

ENTER NEW CITY OFFICIALS

Mayor Macrae in His Message Reiterates His Views on Water Works.

APPOINTEE OFFICERS ARE ALL NAMED

The vote on Poundmaster, and Mayor Turns the Seal for Burke-Major Richmond Reappointed Chief of Police.

Mayor Macrae delivered two annual addresses last night, one to the retiring city council, congratulating the members on what had been achieved during their term of office and the other to the new council, in which he made a number of recommendations and dealt at length upon the water works question.

His address to the new council was in part as follows:

I wish at this time to make a few recommendations to your honorable body, which I hope will be favorably acted upon.

I can do no better than reiterate my advice to your predecessors, namely: That the city should not be burdened with a debt of any kind.

In the opinion of the city solicitor and the city's special counsel, the franchise and contract of the company expired January 24, 1906, although they recognized the possibility that the company might contend that the whole contract was extended by the amendment of April 2, 1901, to the time of the dissolution of the injunction in December, 1901. They also gave it as their judgment that the provisions of the ordinance seeking to bind the city to the payment of hydrant rental of \$100 and \$150 per hydrant per annum for the full period of twenty-five years, was unreasonable and void, but that it was not the duty of the city to wait the expiration of rates would be paid.

About the time of the expiration of the water franchise, the city council, in 1901, taking effect March 30, 1906, materially reduced hydrant rentals and charges to private consumers. Two questions were raised by the company in opposition to this ordinance.

First—That their original contract and franchise is still in force and this ordinance is void because in conflict therewith.

Second—That the rates fixed in the contract are confiscatory and the ordinance is therefore void.

In the judgment of the city's counsel the first claim is untenable because the contract between the water company and the city has expired by its own terms, and that contract, so far as it sought to bind the city to an exorbitant hydrant rental for a term of twenty-five years, was unreasonable and void.

The second question is one of fact depending on the actual value of the water plant, the income it will receive under the new rates and whether that income will pay reasonable return on the actual value of the plant.

It will thus be seen that the incoming council is brought face to face with important problems in connection with the water plant affecting the interests of every citizen and taxpayer.

The conventions of both political parties in the recent municipal election declared in favor of the municipal ownership of the water plant and the obligation rests upon the council in the present emergency to carry out that expressed wish of the people in the most advantageous manner.

Suit Already Started.

I have learned that a suit has been instituted in the federal court by an alleged stockholder of the water company to enforce the ordinance of the city council.

While only the members of the old city council are named as defendants in the petition the restraining order enjoins the new council as well.

The water works company is made party defendant to the suit and the petition recites that the suit is not a collusive one to confer on the court the right to decide the question of a case of which it would not otherwise have cognizance.

Although the recently passed ordinance reducing the water rates is attacked the contention is made that the franchise of the company does not expire until December 19 of this year, and possibly not until January 24, 1908. In support of the contention that the franchise does not expire until December 19 of this year it is asserted that the charter, which was granted on January 24, 1901, was suspended until December 19, 1901, owing to litigation begun by N. P. Dodge and others of this city, and therefore the franchise dated from the latter date. Later the council extended the time for completing the water works to January 24, 1903, and that this extension operated to extend the franchise twenty-five years from that date.

Regarding the ordinance reducing the water rates it is asserted that the enforcement of the ordinance would decrease the company's income to such a point that it could not meet its obligations and operating expenses.

In conclusion the court is asked to set aside and declare as null and void the ordinance passed February 22 last and to make the injunction perpetual.

Albert Halstead Succeeds Brother.

WASHINGTON, April 2.—The president has decided to appoint Albert Halstead as American consul at Birmingham, England, to succeed his brother, Marshall Halstead.

Halstead, who is a well known Washington newspaper correspondent and is the son of Muriel Halstead.

Gerome Wins a Show.

LAWTON, Okla., April 2.—Gerome, the aged Apache warrior, today joined a wild west show for the season, with the consent of the War department.

Appointive Officers Named.

Mayor Macrae named the following appointive officers:

Finance—Fleming, Younkman, Wallace.

Judiciary—Olson, Smith, Knudsen, Hendrix, Smith.

Police—Hendrix, Fleming, Younkman, Hendrix, Smith.

Fire and Light—Younkman, Maloney, Hendrix, Smith.

Water Works—Hendrix, Knudsen, Olson, Fire and Light—Younkman, Maloney, Hendrix, Smith.

Major George H. Richmond was named by the mayor as city marshal and ex-officio chief of police and the appointment was unanimously approved by the council.

The ordinance passed by the old council last week increased the number of men on the police force to twenty-one in addition to the chief and one deputy marshal.

The mayor, however, only named eighteen men last night, thus leaving four appointments on the police force yet to be made.

Those appointed last night are: J. M. O'Neil, J. C. Nicol, S. A. Green, Thomas O'Connell, W. C. Crum, George W. Wilson, Thomas B. Richardson, J. S. Satter, R. L. Smith, Thomas Gallagher, John Strickland, F. B. Wood, George Gillespie, O. P. Peterson, O. C. Arnold, D. L. Veit, Thomas F. Callaghan and Antonio Larson.

The men have not as yet been assigned to positions, and it is understood there will be some change in the present makeup of the force.

The following appointments were made by the council:

City Clerk—W. F. Sapp.

Chief of Fire Department—Robert W. Hendrix.

Street Supervisor—George Rockwell.

City Physician—Dr. N. J. Rice.

City Electrician—James G. Bradley.

Custodian of City Hall—William Larson.

Threshing Inspector—James Peterson.

Poundmaster—Charles Burke, colored.

Owing to the restraining order served on the council by A. F. Feltreter, the appointment of a poll tax collector was postponed.

Sapp was elected by the unanimous vote

of the council, but Jones only secured the six votes of the republican councilmen, while Maloney and Younkman voted for C. M. Nicholson. For city physician, Dr. Tubbs received three votes and Dr. Rice five. Bradley was elected electrician by a unanimous vote, as was Larson for custodian of the city hall and Peterson for sidewalk inspector. For poundmaster, Burke and John Taylor each received four votes, and Mayor Macrae asserted his privilege in voting in case of a tie vote and gave the appointment to Burke.

Bonds Are Approved.

The following bonds were approved: Dr. D. Macrae, mayor, \$2,000; surety, C. B. Tyler, P. F. True, city treasurer, \$100,000; sureties, E. E. Hart, T. G. Turner, J. P. Greenshield, E. A. Wickham, P. F. Davis, P. F. Everett, W. Arnd, C. F. Kimball, city solicitor; sureties, C. E. Kimball, W. H. Kimball, Frank Peterson, park commissioner, \$5,000; sureties, E. E. Hart, N. P. Anderson, J. F. McAnaney, auditor, \$5,000; sureties, L. G. Conslany, C. F. Kimball, E. E. Hart, S. L. Etnyre, city engineer, \$5,000; Surety Bonding company, Major Richmond, chief of police, \$1,000; Surety Bonding company; Major Richmond, chief of police, \$1,000; Surety Bonding company; city marshal, \$5,000; Surety Bonding company, W. F. Sapp, city clerk, \$14,000; sureties, E. E. Hart, E. A. Wickham, J. P. Greenshield; as clerk of superior court, \$4,000; sureties, C. A. Wiley, T. G. Turner, W. Coppel.

As soon as the new council had assumed their seats Mayor Richmond entered the city and passed around copies of the restraining order secured from the district court by A. Feltreter.

The clerk read a copy of the injunction issued by Judge Smith McPherson of the United States court in the water works litigation, and on motion of Councilman Olson, it was ordered that the city clerk, committee of the whole, which will meet this afternoon to consider what steps are to be taken in respect to it.

The old council before retiring allowed the bills and payrolls for March and approved the minutes, including those of its short session last night, as is the custom. Among the bills was that of H. A. Tinsley, special counsel in the water works litigation, for \$1,000.

The new council adjourned to next Monday night.

WATER ORDINANCE IN COURT

Stockholder Seeks to Enjoin Enforcement of New Rate.

On the petition of George N. Smalley, a resident of the state of Massachusetts, who states that he owns \$2,000 of the stock of the Council Bluffs City Water Works company, Judge Smith McPherson of the United States court yesterday issued a temporary restraining order enjoining the mayor and members of the city council from putting into force the ordinance passed February 22 and which provided for a reduced schedule of water rates.

As will be seen by the court's order, which follows, the hearing on the application to dissolve the injunction is set for April 24 at Davenport.

George N. Smalley, complainant, against the City of Council Bluffs and other defendants. Order is entered:

The bill of complaint verified having been presented, it is ordered:

That each and all of the defendants and their successors in office, commanding such and all of the officers and employees of the city, be and they are enjoined from recording, engraving or enrolling of a certain ordinance of said city passed February 22, 1906, upon the subject of water rates, and from enforcing said ordinance in any part thereof.

And that each and all of the defendants shall be and remain in force until April 24, 1906, unless sooner modified on motion of defendants on notice to complainant.

And this case is set down for hearing at Davenport, Ia., on the first day of the court there to convene April 24, 1906, at 10 o'clock a. m. of said day.

DONE April 2, 1906.

SMITH McPHERSON, Judge.

This appeal to the federal court on the part of the stockholders of the water works company was not unexpected, as it was known for some time here that such a step was contemplated.

While only the members of the old city council are named as defendants in the petition the restraining order enjoins the new council as well.

The water works company is made party defendant to the suit and the petition recites that the suit is not a collusive one to confer on the court the right to decide the question of a case of which it would not otherwise have cognizance.

Although the recently passed ordinance reducing the water rates is attacked the contention is made that the franchise of the company does not expire until December 19 of this year, and possibly not until January 24, 1908. In support of the contention that the franchise does not expire until December 19 of this year it is asserted that the charter, which was granted on January 24, 1901, was suspended until December 19, 1901, owing to litigation begun by N. P. Dodge and others of this city, and therefore the franchise dated from the latter date. Later the council extended the time for completing the water works to January 24, 1903, and that this extension operated to extend the franchise twenty-five years from that date.

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OUR LETTER BOX.

Control of Life Insurance.

OMAHA, April 2.—To the Editor of The Bee: An article in your insurance issue of the 1st inst., by John L. Pierce of Lincoln, state insurance deputy, entitled, "Upheaval Brings Reform," says:

The actual results of the routine or semi-routine plan of insurance, as recently revealed, when compared with the estimates made at the time such contracts of insurance were sold, are sufficient to warrant one pause for a long time before purchasing investment insurance.

Permit me to ask what the insurance department of Nebraska is doing to prevent the citizens of this state being fooled and deluded by "estimates" made by Nebraska companies that Mr. Pierce must know cannot be realized? No actuary of any reputable company would dare stake his reputation on such estimates, such as those companies are permitted to put out broadcast, for he knows, and so should Mr. Pierce, that fulfillment is utterly impossible. When this is put before the Nebraska department they hide behind "the law" and say they see no way to prevent it.

Missouri, with some backbone, but with no more law than Nebraska, simply tells the companies they will not be permitted to fool the people, and the companies cease their disreputable practices. It may be of interest to quote here a letter to the insurance department written only a few days ago:

OMAHA, March 25, 1906.—John L. Pierce, Deputy Insurance Commissioner, Lincoln, Neb.—Dear Sir: For the purpose of Auditing the accounts of the United States Review of the last inst., this is sent you to emphasize what the association endeavored to impress upon you, that you and we were kind enough to attend our January association meeting; that is to say, that we were kind enough to attend, auditor, does not always need a law, literally specifying his every action. In other words, that he is a MANAGER.

I feel certain that the policy holders of the state and the public would back up Mr. Searle, if he absolutely shut out any company writing special contracts with any company, making estimates, and any company that is guilty of rebating or cutting.

Won't you kindly put my name down for three copies of your pamphlet, covering the business done by life and assessment companies during the year 1905?

Thanking you in advance for this and assuring you that I am a true and loyal citizen of this state, I remain, yours truly,

I will leave this question of "Upheaval Brings Reform" by asking the insurance department "What are you going to do about it?"

In another portion of the article by Mr. Pierce, he mentions the "reformers" commissioners of the New England states. Let me illustrate that: A certain company was about to purchase the majority stock of a trust company with the funds of the policy holders. The Massachusetts commissioner—Cutting—said to this company, "You cannot do this, because this trust company is not a business in this state." Again, he said to this same company, "You cannot keep such a large deposit with the—Trust company; and he requested a written undertaking from them, in which they agreed to deposit only a certain amount of money. Mr. Pierce shows us no law for this. Mr. Cutting did not hide behind a law which might literally cover these particular cases; he comes out boldly by virtue of what he deemed his duty to policyholders and stoutly replies, "thus far shall you go, and thus far shall you stop."

And this is a good word; so is "and," so is "backbone;" and if the responsible head of the Nebraska department had those qualities a rotten concern like the Mutual Reserve would not have been permitted to do business in Nebraska a full year or more after three months of investigation in Minnesota, North and South Dakota today. In few of them were party lines drawn to any extent, most of the contests being based purely upon local issues. In Minnesota the struggle was principally between the license and no license elements. At Rushville, Ill., the license was won by one vote. In Mendota, a majority of four was polled against the license of saloons. In Fargo, N. D., J. A. Johnson was elected mayor by a plurality of 55 over Wall, the present incumbent, this being the fifth time that Johnson has been elected to the mayoralty. At Grand Forks, N. D., George F. Smith, the present incumbent, who ran as an independent, was re-elected mayor by a majority of 36 over John Dinnie, republican.

State issues entered largely into the canvass.

MICHIGAN WINS TAX CASE

United States Supreme Court Holds Railroad Must Pay Taxes as Others.

WASHINGTON, April 2.—The supreme court of the United States today decided the Michigan railway tax cases involving the taxes of all the railroads for several years, against the railroads. The opinion was by Justice Brandeis.

The case involved the validity of a Michigan law fixing the tax value of railroad property on the average value at which other property is assessed. As this nearly quadrupled the taxes paid by the railroads they resisted and approximately \$2,000,000 in taxes were saved each year.

In an opinion by Justice Brandeis, the supreme court of the United States today decided the case of the Houston & Texas Central Railroad company against J. A. Mayes in favor of the company.

Mayes ordered seventeen cars in which to ship 65 head of cattle. The cars arrived twenty-four hours after the time set in the agreement. Mayes sued under a Texas law for damages done his cattle by the delay and also under the state law to recover \$5 per car on his contract with the company. The lower courts upheld the complainant. The supreme court, however, holds that the law takes no account of accidents, is too arbitrary, encroaches upon federal control of the interstate commerce and is therefore unconstitutional. Chief Justice Harlan and Justice McKenna dissented.

In the case of Wilford P. Joy against the city of St. Joe, Ind., the supreme court today affirmed the decision of the United States circuit court for the eastern district of Missouri dismissing the case for want of jurisdiction, which was favorable to the city. The case involved a claim to land on the bank of the Mississippi river in St. Louis, which has been taken as a wharf and to which Joy claimed title under a Spanish concession made in 1792. The opinion was handed down by Justice Peckham.

WASHINGTON, April 2.—Justice Day of the supreme court of the United States today filed the text of the court's opinion in the Chicago traction cases. The text of the dissenting opinion by Justice Brewer, Brown and McKenna, also was filed.

POSTOFFICE IN FIRST CLASS

Omaha Receipts Greatly Increased.

Which Will Mean More Pay to Many Attaches.

While the report of the receipts at the Omaha postoffice for the fiscal year ending March 31 has not yet been fully compiled, so that it can be given in detail for publication, Postmaster Palmer is authority for the statement that the receipts will reach approximately \$625,000. This will put Omaha in the rank of cities of the first class and will insure an increase of salaries to many of the officials and clerks.

from the purchase of the assets of the American National bank by the Union National bank of Omaha in 1905. Suit was begun in the case in the latter part of December, 1905, and has been pending in various stages of litigation since.

FOLK TO WATCH THE POLLS

Governor of Missouri Will Give Personal Attention to Kansas City Election.

KANSAS CITY, April 2.—Governor Joseph W. Folk, who passed through Kansas City last night enroute to Des Moines, where he is to speak tonight, is quoted as saying he would return here on Tuesday morning and, in company with members of the local police board and Board of Election Commissioners, make the rounds of the voting precincts.

There have been many arrests here since the primaries for illegal registration, and in this regard Governor Folk said: "I shall aid, as far as I am able, in seeing that the offenders are punished."

Every police officer in the city was called before the police board today and given personal instructions regarding the duties of the police on election day.

The discussion of Kansas City tomorrow will be for mayor and all the elective city officers, half the members of the upper house and all the members of the lower house. The issue is municipal ownership, which both republican and democratic platforms endorse in principle. The democratic ownership plank reads:

We declare that all public utilities should be owned by the municipality and operated in the interest of all the people.

The platform opposes extension of gas and street railway franchises, and during the business meeting, at which it was decided to exhibit the stand of colors presented by the Daughters of the American Revolution to the battleship Nebraska at the city hall on April 19. On that date the local chapter will award its annual medal to the student who has written the best essay on some patriotic subject, and the colors will be exhibited then. It will also be arranged to have them exhibited down stairs in the city hall for about one hour on the same day, that the public and the school children may see them. Mrs. S. J. Isaacson presided during the program, which included a vocal solo by Miss Grace McBride, a vocal solo by Miss Laura McBride, a recitation by Miss Vivian Foster and a paper, "The Fire of Patriotism," by Mrs. J. N. Wise.

Following is the monthly message of the president of the General Federation to the club women, which was read by Mrs. J. N. Wise.

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