHEN YOU LEFT ONE DUMPING GROUND AND CAME UP, WHAT WAS THE REASON OF YOUR DOING THAT ?

A. WE DUMPED RIGHT ALONG UP THE SHORE FROM THE FLATS; BECAUSE WE WOULD FILL UP AT THE SHORE AND WOULD HAVE TO GO OUT IN THE CHANNEL.

Q. AS YOU WOULD FILL UP THE SHORE, SO THAT THERE WAS NO LONGER ROOM TO DUMP, YOU CAME GRADUALLY UP THE RIVER AND DUMPED ?

A. YES SIR.

Q. YOU DUMPED IN ONE SPOT AS LONG AS IT WAS POSSIBLE TO DUMP THERE ?

A. YES SIR.

Q. : BY MR. WILLIAMS. : YOUR BOAT WAS UNDERGOING REPAIRS: YOU WERE ONLY DUMPING FOUR OR FIVE MONTHS ?

A. THAT IS ALL.

Q. BUT THE OTHER TUG-BOATS WERE DUMPING ALL THE SEASON. I WASN'T DOWN THERE, AND OF COURSE I COULDN'T SAY WHERE THEY WERE DUMPING.

Q. : BY MR. BONAPARTE. : DID YOU DUMP ANY AT THE CANTON COMPANY'S GROUND DURING THOSE YEARS ?

A. YES SIR. I SUPPOSE YOU MEAN ABOVE POINT BREEZE. THAT IS ON THIS SIDE OF COLGATE'S CREEK. THAT WAS IN 1873 THAT I DUMPED THERE.

Q. DID YOU DUMP THERE AT ALL IN 1874 OR 1875?

A. NO SIR.

Q. DO YOU KNOW THE REASON WHY YOU STOPPED DUMPING THERE ?

A. YES, I KNOW THE REASON. I WAS AUTHORIZED TO TOW TO THE SEAWALL.

Q. YOU HAVE TESTIFIED THAT YOU DUMPED ON THIS SIDE OF COLGATE'S

CREEK IN 1873 ? AFTER THAT DID YOU DUMP ANY ON THE OTHER SIDE, THE LOWER SIDE OF COLGATE'S CREEK ?

A. NOT ON THIS SIDE OF THE BRICK WHARF. I NEVER DUMPED ANY ON WHAT THEY CALL THE WILLOW SPRINGS SHORE. WHAT I CALL THE WILLOW SPRINGS SHORE IS WHERE THE SPRING IS, UP BETWEEN THOSE TWO GULLIES THIS SIDE OF THE WHARF. I NEVER DUMPED ANY THERE.

Q. HOW IS THAT SITUATED WITH REFERENCE TO THE WILLOW SPRINGS HOTEL ?

A. OH, AWAY BELOW THAT IS WHERE I DUMPED.

Q. YOU SAY YOU NEVER DUMPED OPPOSITE THE WILLOW SPRINGS. YOU MEAN ABOUT OPPOSITE THE WILLOW SPRINGS HOUSE ?

A. YES SIR, THAT IS WHAT I MEAN.

Q. ABOUT HOW FAR OUT FROM THE SHORE DID YOU DUMP ?

A. WELL, I SUPPOSE WE CAME OUT SEVENTY-FIVE OR A HUNDRED YARDS.

Q. : BY MR. WILLIAMS. : DID YOU NOT DUMP OUT FARTHER THAN THAT IN MANY PLACES ?

A. WELL, I MIGHT, I DON'T KNOW. I COULDN'T TELL EXACTLY.

Q. IT IS GUESS-WORK ABOUT THE SEVENTY-FIVE YARDS. YOU SOMETIMES DUMPED OUT A QUARTER OF A MILE FROM THE SHORE, DID YOU NOT ?

A. I DON'T KNOW ABOUT THAT. A QUARTER OF A MILE WOULD BE THREE OR FOUR HUNDRED YARDS. I AM SATISFIED I DIDN'T DUMP OUT THAT FAR.

Q. ARE YOU QUITE SATISFIED THAT YOU DID ~~NOT~~ STOP AT A HUNDRED YARDS, OR THAT YOU DID NOT SOMETIMES GO FARTHER OUT, AND EVEN SO MUCH FARTHER OUT, SOMETIMES, AS A QUARTER OF A MILE ?

A. NO SIR; I DID NOT. I DON'T THINK I EVER WENT OUT AS FAR AS A QUARTER OF A MILE.

Q. DID YOU NOT SOMETIMES GO OUT FARTHER THAN A HUNDRED YARDS ?

A. AS NEAR AS I CAN GUESS AT IT.

Q. IT IS A MERE GUESS ?

A. WELL, FROM WHAT EXPERIENCE I HAVE HAD IN DUMPING ALONG THERE,  
I COULDN'T TELL EXACTLY HOW FAR.

Q. ARE YOU QUITE CERTAIN AS A GUESS, THAT A HUNDRED YARDS CO-  
VERS AS FAR OUT AS YOU DUMPED ?

A. YES SIR; A HUNDRED YARDS IS AS FAR AS EVER I DUMPED FROM THE  
SHORE.

: CROSS-EXAMINATION WAIVED. :

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STEPHEN ALLEN, COLORED, SWORN:

Q. : BY MR. BONAPARTE. : TELL THE JURY, IF YOU PLEASE, WHAT  
YOUR BUSINESS IS NOW, AND HOW YOU WERE EMPLOYED IN THE YEARS 1874 AND  
1875 ?

A. I AM NOW A COAL DEALER, AND IN 1872 AND 1873 AND 1874 I WAS  
IN MR. GARRITEE'S EMPLOY TAKING CARE OF HIS PROPERTY AT THE WILLOW  
SPRINGS, AND I WAS TO SEE AND REPORT TO HIM WHAT WAS GOING ON. IN  
1873 AND 1874 THIS DUMPING FROM THE HARBOR CAME DOWN THERE AND WAS  
CONTINUED ON THROUGH UP TO 1875. IN THE FRONT OF WILLOW SPRINGS,  
I FOUND THEM DUMPING THERE.

Q. EXPLAIN TO THE JURY WHAT YOU MEAN BY THE FRONT OF WILLOW  
SPRINGS ?

A. THAT IS OFF AGAINST THE WHARF---IN FRONT OF THE WHARF---AND  
IN THE HOLLOW RUNNING EASTWARDLY. THAT IS ON THE LEFTHAND SIDE GO-  
ING OUT ON THE WHARF.

Q. IS THAT UP OR DOWN THE RIVER ?

A. THAT IS DOWN THE RIVER, COMING UP FROM SOLLERS' POINT.

Q. DID YOU NOTICE ANY DUMPING HIGHER UP, OPPOSITE THE WILLOW

SPRINGS PROPERTY, BETWEEN THERE AND THE WHARF ?

A. COMING DOWN THEY OFTEN DUMP THERE AT A LATE HOUR. FROM SIX TO SEVEN O'CLOCK THEY WOULD COME DOWN, SOMETIMES, AND DUMP THERE. WHETHER IT WAS MUD, OR WHAT, APPARENTLY IT WOULD ALL FLOAT ASHORE, AND THERE WAS A GREAT DEAL OF SMELL. I KNOW I LIVED THERE RIGHT ON THE SEABOARD---RIGHT ON THE SIDE, AND IT WAS VERY DISAGREEABLE.

Q. THERE WAS A VERY BAD SMELL FROM IT ?

A. YES SIR.

Q. HOW FAR OUT WAS THIS DUMPING ?

A. WELL, AS NEAR AS I CAN MAKE AN ESTIMATION OF IT, SHOIVING SCOWS IN, I SUPPOSE ABOUT SIXTY YARDS.

Q. THAT IS WHERE IT COMMENCED ?

A. YES SIR; COMING UP. THAT IS, IN THE HOLLOW OF THE 1100 YARDS, COMING UP WILLOW SPRINGS---COMING UP TO THE OLD WHARF.

Q. YOU MEAN COMING UP FROM SOLLERS' POINT?---COMING UP THE RIVER TO THE WHARF ?

A. YES SIR.

Q. ABOUT HOW FAR OUT DID THEY GET TO DUMPING LATER ?

A. LATER THAN THAT, I SUPPOSE ABOUT A HUNDRED YARDS---THE LAST SITE I NOTICED ABOUT A HUNDRED YARDS. I ~~RESERVED~~ <sup>observed</sup> TO MY EMPLOYER AT THE TIME THAT I THOUGHT THEY WERE GETTING VERY CLOSE.

Q. : BY MR. HINKLEY. : A HUNDRED YARDS FROM WHAT ?

A. A HUNDRED YARDS FROM THE SHORE.

Q. : BY MR. BONAPARTE. : DID THEY DUMP OUT TOWARDS THE CHANNEL -- A GOOD WAY OUT ?

A. ALL I NOTICED, TAKING A GOOD OBSERVATION OF THEM THE LAST WAS ABOUT TWO HUNDRED YARDS WHEN THEY GOT OUT. WHEN THEY FIRST COMMENCED THEY WERE ABOUT SIXTY OR SEVENTY YARDS. I NOTICED THAT.

Q. ABOUT HOW OFTEN WOULD THIS DUMPING TAKE PLACE DURING THE DAY ?

A. WELL, I COULDN'T BE POSITIVE ALTOGETHER; BUT I SUPPOSE FROM TWO TO THREE LOADS WERE DUMPED IN THERE A DAY, HAVING ON, I SUPPOSE FROM THREE TO FOUR SCOWS.

Q. THERE WERE TWO TO THREE TUG-BOATS DAILY, BRINGING THE USUAL NUMBER OF SCOWS ?

A. JUST THE USUAL NUMBER OF SCOWS DAILY.

Q. YOU SAY YOU NOTICED THIS DISAGREEABLE SMELL; WAS IT QUITE PERCEPTIBLE ?

A. NO SIR, IT WAS NOT; IT WAS VERY DISAGREEABLE, BECAUSE I LIVED THERE. I WAS IN MR. GARRITEE'S EMPLOY, AND I HAD TO GO IN AND THROUGH IT ALL THE TIME, AND IT WAS VERY DISAGREEABLE.

Q. DID THIS SMELL FIRST COME THERE WHEN THE DUMPING COMMENCED ?

A. SOON AFTER THE DUMPING COMMENCED, OF COURSE.

Q. YOU HAVE TESTIFIED THAT THEY DUMPED IN THE COURSE OF THE YEARS 1873 AND 1874. NOW WHEN DID YOU LEAVE THIS PLACE OF MR. GARRITEE'S ?

A. WELL, IT WAS IN 1875. BUT I FREQUENTED THE PLACE IN 1875, FISHING AND CRABBING THERE, AND DONE SOME LITTLE WORK FOR HIM IN 1875.

MR. HINKLEY: OF COURSE THIS EVIDENCE IS RECEIVED SUBJECT TO EXCEPTION; AND TO THE ULTIMATE INSTRUCTION IN REFERENCE TO THE LAW ABOUT FISHING AND CRABBING.

Q. WHAT EFFECT ON THE FISHING AND CRABBING DID THIS DUMPING HAVE ?

A. SO FAR AS THE FISHING WAS CONCERNED, IT DESTROYED THE FISHING GROUND; FOR WHEN I FIRST WENT THERE YOU COULD CATCH FISH WITH YOUR HANDS. BUT SINCE THAT TIME, AND DURING THAT TIME, WE COULD CATCH NO FISH THERE. IT WAS ONE OF THE GREATEST SPORTING PLACES FOR CATCHING FISH THAT WAS ON THAT RIVER, AND BY THIS DUMPING IT HAS ACTUALLY DES-



TROYED THE FISHING GROUNDS. OF COURSE I TRIED IT, AND OTHER GENTLEMEN LIKEWISE.

Q. DURING THE TIME THAT YOU WERE THERE WAS THE WILLOW SPRINGS HOTEL USED AS A PLACE FOR EXCURSIONS IN THE SUMMER TIME ?

A. IT WAS SOMETIMES.

Q. DO YOU KNOW WHETHER THE PEOPLE WHO CAME THERE ON EXCURSIONS FISHED USUALLY ?

A. YES SIR; THOSE THAT HAD BOATS, AND STANDING ON THE WHARF, THEY WOULD CATCH A GREAT MANY FINE FISH---AS MANY AS THEY WANTED.

Q. AFTER THIS DUMPING OCCURRED COULD PEOPLE WHO CAME DOWN IN THAT MANNER, FISH ?

A. COULDN'T CATCH ANY WORTH WHILE SPEAKING OF. THAT SCENT AND THAT FILTH BROUGHT DOWN FROM THE BASIN DROVE THEM OFF. THEY DIDN'T FEED ON IT. IN FRONT OF THE WHARF IF WAS FINE; YOU COULD CATCH PERCH THERE AS BIG AS YOUR HAND.

Q. DO YOU KNOW ANYTHING ABOUT THE DEPTH OF THE WATER ALONG THAT SHORE BEFORE THE DUMPING, AND HOW IT WAS AFFECTED BY THE DUMPING ?

A. ALL THE WAY DOWN FROM THE WHARF---I SUPPOSE FROM A HUNDRED TO TWO HUNDRED YARDS---WE USED TO GENERALLY TRY THE WATER IN THE FISHING GROUND, AND IT WAS EIGHT, TEN AND TWELVE FEET DEEP; BUT THIS DUMPING HAS REDUCED IT DOWN TO EIGHT FEET. IT MUST BE A GOOD TIDE TO BE EIGHT FEET, EVEN IN FRONT OF THE WHARF, AT HIGH TIDE. THAT WAS IN FRONT, RUNNING DOWN TOWARDS SOLLER'S POINT. WHERE WE USED TO GET FIVE AND SIX FEET OF WATER WE CAN'T GET MORE THAN THREE OR FOUR.

✓ Q. DO YOU KNOW THE REASON WHY THEY DUMPED AT NIGHT IN FRONT OF THE WILLOW SPRINGS PROPERTY, OR LATE IN THE EVENING ?

A. I DON'T KNOW ANY REASON AT ALL. I ONLY SEEN THIS. I SEEN THEM COMING DOWN TO THE WHARF, AND I KNOW AFTERWARDS THERE WAS ALL KINDS

OF REFUSE STUFF RUNNING DOWN.

✓ Q. : BY MR. M'LANE. : WHAT TIME IN THE EVENING WAS THIS ?

A. SOMETIMES IT WAS LATE. I COULDN'T SAY; BECAUSE I WAS EMPLOYED IN OTHER BUSINESS.

Q. ABOUT WHAT TIME. YOU STATED AS TO THE TIME, DID YOU NOT ?

A. SOMETIMES ABOUT SEVEN AND EIGHT AND NINE O'CLOCK. I COULD HEAR THE SCOWS DUMPING OFF.

Q. : BY MR. BONAPARTE. : YOUR TESTIMONY IS THAT ABOUT THAT TIME YOU SAW THESE TUGS AND SCOWS COMING AND DUMPING IN THAT PARTICULAR PLACE ?

A. YES SIR; AFTER I HAD KNOCKED OFF AND DONE WORK.

Q. DO YOU KNOW WHETHER THIS PLACE OR WILLOW SPRINGS WAS MORE OR LESS FREQUENTED AS AN EXCURSION PLACE AFTER THE DUMPING COMMENCED FROM WHAT IT WAS BEFORE ? WERE THERE FEWER EXCURSIONS COME THERE AFTER THE DUMPING ?

A. YES SIR; A GREAT DEAL LESS; FOR IT WAS SO VALUABLE FOR FISHING AND CRABBING. AFTER THAT THE GENTLEMEN WHO USED TO FREQUENT THE PLACE---WHO CAME BACKWARDS AND FORWARDS--THEY COULDN'T CATCH AS MANY FISH.

: CROSS-EXAMINATION WAIVED. :

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COLVIN ALLEN, COLORED, SWORN:

Q. : BY MR. BONAPARTE. : ARE YOU ANY RELATION TO THE LAST WITNESS ?

A. YES SIR, I AM HIS SON.

Q. WHERE DID YOU LIVE DURING THE YEARS THAT HE HAS SPOKEN OF ?

A. UP AT WILLOWSPRINGS, IN THE EMPLOY OF MR. GARRITEE.

Q. TELL THE JURY WHAT YOU NOTICED ABOUT THIS DUMPING AND THE

CONSEQUENCES OF IT ?

A. ALL I KNEW ABOUT THIS DUMPING, THEY USED TO DUMP FROM OPPOSITE THE WILLOW SPRINGS HOUSE AT NIGHT, AT SIX O'CLOCK AND AT SEVEN O'CLOCK---THEY WOULD COME DOWN THERE AND DUMP, AND BELOW THE WHARF. THAT WAS IN 1873 AND 1874. AND IN 1875 I JUST FREQUENTED DOWN THERE TO SEE MY FATHER. SOMETIMES I WOULD HELP HIM THERE. IN 1875 I COULDN'T SAY ANYTHING ABOUT.

Q. DURING THE DAY WHERE DID THEY DUMP ?

A. OPPOSITE OF WILLOW SPRINGS HOUSE AND BELOW IN THE HOLLOW FROM SOLLERS' POINT UP TO THE WHARF.

A. AND IN THE EVENING WHERE WAS THE DUMPING ?

A. IN FRONT OF THE WILLOW SPRINGS HOUSE.

Q. DID YOU NOTICE WHAT KIND OF STUFF THIS WAS THAT THEY DEPOSITED ?

A. WELL, AFTER IT WAS DRIFTED UP ON THE SHORE BY THE TIDE, YOU COULD SMELL CABBAGE LEAVES AND DIRT.

Q. DID YOU NOTICE ANYTHING ABOUT THE SMELL ?

A. JUST IT SMELT PRETTY BAD.

Q. HOW WAS IT ABOUT THE FISHING ?

A. IT WAS A SPLENDID PLACE FOR FISHING; BUT AFTER THEY COMMENCED DUMPING THERE ~~THEY~~ ALL WENT AWAY, OR ELSE WE COULDN'T CATCH NONE ANYHOW.

Q. DO YOU KNOW ABOUT THE USE OF WILLOW SPRINGS AS A PLACE OF RESORT FOR EXCURSIONS ?

A. YES SIR; I DO.

Q. HOW OFTEN DID THEY USE TO COME DOWN THERE BEFORE THIS DUMPING ?

A. BEFORE THAT THEY USED TO COME DOWN EVERY DAY.

Q. AND HOW WAS IT AFTER THE DUMPING ?

A. IT WASN'T ANYTHING AT ALL.

Q. WHEN EXCURSIONISTS CAME DOWN BEFORE THE DUMPING DID THEY USUALLY FISH ?

A. YES SIR; BECAUSE I WAS ONE OF THEM THAT USED TO ROW THEM OUT IN A BOAT ON THE FISHING GROUNDS.

Q. AFTER THE FISHING WAS DESTROYED THERE WERE NO EXCURSIONISTS AT ALL, OR VERY FEW ?

A. NO SIR; VERY FEW.

Q. DO YOU KNOW ANYTHING ABOUT THE DEPTH OF WATER ALONG THIS PROPERTY BEFORE AND AFTER THE DUMPING ?

A. I COULDN'T SAY AS TO AFTERWARDS. IN 1875 I COULDN'T SAY; BUT ALONG THE WILLOW SPRINGS, WHERE IT WAS RIGHT DEEP WATER, I COULDN'T SAY NOW, BECAUSE I NEVER MEASURED IT MUCH.

Q. PREVIOUS TO THE DUMPING YOU KNOW THAT IT WAS DEEP ?

A. YES SIR.

: CROSS-EXAMINATION WAIVED.

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CHARLES E. GARRITEE, ESQ., SWORN:

Q. : BY MR. BONAPARTE. : TELL THE JURY WHAT IS YOUR BUSINESS AND WHAT RELATION YOU ARE TO THE PLAINTIFF IN THIS CASE ?

A. I AM AN ATTORNEY AT LAW; I AM A SON OF THE PLAINTIFF IN THIS CASE; I AM ALSO HIS BUSINESS AGENT IN CONDUCTING THE BRICK BUSINESS, AND HAVE BEEN FOR EIGHT OR TEN YEARS; AND AM THOROUGHLY ACQUAINTED WITH EVERYTHING CONNECTED WITH BRICK MAKING.

Q. TELL THE JURY IN THE FIRST PLACE, WHAT YOU KNOW OF YOUR OWN PERSONAL KNOWLEDGE ABOUT THESE DREDGING OPERATIONS AND THEIR EFFECT

UPON YOUR FATHER'S PROPERTY ?

A. I HAVE BEEN DOWN THERE A NUMBER OF TIMES AND I HAVE SEEN IN FRONT OF THE WHARF---IN FRONT OF ALL THIS LEASEHOLD PROPERTY, DOWN FROM THE WHARF, AND ALSO IN FRONT OF THE WILLOW SPRINGS PROPERTY, ALL THE WAY DOWN, AT VARIOUS TIMES, THIS DUMPING.

Q. HAS THE DUMPING TAKEN PLACE IN FRONT OF THE FEE AS WELL AS OF THE LEASEHOLD PROPERTY ?

A. I HAVE SEEN THEM DUMP IN FRONT OF THE FEE, AND I HAVE SEEN THEM DUMP IN FRONT OF THE LEASE<sup>hold</sup>

Q. DO YOU KNOW ANYTHING ABOUT THE USE OF THE HOTEL ON THE WILLOW SPRINGS PROPERTY AS A PLACE OF RESORT FOR EXCURSIONS ?

A. I KNOW THAT I HAVE RENTED IT A NUMBER OF TIMES FOR EXCURSIONS, AND HAVE HAD A NUMBER OF APPLICATIONS FOR EXCURSIONS.

Q. PREVIOUS TO THESE DUMPING OPERATIONS ABOUT HOW OFTEN, ANNUALLY, DID YOU LEASE THAT PROPERTY FOR EXCURSION PURPOSES AND AT WHAT RATE ?

A. I HAVE LEASED IT A NUMBER OF TIMES AT THE RATE OF TWENTY DOLLARS. I DON'T THINK I EVER TOOK LESS THAN FIFTEEN DOLLARS A DAY, WITH ONE EXCEPTION, WHEN I LEASED IT FOR TEN DAYS AT TEN DOLLARS A DAY. OUR GENERAL PRICE WAS TWENTY DOLLARS.

Q. HOW OFTEN IN THE COURSE OF A YEAR---REMEMBER I AM SPEAKING NOW OF THE TIME PREVIOUS TO THE DUMPING--- DID YOU LEASE THIS PROPERTY FOR THAT PURPOSE ?

A. I COULDN'T SAY WITHOUT REFERENCE TO THE BOOKS. FIFTEEN, TWENTY, OR THIRTY TIMES, PERHAPS, DURING THE YEAR.

Q. SUBSEQUENT TO THIS DUMPING WHAT DEMAND, IF ANY, WAS THERE FOR THE PROPERTY AS A PLACE OF RESORT ?

A. WELL, THERE HAVE BEEN PERSONS IN TO SEE ME ABOUT IT, AND I TOLD THEM IT WAS IMPOSSIBLE FOR A STEAMBOAT TO GET IN THERE.

Q. WHY WAS IT IMPOSSIBLE FOR A STEAMBOAT TO GET IN THERE ?

A. I FORM MY OPINION FROM THIS: THAT ALL OUT IN FRONT OF THE WHARF---IN FRONT OF THE FEE AND IN FRONT OF THE LEASEHOLD YOU COULD SEE IN VARIOUS PLACES THESE MOUNDS OF DIRT RISING UP OUT OF THE WATER; THAT IS, WHEN THE WIND BLEW AND THE TIDE WAS VERY LOW YOU COULD SEE THESE MOUNDS, AND THEN IN ADDITION TO THAT, FROM MY KNOWLEDGE OF THE PLACE, I KNEW THERE WERE NINE AND A HALF, TEN AND TWELVE FEET OF WATER OUT IN FRONT OF THE WHARF, AND I ALSO KNOW THAT AT THIS TIME IT IS ABOUT FIVE AND HALF FEET.

Q. PREVIOUS TO THE DUMPING THERE WERE FROM NINE AND A HALF TO TWELVE FEET OF WATER AND SUBSEQUENT TO THE DUMPING THERE HAS BEEN ABOUT FIVE AND A HALF FEET OF WATER ?

A. SIX FEET, I SUPPOSE---SOMETHING LIKE THAT. THESE BOATS THAT WERE DUMPING WOULD NEVER COME MORE THAN FIFTY YARDS OF THE WHARF, ON EITHER SIDE, AND THEREFORE IT WOULD BE DEEPER RIGHT UP ALONGSIDE OF THE WHARF THAN IT WOULD BE FARTHER OUT. AS YOU GO FARTHER OUT YOU SEE THESE MOUNDS STANDING RIGHT UP.

Q. IN OTHER WORDS, THERE WAS A SORT OF CHANNEL LEFT JUST IN FRONT OF THE WHARF, AND THE DEPOSIT WAS FARTHER OUT ?

A. YES SIR; FURTHER OUT. BUT WHAT MADE THIS DIFFERENCE BETWEEN TEN FEET AND FIVE AND A HALF AND SIX FEET WOULD BE THE DRIFTING; IT WOULD ALL DRIFT IN ALONGSIDE OF THE WHARF ; BUT STILL IT WAS DEEPER ALONGSIDE OF THE WHARF THAN IT WAS FARTHER OUT. YOU COULD SEE THAT.

Q. HOW MUCH REVENUE HAVE YOU DERIVED FROM THE RENTING OF THIS PROPERTY DURING THE LAST TWO OR THREE YEARS AS A PLACE OF RESORT IN

SUMMER?

A. I DO NOT REMEMBER OF HAVING RENTED IT ONCE SINCE 1876; I AM SATISFIED I HAVE NOT. I DO NOT REMEMBER OF ANY RENTING IN 1874--- UP EVER SINCE THIS DUMPING. I DO NOT REMEMBER OF A SINGLE RENTING.

Q. SINCE THE DUMPING THERE HAS BEEN NO REVENUE DERIVED FROM THE PROPERTY?

A. THE GENERAL REPUTATION HAS BEEN THAT IT IS IMPOSSIBLE FOR BOATS TO GET IN THERE, AND THEREFORE WE COULD NOT RENT IT.

Q. PREVIOUS TO THAT, I UNDERSTAND YOU TO TESTIFY, THAT YOU RENTED IT FROM TWENTY TO THIRTY TIMES IN THE COURSE OF A YEAR AT ABOUT TWENTY DOLLARS A DAY. NOW, DO YOU KNOW ANYTHING ABOUT THE CHARACTER OF THE STUFF DUMPED THERE AS TO SMELL, AND SO ON?

A. WELL, I COULDN'T SAY SO MUCH AS TO SMELL. OF COURSE ON THE SHORE IT WAS UNPLEASANT.

Q. YOU MEAN THERE WAS AN UNPLEASANT SMELL ON THE SHORE AFTER THE DUMPING?

A. YES SIR; AT TIMES.

Q. HAD THERE BEEN BEFORE THE DUMPING?

A. NO SIR; IT WAS ALL GRAVEL AND SANDY BOTTOM PREVIOUS TO THAT AS FAR AS I HAD BEEN OUT.

Q. DO YOU KNOW ANYTHING ABOUT YOUR FATHER'S OPERATIONS ON THE LEASEHOLD PROPERTY IN REGARD TO BRICKS OR CLAY?

A. WE HAVE AN IMMENSE BED OF CLAY THERE.

Q. CAN YOU TELL THE JURY ABOUT ANY OPPORTUNITIES WHICH HAVE OFFERED THEMSELVES FOR SELLING THIS CLAY SINCE THIS DUMPING OCCURRED, BUT WHICH YOU HAVE NOT BEEN ABLE TO AVAIL YOURSELVES OF?

A. MR. PRESTON PARR AND ONE OTHER GENTLEMAN---I DON'T REMEMBER HIS NAME---WANTED TO BUY CLAY FOR PURPOSES OF SHIPPING.

Q. TELL THE JURY WHAT AMOUNT OF CLAY THEY WANTED TO BUY AND AT WHAT RATE, AND WHAT PREVENTED YOU FROM SELLING IT TO THEM AS THEY DESIRED ?

A. MR. PARR WANTED TO BUY CLAY FOR THE PURPOSE OF SENDING IT AWAY, AND WE CAME TO THE CONCLUSION THAT WE COULDN'T GET THE CLAY OUT. MR. PARR SENT DOWN THERE TO SEE WHETHER HE COULD GET IT OUT, AND WE TOLD HIM WE KNEW HE COULD NOT GET IT OUT, AND THEREFORE WE WERE PREVENTED FROM SELLING.

Q. DESCRIBE WHY YOU COULD NOT GET IT OUT ?

A. IT WOULD REQUIRE A VESSEL TO GO IN THERE AND TAKE IT OUT, AND YOU COULDN'T GET INTO THAT WHARF WITH ANY KIND OF A VESSEL.

Q. WHEN YOU SAY YOU COULD NOT GET THE CLAY OUT, YOU DO NOT MEAN TO SAY THAT YOU COULD NOT GET THE CLAY OUT OF THE SOIL, BUT THAT YOU COULD NOT SHIP IT ?

A. OF COURSE. YOU COULDN'T SHIP IT ON ACCOUNT OF THIS DUMPING.

Q. DO YOU KNOW HOW OFTEN MR. PARR WANTED THIS CLAY AND ABOUT HOW MUCH HE WANTED EACH TIME, AND WHAT HE WAS GOING TO PAY FOR IT ?

A. HE HAS BEEN TO MY OFFICE TWO OR THREE TIMES WITH FATHER, AND I HAVE HEARD THEM TALK OVER THE MATTER. I KNOW OF A HUNDRED TONS, AND THEN IT WAS TO BE A CONTINUING OPERATION. MR. PARR SAID THAT AS SOON AS THAT WAS OUT HE WANTED MORE. I KNOW HE WAS TALKING ALL THE TIME ABOUT HIS GETTING IT OUT---AFTER GETTING OUT ONE LOAD, TO GET OUT ANOTHER LOAD.

Q. YOU KNOW, HOWEVER, OF ONE OFFER, DISTINCTLY, OF ONE HUNDRED TONS, BUT WHICH YOU COULD NOT ACCEPT ON ACCOUNT OF THE DIFFICULTY OF SHIPPING IT ?

A. THAT WAS IT.



Q. WOULD THERE HAVE BEEN ANY DIFFICULTY ABOUT SHIPPING IT BUT FOR THIS DUMPING ?

A. NO SIR.

Q. DO YOU KNOW WHAT MR. PARR WAS GOING TO GIVE YOU FOR THAT CLAY?

A. THE FIRST OFFER WAS A DOLLAR A TON, RIGHT ON THE PLACE. THEY WERE TO GO IN THERE AND TAKE IT OUT---TO PAY A DOLLAR FOR THE PRIVILEGE OF DIGGING IT.

Q. THE CLAY WAS PARTLY ON THE FEE SIMPLE, WAS IT ?

A. THE CLAY WAS ON ALL. THERE IS SOME CLAY THAT MR. PARR WANTED ON THE FEE, AND A LITTLE OF IT ON THE LEASEHOLD. IT WAS ALL OVER, IN SPOTS. THE WHOLE PLACE IS CLAY BED---FEE AND LEASE BOTH.

Q. COULD MR. PARR HAVE GOTTEN ALL THE CLAY HE WANTED FROM THE FEE ---THIS HUNDRED TONS OF CLAY ?

A. HE HAD SO MANY SAMPLES, I DON'T KNOW WHETHER HE COULD HAVE GOTTEN IT ON THE LEASEHOLD OR ON THE FEE. IT WAS AT OUR OPTION TO TAKE IT OFF THE FEE OR THE LEASE.

Q. : BY THE COURT. : DID MR. PARR WANT TO BUY THE CLAY BY SAMPLE ?

A. YES SIR.

Q. WHERE WERE THE SAMPLES TAKEN FROM ?

A. FROM DIFFERENT PARTS---FROM THE FEE AND FROM THE LEASE.

Q. : BY MR. BONAPARTE. : WHICH SAMPLES DID HE CHOOSE FROM ?

A. I DON'T KNOW. <sup>That was arranged between them.</sup> I ONLY KNOW THAT WE HAD THE CLAY THERE AND

THAT MR. PARR WAS READY TO BUY IT. WE HAD CLAY ON THE FEE AND CLAY ON THE LEASE.

Q. I UNDERSTAND YOU TO TESTIFY THAT YOU RECOLLECT THIS ONE OFFER FOR A HUNDRED TONS, BUT THAT THERE WERE OTHER OFFERS OF WHICH YOU

HAVE NO DEFINITE RECOLLECTION ?

✓ A. I KNOW THEY WERE MADE, AND HEARD THE CONVERSATIONS.

Q. : BY MR. WILLIAMS. : THE CLAY WAS NOT TO BE MANUFACTURED ON THE PREMISES ?

A. FOR CLAY ENOUGH TO MAKE A THOUSAND BRICKS THAT WE TOOK OUT THERE, WE HAD TO PAY TWENTY-FIVE CENTS; IT MADE NO DIFFERENCE WHERE WE TOOK IT FROM.

Q. BEFORE THIS DUMPING TOOK PLACE COULD SUCH VESSELS AS MR. PARR COULD HAVE WISHED TO SHIP THIS CLAY IN HAVE APPROACHED YOUR PROPERTY AND TAKEN IT ?

A. VESSELS DRAWING EIGHT AND NINE AND A HALF FEET OF WATER COULD HAVE COME UP TO THAT WHARF PREVIOUS TO THE DUMPING.

Q. DO YOU KNOW ANYTHING ABOUT THE MARKETABLE VALUE OF LAND IN THAT NEIGHBORHOOD ?

A. I CAN TELL YOU WHAT I BASE IT UPON: UPON THE IMMENSE BEDS OF CLAY ON ALL THIS LAND, BOTH ON THE FEE AND ON THE LEASE. IN THE CITY OF BALTIMORE WE HAVE TO PAY A DOLLAR A THOUSAND ROYALTY ON THAT CLAY. IN EVERY ACRE THERE ARE 43,560 FEET, AND TO MAKE A THOUSAND BRICKS IT TAKES  $1 \times 4 \text{ FEET} \times 16 = 64$ ; THAT IS, 16 FEET LONG, 4 FEET WIDE, BY ONE DEEP. THE BENCHES OF CLAY THERE RUN FROM EIGHT, TEN TO TWELVE FEET, AND SOME OF THEM AS HIGH AS SIXTEEN FEET DEEP. THAT WOULD BE 43,560 FEET WHICH DIVIDED BY 64 WOULD MAKE 680,000 BRICKS, ONE FOOT DEEP. THAT MAKES 6,800,000 BRICKS. SAY THAT IT IS TEN FEET DEEP--- AND VERY LITTLE OF IT IS LESS THAN TEN FEET---THAT WOULD BE WORTH \$6,800 ROYALTY PER ACRE,

Q. SO THAT THIS DESCRIPTION OF LAND IS WORTH \$6,800 AN ACRE AS LAND FOR THE PURPOSE OF MANUFACTURING BRICKS ?

A. CERTAINLY.

Q. STATE WHAT SIMILAR LAND IS WORTH IN THAT VICINITY THAT CANNOT BE USED FOR THE PURPOSE OF MANUFACTURING BRICKS ?

A. I DON'T SEE THAT IT WOULD BE WORTH MORE THAN FARM LAND--- SEVENTY-FIVE DOLLARS AN ACRE.

Q. WHAT EFFECT HAS THE WATER CARRIAGE ON THE QUESTION WHETHER LAND CAN OR CANNOT BE USED FOR BRICK MAKING PURPOSES ?

A. I DON'T SEE, IF YOU DO NOT HAVE YOUR WATER FRONT THAT YOU CAN GET YOUR BRICKS OUT, AND YOUR CLAY IS NOT OF MUCH VALUE.

Q. TAKING THIS PROPERTY, AS IT IS NOW, IS IT IN SUCH A CONDITION THAT IT COULD BE USED FOR THE MAKING OF BRICKS, AND IF IT IS NOT, WHAT WOULD BE NECESSARY TO PUT IT IN SUCH A CONDITION ?

A. IN ORDER TO PUT THAT PROPERTY IN CONDITION TO MANUFACTURE BRICKS, YOU WOULD EITHER HAVE TO DREDGE OUT ALL THIS DIRT THAT THESE PEOPLE HAVE PUT THERE, OR ELSE BUILD A WHARF A LONG WAY OUT IN THE STREAM.

Q. WHAT DO YOU MEAN BY A LONG WAY OUT IN THE STREAM ?

✓ A. YOU WOULD HAVE TO GET PAST ALL THIS DUMPING, AND I HAVE SEEN THEM DUMP OUT A GREAT WAYS. I HAVE SEEN THEM DUMP OUT FULLY A QUARTER OF A MILE---AS FAR OUT AS 600 YARDS.

Q. : BY MR. HINKLEY. : WOULD YOU HAVE TO BUILD A WHARF 600 YARDS ?

A. WELL, AS I NEVER MEASURED, I COULDN'T SAY HOW FAR. BUT THE DISTANCE I HAVE SEEN THESE KNOLLS---AND I HAVE SEEN THEM OUT 300 YARDS, AND I HAVE SEEN THEM DUMPING 600 YARDS---MY OPINION IS, THAT IT WOULD BE NECESSARY TO BUILD A WHARF OUT THAT FAR.

Q. : BY MR. BONAPARTE. : COULD YOU FIX A MINIMUM DISTANCE THAT IT WOULD BE ABSOLUTELY NECESSARY TO BUILD A WHARF OUT. GIVE THE MOST

FAVORABLE CALCULATION POSSIBLE ?

A. IT WOULD BE NECESSARY, I AM SATISFIED, TO BUILD A WHARF OF AT LEAST ABOUT SIX HUNDRED FEET; AND MY BELIEF IS THAT IT WOULD HAVE TO BE MUCH FARTHER, BECAUSE I HAVE SEEN ALL THIS DUMPING IN FRONT OF THAT--- EVEN OF YARDS.

Q. BUT SIX HUNDRED FEET IS THE MINIMUM ?

A. YES, SIR.

Q. WHAT IS THE QUALITY OF THE BRICK CLAY TAKEN FROM THIS PROPERTY ?

A. I THINK WE HAVE BETTER CLAY THERE THAN WE HAD IN CARROLLS' FIELD, AND WE HAD WHAT IS CONSIDERED THE BEST IN CARROLLS' FIELD. I THINK OUR CLAY IS BETTER. I THINK THIS CLAY IS BETTER THAN ANY CLAY IN BALTIMORE CITY.

Q. HOW IS IT ABOUT POTTERS' CLAY THERE ?

A. I KNOW THAT THERE ARE SOME GOOD BEDS OF IT THERE.

Q. IS POTTERS CLAY MORE OR LESS VALUABLE THAN BRICK CLAY ?

A. ON MR. PARR'S ESTIMATE, IT IS MUCH MORE VALUABLE. IT IS WORTH ABOUT FROM \$2.40 TO \$3 A THOUSAND---FOR ENOUGH TO MAKE A THOUSAND BRICKS.

Q. : BY MR. WILLIAMS. : YOU DO MAKE BRICKS OUT OF POTTERS' CLAY?

A. BRICKS CAN BE MADE OUT OF IT, YES, SIR. I WANT TO SAY IN REFERENCE TO THAT CLAY THAT THAT IS THE ROYALTY ON IT. THEN THE MANUFACTURER COMES IN AND MAKES HIS BRICKS, AND HERE HE HAS HIS PROFIT OF \$1 OR \$1.50 ON IT. WHEN WE WOULD LEASE IT OUT AT A ROYALTY, IT WOULD BE A DOLLAR; BUT THEN THE MANUFACTURER HAS TO COME IN AFTER THAT, AND HIS PROFIT HAS <sup>is about</sup> TO BE \$1 OR \$1.50 A THOUSAND.

Q. LOOK AT THE PLAT I NOW HAND YOU AND STATE IF IT GIVES A CORRECT IDEA OF THE SHORE ALONG THE LINE OF THIS PROPERTY ?

A. I COULDN'T SAY THAT. I ONLY KNOW THE SHORE.

Q. STATE WHETHER IT GIVES A GENERALLY CORRECT IDEA OF IT ?  
A. THAT SHOWS ABOUT THE WAY IT RUNS IN AND OUT.  
Q. AND OF THE LOCATION OF THE HOUSES, THE BRICK-YARD AND THE  
WHARF ?

A. YES, SIR.

Q. WHO MADE THAT PLAT ?

A. THOMAS J. HITAFFER.

Q. IS THAT ABOUT THE RELATIVE POSITION OF THINGS ?

A. YES, SIR.

Q. WHAT IS THAT PILE OF STONES REPRESENTED ON THE PLAT ?

A. THERE IS A PILE OF STONES ON THAT SHORE ;INDICATING;, ABOUT  
THREE OR FOUR HUNDRED YARDS BELOW THE WHARF.

Q. WHAT WERE THEY PUT THERE FOR ?

A. I DON'T KNOW ANYTHING ABOUT THEM.

: PLAT EXHIBITED TO THE JURY. :

Q. STATE ANY OTHER THING THAT YOU KNOW ABOUT THIS DUMPING ?

A. PREVIOUS TO THIS DUMPING WE HAD ACCESS TO ALL THAT SHORE.

Q. EVERY FOOT OF IT ?

A. YES, SIR; BUT SINCE THAT DUMPING WE HAVE NOT. THERE IS ON  
THAT PLACE NOW BETWEEN THREE AND FOUR HUNDRED THOUSAND BRICKS THAT WE  
CANNOT SHIP. WE HAVE BEEN SHIPPING TO THE EASTERN SHORE, TO ANNAPOLIS  
AND TO VIRGINIA PREVIOUS TO THIS DUMPING.

Q. YOU HAVE THREE OR FOUR HUNDRED THOUSAND BRICKS AT THE PRESENT  
MOMENT ON YOUR PROPERTY, WHICH BRICKS YOU COULD SHIP IF THE DUMPING HAD  
NOT OCCURRED, AND WHICH YOU NOW CANNOT SHIP AT A PROFIT. IS THAT YOUR  
TESTIMONY ?

A. YOU CANNOT SHIP THEM AT ALL. YOU MIGHT TAKE THEM OUT IN SCOWS  
AND RUN THE RISK OF GETTING STUCK IN THE MUD.

Q. EXPLAIN WHAT YOU MEAN WHEN YOU SAY YOU CANNOT SHIP THEM. YOU CANNOT PUT THEM IN VESSELS. WHAT KIND OF VESSELS DO YOU MEAN ?

A. WE SHIPPED OUR BRICKS IN VESSELS OF SIX, SEVEN AND EIGHT DRAFT, AND THOSE VESSELS CANNOT COME INTO THIS WHARF NOW, OR ANY OTHER PLACE ALONG THE SHORE. THAT WAS THE DEPTH OF THE WATER AT THAT PLACE.

Q. : BY MR. M'LANE. : WAS THAT AT THE WHARF OR ALL ALONG THE SHORE ?

A. WELL, WE COULD RUN IN ALONGSIDE OF THE WHARF.

Q. YOU SHIPPED FROM THE WHARF ?

A. YES, SIR.

Q. VESSELS DRAWING SIX, SEVEN OR EIGHT FEET OF WATER ?

A. YES, SIR. IF YOU UNDERSTAND IN REFERENCE TO BRICK MAKING, A KILN MAY BE HERE TO-DAY, AND TWO WEEKS FROM NOW IT MAY BE NECESSARY TO PUT IT AT THE OTHER END OF THE PLACE, AND THEREFORE IT IS NECESSARY THAT WE SHOULD HAVE ACCESS TO EVERY PART. WE COULD HAVE BUILT A WHARF OUT THERE THE SAME AS THIS WHARF PREVIOUSLY, BUT NOW YOU COULD NOT.

Q. : BY MR. BONAPARTE. : YOU MEAN THAT NOW YOU WOULD HAVE TO EXTEND A WHARF A GREAT DEAL FARTHER THAN PREVIOUSLY ?

A. YES, SIR; AND NOW IT WOULD BE AN IMPOSSIBILITY TO GET INTO THAT SHORE WITH A WHARF EVEN OF THE SAME LENGTH AS THE ONE WE HAVE NOW. IT WOULD BE NECESSARY TO BUILD A WHARF WAY OUT, AND IT WOULD COST MUCH MORE.

Q. : BY MR. WILLIAMS. : DO YOU KNOW OF ANY OTHER RESULT FROM THIS DUMPING ?

A. I KNOW THAT PREVIOUS TO THIS DUMPING, IN 1869, 1870 AND 1871, I USED TO BE DOWN THERE VERY NEARLY ALL THE TIME, ~~XXXXXXXXXX~~ DURING THE SUMMER MONTHS. AND OFF AND ON DURING THE REST OF THE TIME, AND THE PLACE WAS NOTED AS A FISHING SHORE. THE VERY BEST OF FISH COULD BE

CAUGHT ALL ALONG THERE; THE SEINE-HAULERS AND THE FISHERS WOULD BE IN THERE ALL THE TIME TAKING THEM OUT; SINCE THEN THERE HAS BEEN NO FISHING DONE THERE AT ALL. IT HAS BEEN RUINED.

CROSS-EXAMINATION.

BY MR. HINKLEY :

Q. WHAT IS THE LENGTH OF THE WHARF THERE ?

A. I SUPPOSE IT IS ABOUT 200 FEET, OR A LITTLE OVER.

Q. IS IT IN GOOD REPAIR ?

A. THE LAST TIME I SAW IT IT WAS IN SUCH CONDITION THAT IT COULD BE REPAIRED FOR ABOUT \$25.

Q. WHEN DID YOU LAST SEE IT ?

A. IT HAS BEEN ABOUT A YEAR AND A HALF AGO.

Q. THEN YOU CANNOT ANSWER MY QUESTION, WHETHER IT IS IN GOOD REPAIR ?

A. AT PRESENT I CANNOT SAY.

Q. WHAT IS THE DEPTH OF THE WATER AT THE END OF THE WHARF NOW ?

A. IF I CANNOT ANSWER THE ONE I CANNOT ANSWER THE OTHER. I AM TALKING ABOUT WHAT IT WAS WHEN I WAS DOWN THERE A YEAR AND A HALF AGO.

Q. WHAT WAS THE DEPTH OF THE WATER AT THE END OF THE WHARF WHEN YOU SAW IT LAST, ABOUT A YEAR AGO ?

A. ABOUT FIVE AND A HALF FEET.

Q. WHAT DISTANCE WOULD YOU HAVE TO INCREASE THE LENGTH OF YOUR WHARF, BEYOND WHAT IT IS NOW, TO GET TO EIGHT FEET OF WATER ?

A. MY OPINION IS YOU WOULD HAVE TO GO <sup>about</sup> ~~THREE~~ THREE OR FOUR HUNDRED FEET TO GET EIGHT FEET OF WATER---ABOUT THAT. I MAKE THAT CALCULATION FROM SEEING THESE MOUNDS STRETCHING OUT IN FRONT.

Q. THREE OR FOUR HUNDRED FEET IN ADDITION TO THE WHARF THAT IS THERE NOW, OR THREE OR FOUR HUNDRED FEET IN ALL ?

A. I DO NOT MEAN YOU WOULD HAVE TO GO OUT THAT FAR; I BELIEVE YOU WOULD HAVE TO GO OUT MUCH FARTHER. BUT THAT IS MY OPINION; YOU MIGHT GET IT AT THAT DISTANCE.

Q. THAT IS TO SAY, MAKING THE WHARF ALTOGETHER FIVE OR SIX HUNDRED FEET LONG ?

A. YES, SIR.

Q. WHAT WOULD THE COST OF THE ADDITIONAL PART OF SUCH A WHARF BE?

A. I BELIEVE A WHARF COULD BE PUT UP AT THE RATE OF \$10 A FOOT

Q. IF SUCH A WHARF WERE PUT UP YOU COULD GET WATER ?

A. YOU MIGHT; I DO NOT SAY THAT YOU COULD.

Q. YOU WERE ASKED WITH REFERENCE TO THE LAND. I DO NOT WANT ANY CALCULATIONS AS TO THE AMOUNT OF BRICKS OR CLAY THAT COULD BE MADE FROM IT; BUT I WANT TO KNOW THE MARKET VALUE OF THE LAND AT THIS DAY ?

A. IF WE CANNOT GET INTO THE CLAY IT IS NOT WORTH ANY MORE THAN FARM LAND, AND FARM LAND IS WORTH ABOUT \$75 AN ACRE.

Q. WHAT HAS BEEN THE CHARACTER OF THE BRICK BUSINESS DURING THE LAST TWO OR THREE YEARS---GOOD OR BAD ?

A. THERE HAS BEEN A VERY POOR DEMAND FOR BRICKS; BUT THERE IS A GOOD DEMAND FOR BRICKS THIS SPRING, AND HAD IT NOT BEEN FOR THIS I WOULD HAVE HAD SOME MONEY IN IT, TOO, THIS SPRING---THIS DUMPING, AND THE CONSEQUENT IMMENSE EXPENDITURE TO BUILD OUT THIS WHARF. IT WOULD TAKE US ABOUT TWO WEEKS TO GET THE YARD IN ORDER FOR MARKET.

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DANIEL CONSTANTINE, SWORN :

*(Examined for Defendants by  
Consent, without closing Plaintiff's  
case)*

BY MR. M'LANE :

Q. WILL YOU TELL THE COURT AND THE JURY WHEN YOU WERE PORT-WARDEN ?

A. FROM THE LATTER PART OF 1872 TO 1875---IN THE INTERVAL BETWEEN



THOSE TWO YEARS.

✓ Q. AS PORTWARDEN FROM 1872 TO 1878, HAD YOU CHARGE OF THE DREDGING OF THE HARBOR AND OF THE PATAPSCO RIVER ?

A. YES, SIR.

Q. WILL YOU TELL THE JURY HOW YOU CONDUCTED THAT WORK ?

A. WELL, SIR, WE SELECTED THE WORST PLACES IN THE HARBOR TO BE DREDGED, AND IN DREDGING THE MATERIAL OF COURSE WE HAD TO FIND SOME PLACE TO DUMP IT. IT HAD BEEN THE CUSTOM EVER SINCE MY RECOLLECTION TO FIND FLATS AS NEAR TO THE CITY AS POSSIBLE, SO THAT THE WORK COULD BE DONE AS ECONOMICALLY AS POSSIBLE, AND SO THAT WE WOULD HAVE BUT A SHORT DISTANCE TO TOW AND COULD USE SMALLER SCOWS. DURING THE TIME THAT I OCCUPIED THE POSITION OF PORTWARDEN, WE SELECTED THE CANTON COMPANY'S GROUND AND GROUND THAT BELONGED TO THE CITY, AND ALSO WHAT ARE CALLED SOLLERS' FLATS. WE DUMPED AT ALL THREE OF THOSE PLACES JUST AS LONG AS WE COULD DUMP WITHOUT INTERFERING WITH THE CHANNEL. WE WERE ENDEAVORING TO IMPROVE THE HARBOR AND THE CHANNEL ALL THE TIME. OF COURSE WE HAD TO FIND A PLACE TO DUMP THE MATERIAL. THE REASON WHY WE SELECTED THE FLATS WAS BECAUSE THEY COULDN'T BE MADE AVAILABLE. OF COURSE THEY COULD BE, BUT AT GREAT EXPENSE. SOLLERS' FLATS IS SAND AND CLAY PRINCIPALLY. NOW PEOPLE BUILDING WALLS KNOW THAT IT IS MORE ECONOMICAL TO BUILD A SKELETON WHARF OUT TO DEEP WATER THAN IT IS TO EXCAVATE HARD MATERIAL. THAT IS THE REASON WHY WE GENERALLY COMMENCED FILLING UP ON THE FLATS.

Q. YOU SELECTED THESE FLATS AS BEING PLACES WHICH WOULD BE THE MOST ECONOMICAL ?

A. PLACES WHICH WOULD BE THE MOST ECONOMICAL AND THAT WOULDN'T INJURE PRIVATE PROPERTY. IN MY EXPERIENCE IT IS MUCH CHEAPER TO BUILD

OUT TO DEEP WATER THAN TO EXCAVATE HARD MATERIAL, AND WE THOUGHT WE WERE BENEFITTING THESE PARTIES BY PUTTING THE MATERIAL OUT ON THE FLATS.

Q. DURING THE TIME THAT YOU WERE PORTWARDEN DID YOU DO ANY EXCAVATING AND DUMPING UNDER THE DIRECTIONS OF GEN. CREIGHILL ?

A. YES, SIR.

Q. WHAT WAS HE ENGAGED IN DOING ?

A. IN SELECTING THE NEAREST FLATS, ALWAYS. HE WAS DEEPENING THE CHANNEL OF THE PATAPSCO.

∴ EVIDENCE RECEIVED SUBJECT TO EXCEPTION. ∴

Q. THIS SEDIMENT WAS TAKEN FROM THE HARBOR AND SOME OF IT FROM THE CHANNEL UNDER THE DIRECTION OF GEN. CREIGHILL UNDER THAT HARBOR COMMISSION ?

A. YES, SIR; DURING THE TIME THAT I WAS PORTWARDEN.

Q. AND IT WAS DUMPED ALONG THE FLATS OF THE PATASCO RIVER ?

A. YES, SIR.

Q. WHAT WAS DONE BY YOU IN THE MATTER OF STRUCTURES <sup>OR</sup> PRIVATE PROPERTY ?

A. IN DUMPING ON THIS GROUND IN THE NEIGHBORHOOD OF SOLLERS' FLATS THERE WAS A WHARF---

Q. WAS THAT MR. GARRITEE'S WHARF ?

A. YES, SIR. THE CAPTAINS OF THE TUGS HAD INSTRUCTIONS TO KEEP AS FAR AWAY FROM THAT WHARF AS POSSIBLE, SO THAT THEY WOULDN'T INJURE THE WHARF IN ANY SHAPE AT ALL; AND I BELIEVE THEY CARRIED IT OUT, AS FAR AS I KNOW. ✓ BETWEEN THERE AND SOLLERS' POINT THEY DUMPED WHEREVER IT WAS CONVENIENT, AND ON THE FLATS. AS I SAID BEFORE, WE DUMPED ON THE FLATS, BECAUSE MOST PEOPLE FIND IT CHEAPER TO BUILD OUT A LONG WHARF THAN IT IS TO DIG THIS HARD MATERIAL.

Q. CAN YOU TESTIFY AS TO THE DEPTH OF WATER ON THOSE FLATS. HAVE YOU MADE ANY SOUNDINGS YOURSELF THERE, OR HAD ANY MADE ?

A. NO, SIR; NOT FOR SOME TIME.

Q. WHAT WERE THE HOURS THAT YOUR MEN WERE AT WORK ?

A. WE WORKED THEN IN THE PORTWARDENS DEPARTMENT ON THE EIGHT-HOUR SYSTEM: WENT TO WORK AT 8 O'CLOCK IN THE MORNING AND QUIT AT FIVE IN THE AFTERNOON.

Q. DID WORK STOP AT FIVE O'CLOCK UP AT THE YARD OR DOWN AT THE DUMP ?

A. IT USUALLY STOPPED BEFORE FIVE AT THE DUMP. THE MEN OF COURSE WERE PERMITTED TO STOP AT FIVE, AND THEY MADE IT A POINT GENERALLY TO GET BACK TO THE CITY BY 5 O'CLOCK.

Q. DID YOUR MEN EVER WORK DOWN AT THE DUMP AS LATE AS SIX, SEVEN AND EIGHT O'CLOCK ?

A. NO, SIR. THERE MAY HAVE BEEN A POSSIBILITY, SOMETIMES, OF A BOAT GETTING AGROUND AND SHE WOULD BE SOME TIME GETTING OFF.

CROSS-EXAMINATION.

Q. : BY MR. WILLIAMS. : HOW SHALLOW HAS WATER TO BE TO CALL IT A FLAT ?

A. WELL, IT IS OF VARIOUS DEPTHS. OF COURSE WE GENERALLY CALL IT A FLAT UNTIL IT GOES OFF TO 8 OR 10 FEET OF WATER---WHERE THEY RUN OUT SOME DISTANCE WITHOUT MUCH OF AN INCLINATION. WHEN IT DEEPENS SUDDENLY, THEN WE CALL THE EDGE OF THAT THE FLAT.

Q. WOULD YOU CALL 10 FOOT DEPTH OF WATER A FLAT ?

A. WELL, IT MIGHT BE THE EDGE OF THE FLAT. WE WOULD HARDLY CALL THAT A FLAT.

Q. EIGHT AND SIX FEET OF WATER IS NAVIGABLE, IS IT NOT ?

A. FOR A CERTAIN CLASS OF VESSELS, YES, SIR. IF IT RUNS OFF PRETTY NEAR LEVEL---ONLY A LITTLE INCLINATION FOR A LONG DISTANCE---THAT IS A FLAT, OF COURSE, AND OF COURSE WHEN IT DEEPENS SUDDENLY OF COURSE THAT LEAVES THE FLAT.

Q. A FLAT DON'T MEAN LAND COVERED WITH NAVIGABLE WATER, NECESSARILY ?

A. A FOOT OF WATER IS NAVIGABLE WATER FOR A VESSEL THAT DRAWS ONLY A FOOT OF WATER.

Q. DO YOU CALL PLACES WHERE THE WATER IS FROM SIX TO EIGHT FEET DEEP, THAT IS KNOWN TO THE REST OF THE WORLD AT LARGE--- DO YOU CALL THAT A FOOT IN DEPTH ?

*as navigable*  
*flat*

A. IF THAT EXTENDS SOME DISTANCE FROM THE SHORE, AND TERMINATES IN DEEP WATER, I WOULD CALL THAT A FLAT.

Q. YOU THINK YOU HAVE A RIGHT TO GO AND THROW YOUR MUD INTO SIX, EIGHT AND TEN FEET OF WATER BECAUSE IN YOUR OPINION IT IS A FLAT ?

: QUESTION OBJECTED TO. :

Q. DO YOU CONSIDER THIS SPOT OF TEN FEET OF WATER, AS COMPREHENDED UNDER THE WORD "FLAT"---WHETHER THAT WAS IN COL. CREIGHILL'S ORDERS ?

A. I THINK I SAID THAT WHAT I CALLED A FLAT WAS THE BOTTOM RUNNING OUT PRETTY NEAR LEVEL---RUNNING OUT VERY NEAR LEVEL, AND WHICH DEEPENS VERY SLOW; THE END OF THAT I WOULD CALL A FLAT, IN MAYBE EIGHT FEET OF WATER, AND IF IT DEEPENED SUDDENLY I WOULD CALL THAT THE END OF THE FLAT.

Q. IF IT WAS 20 FEET DEEP, AND DEEPENED UP TO 25 FEET, YOU WOULD STILL CALL IT A FLAT ?

A. NO, SIR; I WOULD NOT CALL IT A FLAT.

Q. THEN THERE IS A DEPTH OF WATER AT WHICH IT CEASES TO BE A FLAT?

A. I SAID EIGHT FEET OF WATER.

Q. WOULD YOU CALL SIX FEET OF WATER A FLAT ?

A. YES, SIR; IF IT RUNS OUT FLATTY.

Q. TELL US WHAT COL. CREIGHILL'S INSTRUCTIONS WERE TO YOU, AND ESPECIALLY ABOUT THIS LOCALITY ?

A. ABOUT THAT LOCALITY COL. CREIGHILL GAVE NO SPECIAL INSTRUCTIONS. COL. CREIGHILL HAS SUPERVISION OF DUMPING THROUGHOUT THE HARBOR AND THE CHANNEL. HIS BOATS ARE WATCHING ALL THE TIME---SEEING THAT THERE IS NO DAMAGE DONE TO THE HARBOR OR CHANNEL.

Q. BUT AS TO THIS SPOT HE GAVE YOU NO INSTRUCTIONS ?

A. HE GAVE NO PARTICULAR INSTRUCTIONS WITH REGARD TO THAT SPOT. HE HAS GENERAL SUPERVISION OF THE DUMPING GROUNDS, TO SEE THAT THERE IS NO DAMAGE DONE TO THE CHANNEL.

Q. WHAT YOU DID HERE WAS IN SUPPOSED CONFORMITY WITH COL. CREIGHILL'S GENERAL WISHES ?

A. HE FOUND NO FAULT WITH WHAT WAS DONE.

Q. WHO GIVES COL. CREIGHILL AUTHORITY OVER THESE GROUNDS ?

A. I DO NOT KNOW; THAT IS BEYOND MY ABILITY TO STATE. I THINK HE GETS HIS APPOINTMENT FROM THE UNITED STATES GOVERNMENT.

Q. AS TO THE CHANNEL ?

A. A PART OF THIS TIME HE GOT HIS AUTHORITY FROM THE CITY OF BALTIMORE, FROM THE HARBOR BOARD. THAT WAS IN CONJUNCTION, OF COURSE, WITH HIS POSITION AS A UNITED STATES OFFICIAL.

Q. BUT THIS GROUND, THAT LIES FAR AWAY FROM THE FLATS AND THE CHANNEL, HAS HE ANYTHING TO DO WITH THAT ?

A. YES, SIR; HE HAS SUPERVISION OVER THIS, TO SEE THAT THE CHANNEL OR HARBOR IS NOT DAMAGED IN ANY WAY BY DUMPING.

Q. BUT HE GAVE TO THIS SPOT NO GENERAL INSTRUCTIONS ?

A. NO, SIR.

Q. AND WHAT YOU DID YOU MERELY SUPPOSED YOU WERE DOING IN COMPLIANCE WITH HIS VIEWS AS TO WHAT SHOULD BE DONE ?

A. I SUPPOSED THAT IF HE THOUGHT THERE WAS ANY DAMAGE BEING DONE THERE, OF COURSE HE WOULD STOP DUMPING.

Q. WHY DID YOU NOT KEEP ON DUMPING ON THE CANTON COMPANY'S GROUNDS

A. SIMPLY BECAUSE WE WERE GETTING BEYOND THE FLATS, AND THAT THAT MIGHT DAMAGE THE CHANNEL IF WE CONTINUED TO DUMP.

Q. WERE YOU NOT STOPPED BY THE CANTON COMPANY ?

A. I DON'T THINK WE WERE.

Q. THINK. DON'T YOU REMEMBER THAT THE CANTON COMPANY STOPPED YOU ?

A. I THINK WE STOPPED THERE BEFORE THEY GAVE ANY NOTICE.

Q. WHAT WAS THE NOTICE THAT THEY GAVE, DO YOU REMEMBER ?

A. I DON'T RECOLLECT DISTINCTLY. I KNOW THEY WANTED THE CITY OF BALTIMORE TO ASSIST THEM IN BUILDING A BULKHEAD OUT. I KNOW THEY WANTED THAT PARTICULARLY.

Q. AND WHEN THE CITY WOULD NOT, DON'T YOU REMEMBER THEY STOPPED YOU FROM DUMPING THERE ?

A. THEY HAD REQUESTED US TO STOP, BUT WE HAD REMOVED TO THE LOWER PART OF THEIR GROUNDS PREVIOUS TO THAT.

Q. FOUR TUGS WERE EMPLOYED BY THE CITY OF BALTIMORE IN TAKING THIS SEDIMENT FROM THE BASIN. HOW MANY WERE EMPLOYED IN DUMPING ON THIS SHORE DURING 1874 ?

A. ONE OF THE TUGS WAS CONSTANTLY EMPLOYED IN TOWING TO THE SEA WALL, AND SOMETIMES TWO; BUT ONE CONSTANTLY.

Q. WHICH CARRIES THE MOST MUD, THE BOX SCOWS OR THE OTHER ?

A. THE DUMP SCOW CARRIES THE MOST MUD.

Q. AND ONLY THE BOX SCOWS WENT TO THE SEA WALL ?

A. SOMETIMES THE DUMP SCOWS WENT THERE TOO.

Q. CANNOT YOU GIVE THE JURY SOME IDEA OF THE PROPORTION OF THE MUD THAT WENT TO THE SEA WALL AND THE PROPORTION THAT DID NOT ?

A. I DO NOT KNOW THAT I COULD. PERHAPS ONE-THIRD MAY HAVE GONE TO THE SEA WALL.

Q. IN YOUR REPORTS YOU PUT THE QUANTITY DOWN AS A MERE TRIFLE: NINETY-ONE THOUSAND OUT OF 453 THOUSAND ?

A. I DON'T RECOLLECT THE REPORT EXACTLY. WAS THAT BY THE CARS ?

Q. WE DON'T KNOW ?

A. I CANNOT RECOLLECT; WHATEVER THE REPORT SAYS IS CORRECT.

Q. YOU THINK ABOUT ONE-THIRD WENT TO THE SOUTH SIDE OF THE RIVER AND TWO-THIRDS TO THE OTHER ?

A. THERE WAS NO TWO-THIRDS THAT WENT TO ANY ONE SPOT.

Q. IT WAS DUMPED ALL ALONG THE SHORE, WE KNOW. HOW OFTEN DID YOU GO DOWN THERE TO SEE WHERE THEY DID DUMP ?

A. I DON'T SUPPOSE I WENT DOWN MYSELF OVER THREE OR FOUR TIMES A SEASON. THE CHIEF ENGINEER, WHO WAS UNDER ME, WENT DOWN THERE FREQUENTLY. I WENT DOWN AFTER WE SELECTED THE DUMP AND PUT UP A POST.

Q. NOW I REPEAT MY QUESTION, WHETHER YOU WENT DOWN THERE TO SEE WHETHER THEY DUMPED ALONGSIDE OF THAT POST, OR WHETHER YOU REMAINED UP TOWN ?

A. I SAY I WENT DOWN THERE THREE OR FOUR TIMES A YEAR; BUT THE CHIEF ENGINEER, WHO WAS EMPLOYED UNDER ME, WENT DOWN OFTEN.

Q. I AM NOW ASKING YOU WHAT YOU DID. WHERE DID YOU PUT YOUR FIRST POST ?

A. IN ABOUT SEVEN FEET OF WATER. THAT WAS FAR OUT---TO KEEP FROM GETTING ANYWHERE NEAR THIS WHARF.

Q. TO DUMP BETWEEN THAT POST AND THE SHORE ?

A. YES, SIR; AND NO CLOSER TO THE WHARF.

Q. IN ORDER TO KEEP THE TUGS AWAY FROM THAT WHARF, YOU PUT THAT POST UP IN SEVEN FEET OF WATER ?

A. YES, SIR. THEY WERE TO DUMP EAST OF THAT POST, OR TOWARDS SOLLERS' POINT ALL THE TIME. OF COURSE, THEY CONTINUED THE DUMPING ALONG THE SHORE, AS LONG AS THEY COULD GET THE SCOWS IN.

Q. INSIDE OF SEVEN FEET OF WATER ALL THE TIME, DO YOU MEAN ?

A. YES, SIR.

Q. THEREFORE, IF THE DUMPING DESTROYED, IT DESTROYED NAVIGABLE WATER OF SEVEN FEET OFF THE EDGE, OUTSIDE, ALL THE WAY ALONG THE SHORE ?

A. IT IS NOT DESTROYED YET; NO, SIR.

Q. IF DESTROYED, I SAY ?

A. WE DUMPED SCOWS THERE DRAWING FIVE FEET OF WATER, AND OF COURSE THERE WAS FIVE FEET OF WATER LEFT THERE.

Q. WHEN YOU DUMP IN SEVEN FEET OF WATER CAN YOU DUMP TWICE IN THE SAME SPOT ?

A. WITH A SMALL SCOW WE COULD.

Q. BUT AS A GENERAL THING YOU COULD NOT. IS THAT TRUE IN YOUR REPORT ?

A. YES, SIR; THAT IS TRUE.

Q. THEN ALL ALONG, FROM THAT POST, IN SEVEN FEET OF WATER, BETWEEN THAT AND THE SHORE, YOU WENT ON DUMPING ?

A. CERTAINLY.

Q. TO YOUR KNOWLEDGE, WAS ANY DUMPING EVER DONE TO THE WEST, ABOVE



THE WHARF ?

A. NO, SIR.

Q. DO YOU KNOW POSITIVELY THAT THERE WAS NOT, OR DON'T YOU KNOW ANYTHING ABOUT IT ?

A. I DO NOT KNOW POSITIVELY; BUT I DON'T THINK THERE WAS.

Q. IF YOU WENT DOWN THERE ONLY THREE OR FOUR TIMES A YEAR, IT MIGHT HAVE BEEN DONE WITHOUT YOUR KNOWLEDGE AND IN DISOBEDIENCE TO YOUR ORDERS ?

A. I HAD PERFECT CONFIDENCE IN THE CHIEF ENGINEER AND THE CAPTAINS OF THE TUGS.

Q. IT MIGHT HAVE BEEN DONE WITHOUT YOUR KNOWLEDGE, MIGHT IT NOT ?

A. IT MIGHT POSSIBLY HAVE BEEN. THEY ALWAYS DUMPED THERE IN OPEN DAY, AND OF COURSE COULD BE SEEN. AS I SAID BEFORE, COL. CREIGHILL HAD SUPERVISION OF ALL THE DUMPING, AND IF HE THOUGHT THAT THEY WERE DUMPING IN A PLACE THEY SHOULD NOT DUMP, HE WOULD AVE PUT A STOP TO IT.

Q. IF HE KNEW IT ?

A. YES, SIR.

Q. BUT MAYBE HE HAD PERFECT CONFIDENCE IN YOU ?

A. I BELIEVE HE HAD.

Q. BUT YOU WERE THERE ONLY THREE OR FOUR TIMES A YEAR ?

A. I COULDN'T BE THERE ALL THE TIME; I HAD SOMETHING ELSE TO ATTEND TO.

Q. DID YOU NOT HAVE SOME KNOWLEDGE OF MR. GARRITEE'S OBJECTIONS TO YOUR DUMPING THERE. WERE YOU NOT APPLIED TO ?

A. NOT WHILE I WAS PORTWARDEN.

Q. BEFORE THAT OR AFTER ?

A. SINCE I HAVE BEEN DOING WORK BY CONTRACT HE ONCE NOTIFIED ME, AND AT THE SAME TIME HE NOTIFIED ME I WAS NOTIFIED BY ANOTHER GENTLEMAN,

MR. M<sup>r</sup> CURLEY.

✓ Q. WHEN WERE YOU DUMPING THERE BY CONTRACT ?

A. THE LAST TWO YEARS---1877 AND 1878.

Q. CONTRACT UNDER THE CITY ?

A. YES, SIR.

Q. THEN IT WAS STILL THE CITY'S DOING, THOUGH IT WAS DONE IN A DIFFERENT WAY. I WISH YOU WOULD EXPLAIN TO THE JURY WHAT THAT CONTRACT WAS ?

A. I CONTRACTED WITH THE HARBOR BOARD OF BALTIMORE TO DO DREDGING FOR A CERTAIN AMOUNT OF MONEY, AND THEY GAVE ME THE PRIVILEGE OF DUMPING IN CERTAIN PLACES, AND OF COURSE I DUMPED THERE.

Q. : BY MR. BONAPARTE. : AND THIS WAS ONE OF THOSE PLACES ?

A. THAT WAS ONE PLACE, AND ANOTHER PLACE WAS HAWKIN'S POINT.

Q. : BY MR. WILLIAMS. : IT WAS STILL THE CITY'S BUSINESS, THE CONTRACT ONLY BEING A DIFFERENT MODE OF CARRYING OUT THE CITY'S WORK ?

A. YES, SIR; I SUPPOSE THAT IS WHAT IT MEANS.

Q. : BY MR. BONAPARTE. : WHAT OFFICIAL OF THE HARBOR BOARD GAVE YOU INSTRUCTIONS WHERE TO DUMP UNDER THIS NEW REGIME, SINCE YOU HAVE BEEN DOING IT BY CONTRACT ?

A. MAJOR HUTTON OF COURSE HAS THE GENERAL CONTROL---SINCE I HAVE BEEN USING THIS GROUND OF M<sup>r</sup> CURLEY'S, OF COURSE MAJOR HUTTON WAS THE OFFICIAL APPOINTED BY THE CITY TO SEE THAT THE DUMPING IS DONE IN THE RIGHT PLACE---TO SEE THAT THE CHANNEL IS NOT INTERFERED WITH.

Q. : BY MR. WILLIAMS. : AND HE ORDERED YOU TO DUMP IT HERE ?

A. HE APPROVED OF THE GROUNDS,

Q. DO YOU MEAN TO SAY THAT MAJOR HUTTON APPOINTED AN OFFICIAL OF THE CITY TO GO AND SEE THAT YOU DUMPED AT THE PROPER PLACE ?

A. YES, SIR.

Q. AND IT WAS UNDER THAT OFFICIAL'S DIRECTION THAT YOU HAVE DUMPED IN THIS PLACE SINCE THE WORK HAS BEEN DONE BY CONTRACT ?

A. WITH THAT OFFICIAL'S APPROVAL.

Q. IF THE OFFICIAL HAD OBJECTED TO IT YOU WOULD NOT HAVE DUMPED IN THAT PLACE ?

A. NO, SIR.

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JAMES CRANGLE, SWORN.

BY MR. BONAPARTE :

Q. TELL THE JURY WHAT YOUR BUSINESS IS ?

A. I AM A BRICK-MAKER.

Q. ARE YOU ACQUAINTED WITH MR. GARRITEE'S PROPERTY AND THE CHARACTER OF THE BRICKS MADE FROM IT ?

A. YES, SIR.

Q. WILL YOU STATE THE QUALITY OF THE BRICK CLAY THERE ?

A. WELL, SIR, THE CLAY IS GOOD THERE.

Q. WITHOUT PROLONGING YOUR EXAMINATION UNNECESSARILY, I WILL ASK YOU IF YOU WERE PRESENT IN COURT AND HEARD THE TESTIMONY OF MR. CHARLES GARRITEE IN REGARD TO THE VALUE OF THE LAND FOR BRICK-MAKING PURPOSES ?

A. YES, SIR.

Q. WAS HIS TESTIMONY IN REGARD TO THE VALUE OF THE LAND AND THE PROPER MODE OF ESTIMATING IT CORRECT OR OTHERWISE, ACCORDING TO YOUR EXPERIENCE AS A BRICK-MAKER ?

A. I THINK IT WAS VERY CORRECT IN REFERENCE TO THE VALUE OF CLAY LAND. IT IS VERY VALUABLE WHERE IT CAN BE CONVERTED INTO BRICKS ?

Q. TELL THE JURY, IF YOU PLEASE, WHETHER IT IS NECESSARY OR NOT FOR THE PROFITABLE USE OF LAND FOR BRICK-MAKING PURPOSES, THAT THERE SHOULD BE WATER CARRIAGE, OR SOMETHING EQUIVALENT TO IT ?

A. WELL, THAT LAND THERE OF MR. GARRITEES<sup>r</sup>, CUT OFF FROM WATER PRIVILEGES, WOULD NOT BE OF ANY USE AT ALL. IT IS TOO FAR FROM THE MARKET TO TRANSPORT THEM BY TEAMS.

Q. THE VALUE OF THAT LAND, THEN, FOR BRICK-MAKING PURPOSES DEPENDS ENTIRELY UPON HIS HAVING COMMUNICATION WITH THE WATER ?

A. ENTIRELY.

Q. AND IF HIS ONLY MEANS OF OBTAINING COMMUNICATION WITH THE WATER WAS BY CONSTRUCTING A WHARF, FOR IT TO BE PROFITABLY USED AS BRICK LAND, SUCH A WHARF WOULD HAVE TO BE CONSTRUCTED ?

A. YES, SIR.

: CROSS-EXAMINATION WAIVED. :

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WILLIAM SHOEMAKER, SWORN.

BY MR. BONAPARTE :

Q. TELL THE JURY, IF YOU PLEASE, WHAT IS YOUR BUSINESS ?

A. I FOLLOW THE BUSINESS OF MECHANICAL AND CIVIL ENGINEER, CONTRACTOR, &C.

Q. IS YOUR BUSINESS SUCH AS TO ENABLE YOU TO TESTIFY AS TO THE COST OF ERECTING ~~WALLS~~ <sup>wharves</sup> ?

A. I FOLLOWED THAT BUSINESS FOR PRETTY MUCH 22 YEARS, SIR.

Q. ARE YOU ACQUAINTED WITH THE PROPERTY OF MR. GARRITEE ABOUT WHICH THERE HAS BEEN SO MUCH TESTIMONY ?

A. I HAVE BEEN ON THE PROPERTY SOME THREE OR FOUR TIMES IN THE LAST THREE OR FOUR YEARS.

Q. TELL THE JURY, IF YOU PLEASE, WHAT IN YOUR JUDGMENT AS A WHARF-MAKER IT WOULD COST TO CONSTRUCT A WHARF THERE ON THAT PROPERTY OUT TO DEEP WATER, EITHER BY THE RUNNING FOOT, OR WHATEVER IS THE PROPER MEASUREMENT OF VALUE ?

A. IT IS WORTH ABOUT \$10 TO \$12 A RUNNING FOOT, DEPENDING VERY MUCH UPON THE LENGTH OF THE PILES REQUIRED, WHICH WE CANNOT ASCERTAIN IN ANY OTHER WAY THAN BY SOUNDING.

Q. DID YOU MAKE ANY EXAMINATION OF THE DEPTH OF WATER THERE ?

A. I DID NOT.

Q. THEN YOUR OPINION, AS FAR AS YOU CAN FORM IT FROM THE APPEARANCE OF THE PROPERTY THERE, IS THAT IT WOULD COST FROM \$10 TO \$12 THE RUNNING FOOT TO CONSTRUCT A WHARF THERE?

A. YES, SIR.

Q. DID YOU EVER SEE ANY OF THIS DUMPING YOURSELF ?

A. I DID, SIR.

Q. STATE, IF YOU PLEASE, IN WHAT PLACE YOU SAW THE DUMPING ?

A. I SAW THE DUMPING IMMEDIATELY IN FRONT OF THE WHARF. I HAVE SEEN THEM DUMP ABOVE THE WHARF AND I HAVE SEEN THEM DUMP BELOW THE WHARF.

Q. ABOUT HOW FAR ABOVE THE WHARF DID YOU SEE THEM DUMP ?

A. PROBABLY A HUNDRED YARDS, ON A RIGHT LINE WITH THE WHARF--- ON A DIRECT LINE WITH THE WHARF.

Q. AND ABOUT HOW FAR OUT FROM THE SHORE HAVE YOU SEEN IT ?

A. I SHOULD JUDGE ABOUT THREE HUNDRED YARDS; PERHAPS MORE THAN THAT.

✓ Q. IT HAS BEEN TESTIFIED BY MR. CONSTANTINE, THE FORMER PORTWARDEN, THAT THIS FILLING UP WAS IN SEVEN FEET OF WATER. NOW WHAT WOULD BE THE COST OF A WHARF RUN OUT TO SEVEN FEET WATER, ON MR. GARRITEE'S PROPERTY, AS NEAR AS YOU CAN JUDGE ?

A. THAT I COULDN'T ANSWER. I DON'T KNOW HOW FAR OUT SEVEN FEET OF WATER MIGHT BE FROM THE SHORE.

Q. HOW MUCH WOULD IT COST TO RUN A WHARF OUT TO WHERE YOU HAVE

SEEN THEM DUMPING ?

A. WELL, I SAY ABOUT THREE HUNDRED YARDS. I THINK IT IS QUITE THREE HUNDRED YARDS OUT. MULTIPLY THAT BY 12, AND YOU WILL GET IT.

Q. YOU MEAN \$12 A FOOT ?

A. \$12 A LINEAR FOOT; YES, SIR.

Q. THAT WOULD BE \$10,800 ?

A. YES, SIR.

Q. HOW LONG IS THE WHARF THAT IS NOW ON THE PREMISES ?

A. I SUPPOSE IN THE NEIGHBORHOOD OF TWO HUNDRED FEET. I NEVER MEASURED IT.

Q. IT WOULD BE NECESSARY TO EXTEND THAT WHARF ABOUT SEVEN HUNDRED FEET ?

A. YES, SIR.

CROSS-EXAMINATION.

BY MR. HINKLEY :

Q. SUPPOSE WATER EIGHT FEET DEEP WAS TO BE HAD AT THE END OF A WHARF TWO HUNDRED FEET LONG; SUPPOSE YOU HAD TO EXTEND THAT WHARF THREE HUNDRED FEET BY REASON OF THE WATER HAVING BEEN FILLED UP WITH SEDIMENT; SUPPOSE YOU COMPARE THE COST OF THAT ADDITIONAL PIECE OF WHARF, SAY THREE HUNDRED FEET, CONSTRUCTED AFTER THE SEDIMENT WAS PUT IN, WITH THE SAME AMOUNT OF WHARFAGE PUT INTO THE WATER AS IT EXISTED BEFORE. NOW WOULD THE WHARF, CONSTRUCTED AFTER FILLING IN TO THE SAME LENGTH ;THREE HUNDRED FEET, AS I AM SUPPOSING;, COST ANY MORE OR ANY LESS THAN TO FILL IT IN IN THE DEEP WATER ?

A. IT WOULD DEPEND ALTOGETHER UPON WHAT KIND OF A WHARF YOU ARE GOING TO BUILD.

Q. SAY SUCH A WHARF AS IS THERE NOW ?

A. IN ADDITION TO WHAT THE OTHER WOULD COST, DO YOU MEAN ?

Q. YOU DO NOT UNDERSTAND ME. HERE IS A WHARF EXTENDING OUT TWO HUNDRED FEET, AND YOU WANT TO MAKE THAT SAME WHARF THREE HUNDRED FEET MORE. THAT MIGHT HAVE BEEN DONE BEFORE THE DUMPING COMMENCED, OR AFTER THE DUMPING HAD BEEN DONE THERE. NOW I WANT TO ASK YOU THE COMPARATIVE COST OF THAT ADDITIONAL PART---THREE HUNDRED FEET OF WHARF, CONSTRUCTED IN THE WATER, DEEP AS IT WAS, AND NOW IN THE WATER, MADE A LITTLE SHALLOWER BY REASON OF THE SEDIMENT BEING PUT THERE---WOULD THE SEDIMENT BEING PLACED THERE INCREASE THE COST OF THE ADDITIONAL PIECE OF WHARF MORE THAN THAT ADDITIONAL PIECE OF WHARF WOULD HAVE COST BUILT OUT IN THE WATER AS IT WAS BEFORE ?

A. NO, SIR; IT WOULD NOT HAVE COST ANY MORE.

Q. WOULD IT HAVE COST A LITTLE LESS ?

A. NO; WE WOULD DRIVE PILES THROUGH THAT :SEDIMENT: TO HARD BOTTOM IRRESPECTIVE OF ANYTHING YOU MIGHT PUT IN THERE.

Q. WOULD NOT THE MUD HELP TO SUPPORT THE PILES ?

A. NO. SIR; IT WOULD NOT AMOUNT TO ANYTHING.

Q. IT WOULD NOT COST ANY MORE ?

A. NO, SIR.

-----  
D. PRESTON PARR, SWORN.

BY MR. BONAPARTE :

Q. TELL THE JURY WHAT IS YOUR BUSINESS, AND WHAT IT HAS BEEN FOR SOME YEARS BACK ?

A. I AM NOW IN THE COMMISSION BUSINESS. I WAS FOR SEVERAL YEARS IN THE BRICK BUSINESS.

Q. THERE HAS BEEN SOME TESTIMONY IN REGARD TO A CONTRACT BETWEEN YOURSELF AND MR. GARRITEE, THE PLAINTIFF, REGARDING CERTAIN CLAY TO BE OBTAINED FROM HIS PROPERTY, ON AT LEAST ONE OCCASION, AND POSSIBLY MORE.

TELL THE JURY, IF YOU PLEASE, THE CIRCUMSTANCES OF THAT CONTRACT, AND WHAT, IF ANYTHING, PREVENTED ITS CONSUMMATION ?

A. I WISHED TO GET A CERTAIN CLASS OF CLAY WHICH I FOUND UPON MR. GARRITEE'S PROPERTY. I HAD AN ORDER, AFTER SOME PRELIMINARIES, FOR ABOUT 135 TONS A VESSEL LOAD, TO SHIP NORTH. I FOUND IT ON MR. GARRITEE'S PROPERTY, AND WENT THERE AND BOUGHT IT FROM HIM, VERBALLY, SUBJECT TO HIS GETTING IT OFF, WHICH HE THOUGHT HE COULD DO; HE WAS TO FURNISH FACILITIES THAT I COULD GET IT OFF. HE TALKED AT ONE TIME OF LENGTHENING THE WHARF. THERE IS AN OLD WHARF THERE, DILAPIDATED, WHICH WOULD REQUIRE LENGTHENING, SO A VESSEL COULD LIE IN FRONT---SO IT WAS REPRESENTED TO ME. AFTER SOME CONSIDERABLE DELAY ABOUT IT, I SENT A MAN DOWN TO EXAMINE TO SEE WHETHER I COULD GET IT OR NOT---COULD SHIP THE CLAY. THE CLAY WAS BOUGHT FROM ME ALREADY, AND I WAS WAITING FOR IT. AFTER WAITING SOME TIME FOR MR. GARRITEE TO GET THE WHARF REPAIRED, AND NOT DOING SO, I SENT THIS MAN DOWN, AND HE CAME UP AND REPORTED THAT IT WOULD BE TOO EXPENSIVE TO REPAIR THE WHARF OURSELVES, AND THAT THERE WAS NO MEANS OF GETTING THE CLAY WITHOUT GETTING IT FROM THAT WHARF, AND TO HAVE THE WHARF REPAIRED; THAT SCOWS COMING UP WOULD GROUND, EVEN WITHOUT THE CLAY ON BOARD, AND THAT WE COULDN'T LOAD WITHOUT AN ENORMOUS EXPENSE, COMPARATIVELY; AND I HAD TO GIVE UP THE PURCHASE OF THE CLAY FROM MR. GARRITEE AND BUY IT ELSEWHERE AND SHIP IT.

Q. THEN THE REASON THAT THIS CONTRACT WAS NOT CONSUMMATED WAS THE FACT THAT YOU WERE UNABLE TO SHIP THE CLAY FROM MR. GARRITEE'S PROPERTY, EITHER IN SCOWS OR FROM THE END OF THE WHARF AS IT THEN WAS ?

A. THAT WAS THE CASE, SIR.

Q. WILL YOU TELL THE JURY WHAT YOU HAD AGREED TO PAY MR. GARRITEE FOR THAT CLAY ?

A. AS NEAR AS I CAN REMEMBER IT WAS IN THE NEIGHBORHOOD OF \$1.25



PER THOUSAND OF BRICKS, WHICH MEANS 64 CUBIC FEET OF CLAY, WHICH LIKE-  
WISE MEANS, AS NEAR AS I COULD ESTIMATE IT, ABOUT 25 CENTS---FROM 25 TO  
30 CENTS PER TON FOR THE CLAY. I THINK, AS NEAR AS I CAN REMEMBER, THAT  
THAT IS ABOUT THE ESTIMATE I MADE, AND IS ABOUT CORRECT.

Q. YOU WERE TO PAY MR. GARRITEE \$1.25 FOR THE EQUIVALENT OF A THOU-  
SAND BRICKS ?

A. OF A THOUSAND BRICKS.

Q. YOU ESTIMATED IT AT THE RATE OF THE AMOUNT OF CLAY THAT WOULD  
BE REQUIRED TO MAKE A THOUSAND BRICKS ?

A. YES, SIR.

Q. WAS THIS OFFER, OR THIS ATTEMPTED SALE, AN ISOLATED TRANSAC-  
TION, OR WAS IT ONE OF A SERIES ?

A. IT WAS THE FIRST OF A SERIES OF SALES OF CLAY. IT HAS BEEN  
FOLLOWED UP SINCE BY CLAY GOTTEN FROM OTHER PLACES.

MR. HINKLEY : WHAT HAVE WE TO DO WITH THAT ?

MR. BONAPARTE : WE PROPOSE TO ASK THE WITNESS IF HE WOULD  
HAVE <sup>gotten</sup> ~~got~~ THIS CLAY FROM MR. GARRITEE.

∴ HELD, THAT THE EVIDENCE PROPOSED IN THE OFFER IS INADMISSI-  
BLE. TO THIS RULING PLAINTIFF EXCEPTS. ∴

Q. HAVE YOU MADE ANY OTHER OFFER, OR CONTRACT, OR ATTEMPTED CON-  
TRACT, WITH MR. GARRITEE EXCEPT THE ONE YOU SPEAK OF ?

A. I NEVER MADE A DEFINITE, POSITIVE CONTRACT. I AGREED TO SELL  
OTHER CLAYS THERE WHICH EXISTED IN THAT BANK, OF A DIFFERENT CHARACTER  
FROM THIS, BUT BEING UNABLE TO USE THEM THE WHOLE MATTER FELL THROUGH.

Q. WHEN YOU SAY YOU AGREED TO SELL, YOU MEAN YOU AGREED TO BUY ?

A. I SHOULD SAY I AGREED TO BUY FOR THE PURPOSE OF SELLING MY-  
SELF.

Q. ∴ BY MR. M<sup>r</sup> LANE. ∴ DO YOU MEAN YOU PROPOSED TO MR. GARRITEE

*First exception*

*Stop here*

TO BUY OR PROPOSED TO OTHER PEOPLE TO SELL---WHICH DO YOU MEAN ?

A. I PROPOSED BOTH TO BUY FROM MR. GARRITEE AND TO SELL TO OTHER PEOPLE.

Q. : BY MR. BONAPARTE. : IF I UNDERSTAND YOU, YOU SAY THAT YOU AGREED OR OFFERED TO MR. GARRITEE TO BUY OF HIM CERTAIN OTHER CLAYS THAT HE COULD HAVE SOLD YOU FROM HIS PROPERTY, AND THAT THE TRANSACTIONS WERE NOT CONSUMMATED FOR THE SAME REASONS THAT PREVENTED THE FIRST TRANSACTION FROM GOING THROUGH. IS THAT CORRECT ?

A. I AGREED TO BUY FROM MR. GARRITEE OTHER CLAYS THAT WERE IN THAT BANK PROVIDED I COULD SELL THEM, WHICH I HAD A PARTICULARLY REASONABLE IDEA OF DOING. I HAD PARTIES WHO WERE MAKING TRIALS, &C.

THE COURT : THAT IS TOO INDEFINITE.

Q. WHO WAS IT THAT YOU SENT DOWN TO LOOK AT THIS PROPERTY ?

A. I SENT A MAN NAMED AUGUST RICHSTEINE. HE HAD FORMERLY BEEN MY FOREMAN IN THE BRICK BUSINESS.

: CROSS-EXAMINATION WAIVED. :

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AUGUST RICHSTEINE, SWORN.

BY MR. BONAPARTE :

Q. WERE YOU AT ANY TIME IN THE EMPLOY OF MR. PARR, THE WITNESS WHO HAS JUST TESTIFIED ?

A. YES, SIR; I WAS.

Q. DID HE AT ANY TIME COMMISSION YOU OR DIRECT YOU TO INSPECT MR. GARRITEE'S PROPERTY FOR ANY PURPOSE; IF SO, TELL WHAT THE PURPOSE WAS AND WHAT YOU REPORTED ?

A. MR. PARR SENT ME DOWN THERE TO EXAMINE THE CLAY, AND HE EVEN FETCHED CLAY UP HERE THAT HE HAD DUG TO SEND AWAY. HE SENT ME DOWN AFTERWARDS TO EXAMINE THE WHOLE THING---WHETHER WE COULD GET THE CLAY OFF.

I WAS TO GO DOWN AND HAVE THE CLAY DUG AND SHIP IT OFF; BUT AFTER I EXAMINED THE WHARF I CAME TO THE CONCLUSION THAT WE COULDN'T GET THE CLAY OFF, AND I TOLD MR. PARR I DIDN'T THINK HE COULD GET THE CLAY AWAY.

Q. BY SAYING 'HE COULDN'T GET THE CLAY OFF,' EXPLAIN WHAT YOU MEAN ?

A. I WENT OUT ON THE WHARF, AS NEAR AS I COULD JUDGE, ABOUT 157 FEET; THAT I CAN'T SAY POSITIVELY; I THINK IT WAS 157 FEET, BY A ROUGH MEASUREMENT I MADE, AND I MEASURED THE WATER FROM THE END OF THE WHARF OUT THAT WAY ;INDICATING:, TO SEE WHAT IT WOULD GAIN IN DEPTH; BY THAT I JUDGED THE OTHER PIECE OF WHARF, AND I DIDN'T THINK A VESSEL COULD COME UP TO THE END OF THE WHARF, NEITHER COULD A SCOW COME UP TO THE WHARF IF THE WHARF WAS FIXED, SO WE COULD PUT IT ON THE WHARF FIRST AND PUT IT IN THE SCOW AND HAUL IT AWAY IN THE SCOW; THE WATER WAS TOO SHALLOW.

Q. IF THE WATER HAD BEEN DEEPER COULD YOU HAVE GOTTEN THE CLAY AWAY ?

A. I SUPPOSE SO; OF COURSE.

Q. WAS IT BECAUSE THE WATER WAS TOO SHALLOW THAT YOU COULDN'T GET THE CLAY AWAY ?

A. THAT IS THE WAY I REPORTED TO MR. PARR.

Q. YOU WERE TO DO ALL THE WORK OF GETTING THE CLAY OUT AND TO DO THE SHIPPING ?

A. YES, SIR.

CROSS-EXAMINATION.

BY MR. HINKLEY :

Q. WHAT WAS THE DEPTH OF THE WATER ?

A. I THINK AS FAR AS I WENT, AS NEAR AS I COULD JUDGE, OR REMEMBER, IT WAS TWO FEET AND A HALF.

Q. WHERE ?

A. AS I SAID BEFORE, AS NEAR AS I CAN JUDGE, ABOUT 150 OR 157 FEET ~~FROM~~<sup>off</sup> THE END OF THE WHARF.

Q. HOW LONG WAS THE WHARF ?

A. TO THE END OF THE WHARF I DON'T KNOW.

Q. WAS THAT THE WHOLE LENGTH OF THE WHARF ?

A. NO, SIR; IT WAS NOT.

Q. WAS THAT HALF OF THE WHARF ?

A. I THINK IT WAS RATHER MORE THAN HALF. I DON'T KNOW, THOUGH.

Q. WHY DID YOU NOT GO OUT TO THE END OF THE WHARF ?

A. BECAUSE THE PLANKS WERE OFF THE WHARF, AND I COULDN'T WALK OUT.

Q. HAVE YOU ANY MEANS OF KNOWING WHAT THE DEPTH OF THE WATER WAS, OR WAS LIKELY TO BE, OR WOULD HAVE BEEN AT THE END OF THE WHARF, AS NEAR AS YOU COULD JUDGE ?

A. I DON'T KNOW. I HAILED A MAN THAT CAME PAST THE WHARF, THREE OR FOUR HUNDRED YARDS OUT, AT THE TIME I WAS STANDING ON THE WHARF. HE WAS IN A LITTLE SAIL-BOAT; HE HAD ONE SAIL UP---A BOAT PROBABLY 20 FEET LONG OR SO, AND I ASKED HIM TO TRY HOW DEEP THE WATER WAS, AND HE HALLOOED BACK TO ME, AS NEAR AS I CAN REMEMBER, SEVEN FEET.

Q. DO YOU KNOW NOTHING OF YOUR OWN KNOWLEDGE ?

A. NO, SIR; NO MORE THAN THAT.

Q. WHEN WAS THAT ?

A. THAT WAS ABOUT A YEAR AGO, I SUPPOSE, AS NEAR AS I CAN REMEMBER.

Q. DID YOU GO ONCE OR MORE THAN ONCE ?

A. I HAVE BEEN DOWN THERE THREE OR FOUR TIMES, I SUPPOSE.

Q. FOR THE SAME PURPOSE ?

A. NOT EXACTLY FOR THE SAME PURPOSE. I WAS DOWN THERE TO SEE IF WE COULD GET THE CLAY OFF---

Q. I MEAN THE WATER ?

A. NO, SIR; ONLY ONCE.

Q. : BY MR. M'LANE. : YOU SAY YOU COULD NOT GET TO THE END OF THE WHARF BECAUSE THE PLANKS WERE OFF ?

A. YES, SIR; THE PLANKS WERE OFF.

Q. : BY MR. WILLIAMS. : YOU ARE SURE THAT THIS SAIL-BOAT WAS OUT HOW MANY YARDS ?

A. AS NEAR AS I COULD JUDGE, ABOUT THREE OR FOUR HUNDRED YARDS FROM WHERE I STOOD ON THE WHARF.

Q. WHAT DID THE MAN IN THE SAIL-BOAT MEASURE WITH ?

A. HE HAD A POLE OR AN OAR---I COULDN'T TELL WHAT IT WAS.

Q. HE DID MEASURE, THOUGH ?

A. HE STUCK DOWN A POLE THREE OR FOUR TIMES, AND HE HALLOOED BACK TO ME THAT IT WAS SEVEN FEET.

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MR. M'GOWAN, SWORN.

BY MR. BANAPARTE :

Q. TELL THE JURY WHERE YOU LIVE AND WHAT BUSINESS YOU FOLLOW ?

A. I LIVE AT THE EXTREME END OF THE CANTON COMPANY'S PROPERTY, AT THE MOUTH OF COLGATE'S CREEK, ON THE END OF THE PENINSULA. I HAVE KEPT THE POINT BREEZE HOTEL THERE FOR THE LAST TWO YEARS.

Q. DO YOU KNOW ANYTHING ABOUT THIS DUMPING IN FRONT OF MR. GARRITEE'S PROPERTY AND ITS CONSEQUENCES ?

A. I SAW THEM EVERY DAY, ALMOST, CONTINUOUSLY DUMPING DOWN IN THE NEIGHBORHOOD OF HIS WHARF, AND MOVED DOWN TO THE NEIGHBORHOOD OF MR. HOL-

LOWAY'S PLACE.

Q. DO YOU KNOW OF ANYTHING INDICATING WHETHER OR NOT THIS DUMPING PROVED AN OBSTRUCTION TO NAVIGATION; IF SO TELL THE JURY, IF ANYTHING YOU KNOW ABOUT IT ?

A. I HAVE NEVER EXPERIENCED ANY OBSTRUCTION MYSELF. I HAVE NEVER BEEN DOWN IN THE HOLLOW EXCEPT IN MY SAIL-BOAT AND ROW-BOAT.

Q. DO YOU KNOW ANYTHING IN REGARD TO VESSELS BEING IMPEDED BY THESE DEPOSITS ?

A. NOT OF MY OWN KNOWLEDGE.

Q. DO YOU KNOW ANYTHING ABOUT THE FORMER VALUE OF THIS PLACE AS A PLACE OF RESORT FOR EXCURSIONISTS IN THE SUMMER---I MEAN THE WILLOW SPRINGS ?

A. YES, IT WAS A VERY POPULAR PLACE. I WENT TO SEE MR. GARRITEE ABOUT LEASING IT TWO YEARS AGO THIS VERY MONTH BEFORE I GOT THE PLACE I AM IN.

Q. DO YOU KNOW ANYTHING ABOUT THE FISHING AROUND THERE ?

A. YES, SIR; I FREQUENTLY FISHED THERE.

Q. TELL US WHAT HAS BEEN THE EFFECT UPON THE FISHING BY THIS DUMPING ?

A. WELL, THE FISHING HAS BEEN COMPLETELY BROKEN UP THERE. IT USED TO BE THE BEST FISHING PLACE ABOUT BALTIMORE. I SHOULD JUDGE IT HAS BEEN BROKEN UP PRINCIPALLY BY THE SEDIMENT THAT HAS BEEN DUMPED THERE AND THE NIGHT SOIL THAT USED TO BE DUMPED THERE.

: LATTER PART OF LAST ANSWER RULED OUT. :

THE WITNESS : I HAVE INDIVIDUAL PROOF MYSELF. WHEN I WENT THERE TWO YEARS AGO I SOUNDED COLGATE'S BAR FROM ONE END TO THE OTHER.

Q. : BY MR. M'LANE. : HOW FAR IS YOUR PLACE :POINT BREEZE HOTEL: FROM THIS PLACE OF MR. GARRITEES' ?

: 92 :

A. JUST ACROSS THE RIVER, ABOUT A QUARTER OF A MILE. I AM ON THIS SIDE AND HE IS ON THE OTHER SIDE OF COLGATE'S CREEK, OPPOSITE TO ME. I KNOW I WENT OUT AND SOUNDED THE BAR, SO THAT A STEAMBOAT COULD COME INTO OUR PLACE, AND I BUILT A WHARF FOUR HUNDRED FEET, VERY NEARLY, TO GET EIGHT FEET OF WATER. THAT IS SUFFICIENT FOR A TUG-BOAT, SCHOONER OR YACHT, AND THEN I PUT SAND ALL AROUND THE BAR. I HAD TO RUN OUT FIVE HUNDRED YARDS TO GET SEVEN FEET OF WATER. IT IS FOUR MILES FROM MY HOUSE TO FORT CARROLL, AND WE HAVE TO GO ONE-THIRD OF THE DISTANCE TO GET NAVIGABLE WATER.

Q. DO YOU MEAN STRAIGHT OUT ?

A. YES, SIR. I DON'T SUPPOSE IT IS 500 YARDS; BUT IT IS A VERY LONG DISTANCE OUT. IT IS VERY DIFFICULT TO MEASURE THE YARDS ON WATER.

Q. YOU SAID ABOUT FIVE HUNDRED YARDS ?

A. IT MIGHT NOT HAVE BEEN HALF OF THAT, BUT IT IS A VERY LONG DISTANCE OUT. I CAN'T TELL THE DISTANCE ON WATER; BECAUSE IN STANDING AT MY DOOR YOU WOULDN'T THINK FORT CARROLL WAS HALF A MILE FROM YOU, AND I AM TOLD IT IS VERY NEARLY FOUR.

Q. : BY MR. BONAPARTE. : I UNDERSTAND YOU TO SAY THAT YOU RAN THIS WHARF OUT FROM YOUR PREMISES FOR THE PURPOSE OF GETTING EIGHT FEET OF WATER ?

A. YES, SIR.

Q. IS EIGHT FEET OF WATER THE DRAFT OF THE STEAMERS THAT BRING EXCURSIONISTS DOWN THE BAY ?

A. THEY CAN GET IN IN LESS WATER THAN THAT; THEY ARE FLAT. A TUG-BOAT DRAWS MORE WATER THAN ANY OTHER STEAMER ON THE RIVER. SOME OF THE TUGS DRAW EIGHT AND A HALF FEET OF WATER. AS I WAS TELLING YOU ABOUT THIS BAR, WE STAKED IT OUT SO AS TO INDICATE THE BAR, SO TUGS WOULDN'T CROSS AND GET STUCK. THE BOAT-HOOK WOULD RING LIKE A SOLID

BAR, TO SOUND IT. I PLANTED SOME OYSTERS THERE LAST YEAR, AND WHEN I WANTED TO TAKE SOME OF THEM UP I HAD TO TAKE UP A BUSHEL TO GET A PECK; THEY HAD ALL BEEN FILLED UP WITH THIS BLACK MUD; BUT THE OYSTERS THAT HAPPENED TO BE SOUND WERE AS FAT AS THEY COULD BE; THEY HAD IMPROVED WONDERFULLY. LAST WEEK I PLANTED SOME MORE---16 BUSHEL---BUT I SUPPOSE I SHALL LOSE ALL OF THEM.

Q. THAT COMES FROM THE CITY'S DUMPING ?

A. I DON'T KNOW WHERE IT COMES FROM, BUT I SHOULD JUDGE SO. I WAS GOING TO PUT OUT A NUMBER OF BATH-HOUSES THERE FOR PEOPLE TO BATHE, ON THIS BAR; BUT NOBODY WOULD BATHE IN THERE.

CROSS-EXAMINATION.

BY MR. HINKLEY :

Q. HOW NEAR TO THE WILLOW SPRINGS HOUSE IS YOUR POINT BREEZE HOTEL ?

A. AS I WAS SAYING, ON WATER YOU CAN'T TELL; BUT ALMOST OPPOSITE MY WHARF IS THE FIRST POINT OF MR. GARRITEE'S, AND THEN HE RUNS DOWN TOWARDS MR. HOLLOWAYS'. I SHOULD JUDGE WILLOW SPRINGS HOUSE IS A MILE FROM MY PLACE.

Q. YOU ARE BOTH ON THE SAME SIDE OF THE PATAPSCO ?

A. YES, SIR.

Q. WHEN DID YOU ESTABLISH POINT BREEZE AS A SUMMER RESORT ?

A. TWO YEARS AGO THIS COMING APRIL.

Q. WHEN WAS WILLOW SPRINGS SUCH A FAVORITE RESORT FOR EXCURSIONS?

A. IT WAS ALWAYS A RESORT FOR PIC-NICS, AND THINGS LIKE THAT.

THEY HAD EXCURSIONS RUNNING THERE VERY SUCCESSFULLY ABOUT FOUR OR FIVE YEARS AGO, WHEN I KEPT BROWN'S PAVILION, WHICH IS DOWN AT THE HEAD OF BEAR CREEK; IT IS TWO MILES ACROSS BY LAND AND TWELVE MILES BY WATER. THERE WERE TWO PARTIES WHO HAD IT RUNNING IT---ONE BY THE NAME OF KANNEL



---AND THEY WERE RUNNING IT VERY SUCCESSFULLY, WHILE I WAS RUNNING BROWN'S PLACE. THAT WAS ABOUT SEVEN YEARS AGO---WITHIN SEVEN YEARS AGO. IT MAY HAVE BEEN PREVIOUS TO MY TAKING BROWNS', BUT I RECOLLECT THE FACT THAT I WAS THERE ON EXCURSIONS MYSELF. IT WAS THEN KEPT BY EDMUND LEE AND LEE KENNEL.

Q. DO YOU KNOW WHEN THEY GAVE IT UP ?

A. I DO NOT. THEY USED TO KEEP WHERE KERNAND'S OPERA HOUSE IS NOW, AND THEY TOOK IT TO RUN IN CONNECTION WITH THE OTHER.

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JOHN HOLLOWAY, SWORN.

BY MR. ~~XXXXXXXXXX~~ WILLIAMS :

Q. YOU ARE THE OWNER OF LAND NEAR TO MR. GARRITEES' ?

A. I AM, ABOUT HALF A MILE FARTHER DOWN.

Q. HOW LONG HAVE YOU OWNED THE LAND ?

A. ABOUT TEN YEARS, I GUESS. IN 1868 I THINK I PURCHASED.

Q. TEN YEARS AGO DID YOU KNOW THE WILLOW SPRINGS HOTEL ?

A. YES, SIR.

Q. WHO KEPT IT THEN ?

A. I DO NOT KNOW.

Q. WAS IT A PLACE OF GREAT RESORT ?

A. IT WAS 20 YEARS AGO; IT WAS A GREAT PLACE FOR FISHING PARTIES.

Q. HOW IS IT NOW ?

A. I DO NOT KNOW. I HAVE NOT BEEN THERE FOR MANY YEARS.

Q. HAVE YOU BEEN ON MR. GARRITEE'S PLACE WITHIN THE PAST FEW YEARS OR NEAR IT ?

A. I HAVE NOT.

Q. YOU HAVE BEEN NEAR TO IT, HAVE YOU NOT ?

A. WITHIN TWO OR <sup>2</sup>THREE YEARS ?

Q. DO YOU KNOW ANYTHING ABOUT THIS DUMPING THAT TOOK PLACE THERE?

A. I DO NOT. I NEVER SAW IT; I KNOW IT HAS BEEN DONE, THOUGH, ALL ALONG THE SHORE, ON THE COLGATE'S CREEK SHORE, ON OUR SIDE.

Q. WHERE DID THE DUMPING COMMENCE ?

A. I UNDERSTOOD THAT THEY DUMPED FROM MR. GARRITEES' DOWN TO OUR SHORE---ALL AROUND SOLLERS' FLAT.

Q. DO YOU KNOW OF YOUR OWN KNOWLEDGE ANY DUMPING ABOVE MR. GARRITEES' ?

A. I DO NOT.

Q. BUT YOU DO KNOW THAT ALL ALONG MR. GARRITEE'S SHORE, CLEAR DOWN TO SOLLERS' FLATS THERE HAS BEEN THIS DUMPING ?

A. YES, SIR.

Q. DO YOU KNOW, BEGINNING AT THE SHORE, HOW FAR OUT INTO THE WATER THEY DUMPED ?

A. I DO NOT KNOW.

Q. SO FAR AS YOU KNOW?

A. I DIDN'T SEE ANY EARTH DUMPED THERE; I KNOW OF ITS BEING DUMPED THERE, FROM PERSONS WHO DUMPED THERE THEMSELVES. I CAN'T TELL HOW FAR THE DUMPING EXTENDED FROM THE SHORE.

Q. WE DO NOT EXPECT YOU TO STATE TO A FOOT OR A YARD; BUT DO YOU KNOW THAT IT DOES EXTEND FROM THE SHORE OUT TO THE CHANNEL, AND IF SO TO WHAT EXTENT ?

A. OF COURSE, IF THERE HAS BEEN DUMPING THERE IT MUST EXTEND OUT TOWARDS THE CHANNEL; BUT HOW FAR OUT I COULDN'T SAY.

Q. WHAT EFFECT HAS THIS DUMPING HAD UPON THE VALUE OF THE LAND IN THAT LOCALITY ?

A. I CANNOT SAY EXACTLY AS TO DOLLARS AND CENTS. I <sup>should</sup> SUPPOSE THE DAMAGE WOULD BE THE EXTENT OF THE REMOVAL OF ALL THAT EARTH THAT HAS

BEEN DUMPED THERE. I HAVE BEEN ASKED FREQUENTLY FOR PERMISSION TO DUMP THERE, BUT I HAVE REFUSED EVERYBODY. MEN HAVE TOLD ME THAT THEY DUMPED THERE, AND PAID FOR DUMPING THERE.

Q. HAS YOUR LAND BRICK CLAY UPON IT ?

A. YES, SIR.

Q. WHAT CONSTITUTES THE VALUE OF YOUR LAND: THE BRICK CLAY UPON IT OR ITS FARMING QUALITIES ?

A. I SHOULD THINK IT WAS WORTH MORE FOR THE BRICK CLAY UPON IT.

Q. ARE YOU NOT ABLE TO TELL US WHAT EFFECT IT HAS HAD UPON THE VENDIBLE VALUE OF LAND IN THAT LOCALITY ?

A. IT WOULD COST US MONEY TO REMOVE ALL THIS EARTH THAT THE CITY HAS PUT THERE. WE WOULD HAVE TO BUILD A WHARF FARTHER OUT, AND IT WOULD COST THAT MUCH MORE MONEY.

Q. UNTIL THAT IS DONE THE VALUE OF THE BRICK CLAY IS LESSENER ?

A. YES, SIR.

Q. WOULD IT BE WORTH ANYTHING WITHOUT A WHARF ?

A. NO, SIR; IT WOULD HARDLY PAY TO HAUL IT THAT DISTANCE.

Q. DO YOU KNOW ANYTHING OF THE SMELL COMING FROM THIS DUMPING STUFF ?

A. IT IS VERY UNPLEASANT TO SOME PEOPLE.

Q. IS THERE MUCH OR LITTLE OF IT ?

A. O, THERE IS A GREAT DEAL OF SMELL. IT DEPENDS WHAT LOCATION YOU GET IT FROM. AROUND LIGHT STREET IT IS VERY OFFENSIVE.

Q. I MEAN THE SMELL FROM THIS SEDIMENT DOWN OPPOSITE YOUR SHORE?

A. NO, SIR; I HAVE NOT SMELLED IT THERE.

Q. IS THE WATER FIT TO BATHE ~~IN~~ IN ?

A. NO, SIR; I SHOULD THINK NOT.

Q. HAVE YOU EVER NOTICED. THE LAST WITNESS SAID HE COULDN'T PUT

BATH-HOUSES THERE BECAUSE PEOPLE WOULDN'T BATHE IN THE WATER ?

A. OF COURSE NOT. YOU WOULDN'T LIKE TO BATHE IN WATER OF THAT CHARACTER.

Q. HAVE YOU EVER NOTICED THAT YOURSELF ?

A. I HAVE NOT, SIR.

: CROSS-EXAMINATION WAIVED. :

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THOMAS T. HITAFFER, SWORN.

BY MR. WILLIAMS :

Q. DO YOU KNOW THESE PREMISES ?

A. YES, SIR, I DO.

Q. DID YOU MAKE THIS PLAT ?

A. YES, SIR, I DID.

Q. AT WHOSE REQUEST ?

A. AT THE REQUEST OF MR. GARRITEE.

Q. IS IT A CORRECT DELINEATION OF THE PROPERTY ?

A. IT IS NOT DRAWN OFF TO ANY PARTICULAR SCALE; BUT IT IS ABOUT THE WAY THE SHORE RUNS.

Q. WHAT IS YOUR BUSINESS ?

A. I AM A CARPENTER AND BUILDER.

Q. HOW LONG HAVE YOU KNOWN THIS PROPERTY ?

A. I THINK ABOUT THREE YEARS AGO I WAS DOWN THERE WITH MR. GARRITEE, FOR THE FIRST VISIT.

Q. DID YOU SEE ANY OF THIS DUMPING ?

A. YES, SIR; I DID.

Q. TELL THE JURY ALL YOU KNOW ABOUT IT ?

A. ON MY FIRST VISIT DOWN THERE MR. GARRITEE CALLED MY ATTENTION TO THE DUMPING; IT TOOK PLACE A LITTLE NORTH OF THE WHARF, BUT A GOOD

WAY OUT IN THE RIVER.

Q. THAT IS UP COLGATE'S CREEK ?

A. YES, SIR.

Q. HOW MANY WERE AT IT---ONE TUG-BOAT ?

A. ONE TUG-BOAT, YES, SIR.

Q. HOW MANY SCOWS ?

A. I THINK THEY HAD PROBABLY THREE OR FOUR WITH THEM. THEY WERE A GOOD WAY OUT IN THE RIVER, I SUPPOSE ABOUT HALF A MILE, PRETTY NEAR--- QUITE.

Q. DID THEY RETURN WITH THEIR SCOWS ?

A. WENT ON, YES, SIR. AS SOON AS THEY DUMPED THEY WENT RIGHT UP ---CAME UP TO THE CITY AGAIN.

Q. WHEN THEY GOT A FRESH LOT OF SCOWS DID YOU SEE THEM ?

A. NOT THAT TIME; I DID ON A SUBSEQUENT OCCASION, LAST YEAR, WHEN I WAS DOWN THERE WITH MR. GARRITEE.

Q. HOW OFTEN DID YOU SEE THEM DUMPING ?

A. LAST YEAR I WAS DOWN THERE WITH HIM EARLY IN THE SPRING, AND THEY WERE STILL DUMPING.

Q. AT THE SAME PLACE ?

A. THEY DUMPED A LITTLE FARTHER DOWN, PRETTY NEAR OPPOSITE THE WHARF, AT THAT TIME.

Q. LAST YEAR THEY WERE DUMPING OPPOSITE THE WHARF. HOW FAR OUT WAS THAT ?

A. I SHOULD JUDGE FROM ABOUT FROM FIVE TO SIX HUNDRED YARDS. WHEN THE FIRST DUMPING TOOK PLACE WE WERE HERE AT THIS POINT :INDICATING.:

Q. THAT IS OPPOSITE THE HOTEL ?

A. YES, SIR; OPPOSITE THE WILLOW SPRINGS HOUSE. WE WERE A LITTLE NORTH OF THE WILLOW SPRINGS HOUSE, I SUPPOSE ABOUT FIFTY YARDS, FILLING

UP A RAVINE. MR. GARRITEE WAS SOWING SOME GRASS SEED BY WHICH TO FORM A SOD IN IT. HE CALLED MY ATTENTION TO IT; HE SAID, "'DO YOU SEE THOSE FELLOWS DUMPING ?"' THEY BLOWED THEIR WHISTLE AND DUMPED, AND AWAY THEY WENT---TURNED AROUND AND CAME UP TO THE CITY. THEY WERE A LITTLE SOUTH, ON A ~~N.B.~~ LINE FROM WHERE WE WERE STANDING, OF THE HOUSE, WHICH WOULD BRING THEM ABOUT PARALLEL WITH THIS LINE HERE :INDICATING:---THE CENTER LINE OF THIS TREE---ABOUT PARALLEL WITH THAT.

Q. HOW LONG DID IT TAKE THEM TO DUMP A SCOW LOAD ?

A. O, A LITTLE WHILE.

Q. RUN RIGHT IN AND DUMP AND SHOOT RIGHT OUT ?

A. YES, SIR. THEN THE NEXT DUMPING THAT TOOK PLACE WAS ABOUT ON A PARALLEL LINE WITH THIS :INDICATING.: THAT WAS THE SECOND TIME I SAW THEM.

Q. DID YOU EVER SEE THEM AFTERWARDS ?

A. I SAW THEM LAST FRIDAY; I THINK THEY HAD ABOUT FIVE SCOWS.

Q. HAVE YOU HEARD THE TESTIMONY OF THE WITNESSES WHO HAVE TESTIFIED ABOUT MOUNDS AND HILLOCKS. COULD YOU SEE THEM ?

A. YES, SIR; ALL DOWN HERE, ON THIS SHORE, :INDICATING: THERE ARE MOUNDS OUT OF THE WATER, AND THE WATER IS PRETTY SHALLOW.

Q. DID YOU EXAMINE THE DEPTH OF WATER AT THE END OF THE WHARF ?

A. NO, SIR; I DID NOT GO OUT ON THE WHARF.

Q. YOU DID NOT MAKE ANY SOUNDINGS ?

A. NO, SIR.

Q. COULD YOU SMELL ANYTHING ?

A. I DID A YEAR AGO. IT WAS A VERY OFFENSIVE SMELL---VERY OFFENSIVE.

Q. DID YOU NOTICE WHAT EFFECT IT HAD ON THE WATER ?

A. I DID NOT. THE WIND WAS BLOWING A GOOD BREEZE, AND THE WATER

WAS SPRAYING UP ON THE SHORE.

Q. AND THEN YOU SMELT IT ?

A. YES, SIR.

Q. DO YOU KNOW ANYTHING OF BRICK-MAKING ?

A. I AM NOT ACQUAINTED WITH THE BRICK-MAKING BUSINESS; I HAVE BOUGHT A GREAT MANY BRICKS.

Q. YOU HAVE HEARD MR. GARRITEE'S TESTIMONY AS TO THE QUANTITY OF BRICKS MANUFACTURED THERE ?

A. I WASN'T IN COURT WHEN MR. GARRITEE GAVE IN HIS TESTIMONY.

Q. DO YOU KNOW ANYTHING AT ALL ABOUT THE VALUE OF BRICK CLAY AND THE QUALITY OF IT ?

A. YES, SIR.

Q. WHAT WAS THE CHARACTER OF THIS BRICK CLAY AT MR. GARRITEE'S ?

A. IT IS VERY FINE CLAY, THE WHOLE OF IT.

Q. IS IT THERE IN GREAT QUANTITIES ?

A. YES, SIR. THE CLAY STARTS IN ABOUT A HUNDRED YARDS FROM THE UPPER LINE OF MR. GARRITEE'S, AND THEN ALL ALONG DOWN THE SHORE, FOR ABOUT A MILE OR A MILE AND A HALF, IT IS A SOLID BED OF CLAY.

Q. WHAT IS THE ROYALTY WORTH ?

A. ONE DOLLAR A THOUSAND.

Q. YOU SAY IT IS GOOD AND EXCELLENT CLAY ?

A. YES, SIR; AS FINE AS I EVER SAW.

Q. DO YOU KNOW WHETHER IT IS POSSIBLE TO SHIP IT OR NOT ?

A. THAT I DO NOT KNOW ANYTHING ABOUT.

Q. ASSUMING THAT IT CANNOT BE SHIPPED, WHAT IS IT WORTH ?

A. I SHOULDN'T THINK IT WOULD BE WORTH ANYTHING RIGHT THERE.

Q. DO YOU KNOW ANYTHING ABOUT WHAT WOULD BE THE COST OF A WHARF OUT AT ANY POINT ?

A. NO, SIR; I HAVEN'T ANY KNOWLEDGE OF WHARF BUILDING.

Q. DO YOU KNOW WHETHER THERE IS ANY QUANTITY OF BRICKS THERE NOW?

A. YES, SIR; THERE ARE ABOUT 350,000 THERE.

Q. RAW OR BURNT ?

A. 150,000 OF THEM ARE RAW.

: CROSS-EXAMINATION WAIVED. : : PLAINTIFF RESTS. :

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COUNSEL FOR DEFENDANT SUBMIT THE FOLLOWING PRAYER :

''THE DEFENDANTS PRAY THE COURT TO INSTRUCT THE JURY THAT THERE IS NO EVIDENCE IN THE CAUSE FROM WHICH THEY CAN FIND THAT THE PLAINTIFF HAS SUSTAINED INJURY OR DAMAGE FOR WHICH HE IS ENTITLED TO RECOVER IN THIS ACTION.''

: GRANTED. :