

62. Do you remember me telling you at the same time that I told him he had better see you on the matter?—I remember one occasion on which something was said by you about having an interview.

63. Mr. Turnbull did not come into the matter until after that conversation?—Not until the actual construction of the wall was concerned.

64. So that it would be after the time I told you that Mr. Macdonald was under a wrong impression as to the area of the land?—Yes.

65. Do you remember the exact words I used to you when I told you of the misapprehension as to the area of the land?—Yes, I remember it well. We were going up by the Kelburne tram when you told me there was a little misapprehension about the land, and asked me what the area was. I took out my notebook and calculated what would be required, and told you what the amount really was.

66. Do you remember what I said?—You said something about Mr. Macdonald being under some misapprehension in regard to the matter.

67. Was it more or less?—You said he thought it was more.

68. That is what I understood, and you gave me the calculation?—Yes.

69. I think you were under a little misapprehension about this wall yourself: what is the length of it—90 ft.?—It is a few feet more than 80 ft.

70. Did you ever contemplate making it shorter than that?—I did originally. I did not think it was necessary to go so far for the holding-up of the street. The original length proposed was about 64 ft.

71. What was the original amount contemplated to be spent by the Corporation on the erection of a mere retaining-wall?—As far as the Corporation was concerned?

72. You contemplated building a mere retaining-wall?—Yes.

73. That was to be on our ground?—Yes. The estimated cost was £200.

74. From your experience of the foundations, what would the wall have cost had we built it ourselves?—Somewhere about £300 if we had actually built that wall.

75. Under the arrangement made it has not cost so much?—The cost to the Corporation has been the total cost, £560, less Mr. Macdonald's contribution of £275—£285.

76. And the wall has cost about £120 more than the estimate you gave?—Yes, entirely due to the fact that we had to go down to get a stable foundation.

77. Included in the extra cost is practically the rebuilding of the culvert?—Not rebuilding the culvert—we had to build round the culvert.

78. And that was a public culvert?—Yes.

79. You carried on, I understand, all the negotiations between Mr. Turnbull and Mr. Macdonald and the Corporation with regard to the nature of the wall, and what should be erected there?—Yes, with regard to the wall.

80. You were not interfered with at all?—No, I made my recommendations to the Council.

81. Do you remember informing me that to make the wall fit for carrying a building would cost something more—say, for a three- or four-story building?—It was originally for a three-story building, and Mr. Macdonald asked that it should be strong enough for a five-story building.

82. Do you remember giving the estimate of that building—as to how much a three-story building would cost?—I sent a report in.

83. To whom, do you remember?—To the Town Clerk, for the Council.

84. My recollection is that it would cost somewhere about £250 for the building?—I do not remember that.

85. Do you remember giving an estimate of the wall?—No, I can only remember two estimates—one for the wall originally intended, and another giving the cost of the additional work desired by Mr. Macdonald. [See Appendix L.]

86. I would like you to look up your books to see if you did not give an intermediate estimate, and to send in a memo. in reference to it?—Yes (see Appendix O).

JOHN O'SHEA, City Solicitor, sworn and examined. (No. 12.)

1. *Mr. Fisher.*] I want you to put in a certain draft agreement?—These are the papers I have in connection with the Woodward Street matter. [Papers shown.]

2. And the drafts?—These are the drafts and papers [produced].

3. They are all there?—Yes.

4. Is this draft made by you?—That is a document I found among the papers. It appears to be a draft drawn under instructions, but as that draft is drawn it does not convey the whole of the instructions as given to me in writing (which are here). There is one fact missed out. [See Appendix K.]

5. What is that?—When I was instructed to draw the draft, part of the suggestion was that Mr. Macdonald was to pay half the cost of a party wall. I found this paper among these other papers. That is all I can say.

6. *The Chairman.*] Do you know how it came to be with the papers?—It is the practice in a solicitor's office to put all the papers together. In doing so you do not take any notice of what they are.

7. Do you know who put it amongst the papers?—It was prepared in my office, but that draft does not carry out the instructions properly. The Mayor instructed me to draft the agreement on certain lines. I drafted that agreement and sent it to Mr. Macdonald.

8. Is this draft according to instructions?—No, but it is the only document I have got that bears in any way on those instructions.