

THEODORE C. WOODBURY, President
E. M. FAIRFIELD, General Manager

STOCKTON HETH, Treasurer
A. B. HUNT, Superintendent

The Omaha Water Company

NEW YORK, DECEMBER 17, 1906.

To the Water Board of the City of Omaha:

As president of the Omaha Water company, I beg to acknowledge receipt of Order No. 10 and No. 11 of the Water Board. Order No. 10 purports to rescind Ordinance No. 5162 of the Omaha City Council, passed March 2, 1903, under which ordinance the city plainly elected to purchase the entire water works system of the Omaha Water company. Order No. 11 provides for the appointment of a committee of the Water Board to procure plans and estimates for the construction of a municipal water system by the city.

Ordinarily, the mere acknowledgment of the receipt of these papers would probably be sufficient, but I feel that Order No. 10 does not fairly state the facts, and that, in view of the wide public interest in this matter, it is only right for me to state, for the benefit of the public, so far as I can within the compass of a brief letter, the company's side.

One of the chief grounds on which the order purports to have been made, as stated in the order itself, is that the city elected to purchase only such part of the company's system as is necessary to supply the city itself with water, whereas (so the order alleges) the company refuses to sell anything less than its entire system. The fact of the matter, as I view it, is that the city elected to purchase the company's entire system. You are, of course, aware, but the public probably has forgotten, that at one of the hearings before the appraisers who were appointed after the passage of the City Council's Ordinance electing to purchase the works, the late Governor Boyd, chairman of the Water Board, officially stated before the appraisers: "The city, I believe, wants to buy the entire works. I believe that is the opinion of nine-tenths of this city. But, as a question in law, can they buy it? In order to know that it would have to go through the courts, in my judgment . . . We want to purchase the entire property if we possibly can do it. We expect to do it."

The public has also doubtless forgotten that the city's attorneys took the contrary view during the course of the appraisal, although without any express permission from the city. And when those attorneys found that the appraisers apparently intended to appraise the entire system as a whole and not to separate the portions of the system which supply outlying communities from that portion of the system which supplies Omaha, those attorneys brought, on behalf of the city, before Judge Munger of the federal court, a suit to compel the appraisers either to omit entirely from their appraisal the outlying portions of the company's system or to separate the items, so that the value of the portion of the system which supplies the City of Omaha could be ascertained by itself. Another purpose of the suit was to get a decision from the court whether the city could or was obliged to take the whole system or only a part thereof. The attorneys for the city in that suit asked the court in the first place to go even farther and to restrain the appraisers from making any appraisal whatsoever until these questions had been decided. Upon that motion Judge Munger unqualifiedly stated that the City Council in the ordinance of election had sought to purchase the company's entire system, and he refused to enjoin the appraisal, but did direct the appraisers to itemize their appraisal so that the value of that portion of the plant which supplies the City of Omaha alone could be determined by itself. The appraisers followed explicitly the orders of the court and made such an appraisal.

The most significant feature of the circumstances, above outlined, is that the City Council elected to purchase the whole works, that the Water Board, as at that time constituted, desired, and thought that nine-tenths of the people of the city desired, to obtain the entire plant, and on this same line I beg to remind you that by an act of the Legislature of your state, passed in 1905, express permission was given to the city to operate the water works when purchased, not only for the benefit of the City of Omaha, but for the benefit of the outlying communities, all of which is, of course, another indication that the original intention and desire of the city was to own the whole plant.

Furthermore, it is not the fact that the company has refused to sell anything less than the whole of its system. The City Council elected to buy the whole plant, and until your Order No. 10 was passed no governing body of the City of Omaha ever took any action to the contrary, or ever requested or sought to purchase anything but the whole system. The acts and doings, or claims and pleadings, of the city's attorneys most certainly do not morally, legally or logically constitute action by the proper city authorities. The company proposes to compel the city to stand by its bargain, if that can legally be done. If the court decides that the city has no power to buy the whole system, or that the city has the right to back out of its bargain, then, and not until then, will it be time to decide whether it is advisable or possible or compulsory that the city buy and the company sell only a part of the system. And until then the city has no right to compel the company's directors to say whether they will sell less than the whole system. In other words, the whole question is now actually before the court, and, pending the court's decision, neither the company nor the city can create any new rights or extinguish any old rights, except by mutual agreement.

Another point to which your attention should be called is that these outlying communities have a right, as parts of the body politic of the State of Nebraska, and closely connected in every respect, except municipal organization, with the City of Omaha, to enjoy the benefit of a good supply of water from the Missouri river, and the only economical method by which they and the City of Omaha can be supplied is from a common system of works. Why, in view of these circumstances, should not your board await the decision of the suit which now is before

Judge Munger to determine whether or not the city can take the entire system? I do not myself believe that there is in your city any sentiment whatsoever against purchasing the entire system, except as such sentiment is manufactured by your board.

Another moving cause for your Order No. 10, as alleged in that order, is that there never has been any legal appraisal, because the appraiser appointed by the city failed to concur with the other two appraisers as to the value of the property. The city's attorneys have apparently advised your board that such an appraisal by two out of three appraisers is not binding. I think I am right in stating that every court before which such a question has been raised has decided that such an appraisal is binding. It is only fair that it should be, otherwise any of the appraisers could prevent any appraisal from being binding. In this connection I think the members of your board should stop to consider before they accuse the two appraisers who did agree on the value of the company's property of collusion, of being influenced by the company or of lack of ability in making their appraisal. You seem to forget that the appraiser whom the city appointed joined in the selection of the third appraiser, and you know that these two appraisers, who concurred in the appraisal, are engineers of the highest standing, both for ability and character. Another fact which your board has never seen fit to allow the public to know is what the difference was between the appraisal of your appraiser and that of the other appraisers.

Even if there were a legitimate question whether a concurrence of all three appraisers was necessary—and your board and its counsel certainly have not forgotten that that very question was raised by the answer they have filed in the suit to compel the city to take the works, at the appraisal made by the two appraisers—why is it that your board is unwilling to await the court's decision on that point? Why is it that your board is unwilling that the court should decide either question, namely, how much of the plant the city is bound to take, if any, and whether the appraisal occurred in by two of the appraisers instead of all is a binding appraisal? Why is it that your board has assumed to reverse the policy of the City Council and of the Water Board in office when the election to purchase was made, and has announced that it does not wish the whole plant of the company and does not wish to accept the appraisal?

The reason, as stated by your attorney in his letter to the Water Board concerning this very subject, is that you wish to force the company to sell at a price which is less than the price fixed by the appraisers, or, in effect, as anybody who will read the letter of your attorney can see, the reason is that you wish to force the company to sell its property for less than it is worth.

Your object, of course, is to get the company's property at the lowest possible figure. Stated in that way, your object is commendable, because the lower the price the better you will have served the public. On the other hand, I beg to remind you that you have no right, and the public has no right, to take the company's property without paying full value for it, and I do not myself believe that any honorable taxpayer in the City of Omaha, if he knows the whole facts, will ever approve the plan of action which the Water Board has persistently followed. No matter what your methods for the public, you would not treat a negotiation between yourselves as private individuals and other private individuals in the same manner as you have treated these negotiations. Nor could you expect the people of the City of Omaha, with full knowledge of the facts, to approve such conduct under the present circumstances, even if such conduct, could, which I do not for a moment believe, result in the city's obtaining the company's property for less than its value.

One further point, which is not touched upon in your Order No. 10. I feel justified in stating that the Water Board, as a board, has misrepresented to the public the value and the excellence of the water works system which is now supplying the City of Omaha. The company has prided itself on having one of the best systems of public water works in the United States. Its directors and officers know that the actual value of the system is greater than the value fixed by the appraisal. But they believe, and have been so advised by counsel, that the ordinance of the City Council passed in 1903 constituted an acceptance by the city of the option which the city had to buy, and that that acceptance bound the city to accept and the company to deliver over its entire water works plant at the price fixed by the appraisers.

This leads me to say further that the company is very much embarrassed to know what to do with reference to improvements of the system which the tremendous growth of the city makes advisable. Believing, as the directors of the company do, that the city is bound to take the works as it has elected to do, and being so advised by counsel, they do not understand that there is any certainty that the city could be compelled to repay the cost of any such improvements without some special arrangement with the city. It has been with a view to making such special arrangements that I have twice before called your attention to this matter.

That there may be no misunderstanding on the part of the citizens of Omaha with regard to the facts and the company's position, I propose to publish this letter in the newspapers of the city.

Yours very truly,
THEODORE C. WOODBURY,
President of the Omaha Water Company.

(Signed)

STATE CHARITY LAW SCORED

Disgusting and Must Be Revised, Says Father Reusing.

HERRING QUESTIONS FISCAL PROCESS

Would Like to Have Light on How State Board Handles Money—Charities Convention in Session.

The tenth Nebraska state conference of Charities and Corrections met Thursday morning at Crichton institute for a two days' session, which was opened with prayer by Rev. T. J. Mackay. Mayor Dahlman delivered an address of welcome. Governor Mickey intended to be present to respond to this, but at a late hour Wednesday night he found it would be impossible for him to attend and sent his regrets.

Rev. Father Joseph Reusing, president of the conference, delivered the annual address, in which he emphasized the need of awakening intelligent co-operation and the revision of certain state laws. He declared that there had existed in the organization a general apathy and that there were not two dozen genuine, active members. He reviewed the objects of the organization, which embraced the best methods of disbursing charity among the needy.

He said the State Conference of Charities and Corrections was a species of clearing house for all charitable activities. He reviewed the different work which can be done and ought to be done by the organization.

Law on the State Board. Referring to the statute creating the State Board of Charities and Corrections, he said:

"Often we have been indignant and disgusted at the wording of the law creating that board. The law must be revised. The

State Board of Public Lands and Buildings is responsible for all state buildings. Why, then, should the plans for such buildings be referred to the State Board of Charities and Corrections? They never are so referred and that part of the law is a dead letter. The four advisory secretaries have to pay their traveling expenses out of their own pockets and then wait months before being reimbursed. This is due to a blunder made in enumerating the items for which the \$4,000 state appropriation should be used. The secretaries should go about visiting the state institutions, investigating in the manner in which they are conducted. Had the secretaries been in a position to do this, the abuses at the Norfolk asylum could never have occurred."

Disposition of Funds. In discussing "The Moral Responsibility of a Member of a Board of Directors of a Private Charity," Rev. Dr. H. C. Herring declared that the disposition of the funds of many private charities looked to him extremely suspicious.

"A charity agent may issue pathetic appeals which would melt the heart of a graven image," said Dr. Herring. "But I am from Missouri! In these matters and I want to know just where the money goes and whether the work could not be carried on to better advantage by some other organization."

He declared that in the last year fourteen different organizations have been at work in Omaha raising money for child saving. This statement caused considerable surprise and it was agreed that such promiscuous private charity was pernicious. In the discussion it was proposed that some kind of license be issued by the state to those authorized to collect for charities. It was also pointed out that the existence of many private charities gives opportunity to unscrupulous delinquents to obtain funds from different organizations. An instance was mentioned where a beggar had done this and saved a small fortune.

Duty of County Board. Victor Rosewater addressed the confer-

ence on "The Moral Responsibility of the County Commissioner to the Community." He declared that the commissioner's moral and legal responsibility were coincident relating to the taxpayer who provides the funds to be disbursed and to the delinquent who receives them. He stated that one-fourth of the expenses of Douglas county are for charitable and correctional work for which about \$125,000 is the annual disbursement. The charitable work includes the poor farm, county hospital, the outdoor relief work and the soldiers' relief work, and for these items approximately \$90,000 is the annual expense. In correctional work the county jail, the juvenile court and detention home cost \$35,000 annually, \$10,000 of this sum being added recently for the juvenile court and detention home.

"The moral responsibility of the county commissioner," said Mr. Rosewater, "consists largely in spending this money judiciously and carefully so as to give the greatest relief to the taxpayer, whose money he handle, and to give the greatest assistance to the greatest number of worthy people."

"They have many moral responsibilities connected with the administration of the institutions in their charge. They should see, for example, that the inmates of the county jail get proper food, but they should provide that food at the least expense. Feeding the prisoners in the jail is now regarded much as a perquisite of the sheriff. It should be done under contract, the award being made to 'the lowest bidder.'"

Work House Sorely Needed. Mr. Rosewater declared that one of the great needs of the county is a workhouse where the petty criminals would be put at hard labor during their confinement. The present system, he declared, makes the county jail rather a haven of refuge to a large class of delinquents, where they are better cared for than they can care for themselves and a burden to the county.

The delegates to the conference visited the Detention home on South Tenth street after the morning adjournment, where luncheon was served.

This is the remainder of the program: Thursday Afternoon—2:00, The Merit of the Juvenile Court; Rev. G. A. Beecher, dean of Trinity cathedral; 2:30, Parental Responsibility to the Home; Rabbi Frederick Cohn, Omaha; 3:00, Parental Responsibility to the State; Dr. J. J. Kennedy, Omaha; 3:30, Probation and the Indeterminate Sentence; Chaplain P. L. Johnson, Lincoln; 4:00, The Office of Prevention; J. L. McIlrion, state superintendent, Lincoln. Thursday Evening—8:00, Address, "Relation Between Private Charity and Public Relief," Alexander Johnson, St. Paul; 9:00, Friday Morning—9:00, Business, Reports of committees and election of officers; 9:30, What Nebraska has; "In State Ordinance Work," Dr. J. P. Lord, Omaha; "In State Industrial Work," D. L. Hayward, Kearney; "In State Beneficent Work," Dr. Frank A. Osborn, Beatrice; "In State Dispensary Work," Dr. R. T. Hay, Lincoln; "In State Soldiers' and Sailors' Work," Rev. W. H. Presser, Milford; "In State Rescue Work," Mrs. A. J. Allright, Milford; "The State Penitentiary," Warden A. D. Beecher, Lincoln; "In State Blind Work," Prof. T. Morry, Nebraska City; "In State Deaf and Dumb Work," Prof. R. E. Stewart, Omaha; "In State Work for the Friendless," Mrs. E. C. Johnson, Omaha. Friday Afternoon—1:30, What Nebraska

needs, "Minneapolis 1907," Mr. Alexander Johnson, secretary National Conference of Charities and Corrections; "Timely Child Labor Legislation," H. W. Pennock, Omaha; "A State Humane Society," Rev. John Williams, Omaha; 2:30, "The Standard of Living," Prof. W. G. Langworthy Taylor, University of Nebraska, Lincoln; 3:00, "The Prevention of Poverty," Gilbert M. Hitchcock; 3:30, Introduction of president-elect; 3:30, Adjournment. Personally Conducted Tour of Old Mexico. A special party for a thirty-day tour of Old Mexico, embracing practically all the important cities and principal points of interest, will leave Omaha January 18. Rate covering transportation, berth and meals only \$190.00. For further information call or address Rock Island City Ticket Office, 123 Farnam St.

Building Permits. The following building permits have been issued: John Tremery, twenty-second and Leavenworth, O. E. Peterson, Thirty-seventh and Cass, 500 building; McCague Investment company, 621 North Sixteenth, \$50 repairs.

BRACELETS—Fenner, 15th and Dodge.

DIDN'T KNOW IT WAS LOADED



Didn't imagine December was charged with such a chilly blast did you? Take our word for it. We're going to have a cold winter. Going to make you envy the men in warm looking, warm feeling MacCarthy-Wilson made-to-measure Overcoats. Going to make others envy YOU if you're one of those men. For \$35 we'll make to your measure a new and especially swaggar, Cheviot, Kersey or Melton Overcoat. MacCARTHY-WILSON TAILORING CO. Phone Doug. 1808, 304-306 So. 16th St. Next door to the Wabash ticket office.

CITY AND COUNTY DISPUTE

Officials Parley Over Which Shall Pay Treasurer Expenses.

DAHLMAN CALLS COUNCIL TO DECIDE

Contest is Over Cost of Supplies Required in Collection and Disbursement of City Taxes.

The finance committee of the city council and the county commissioners are billed for a little go, with Mayor Dahlman as referee and Assistant City Attorney Rine as time-keeper. The occasion for this outbreak is the matter of whether the city or county shall pay for supplies required for the collection and disbursement of city taxes. The records show the city has paid since the consolidation of the treasurer's office about \$1,700, which, according to an opinion rendered Thursday morning by Attorney Rine to Mayor Dahlman, the county should have paid for.

The matter arose through City Clerk Butler calling the mayor's attention to several items on the last appropriation ordinance for stationery for the treasurer's office. The mayor is now holding up this appropriation ordinance and will not affix his signature until two items amounting to \$14 have been stricken off, or he has been fully convinced that these items should be paid for by the city. The mayor has the city legal department's written opinion on the subject.

To expedite matters Mayor Dahlman has called in the finance committee, so the ordinance may not be delayed longer than necessary. That committee will confer with the mayor Friday morning.

What the Law Says.

Section 35 of the city charter expressly provides: "No other compensation or expenses or salary shall be paid by such city to such county, or to any county officer or employee, for the collection or disbursement of taxes, assessments or revenues of the city, except the sum of \$1,000 per annum, which shall be paid to the county treasurer as additional salary, and the county in which such city is located shall receive as full compensation for the collection and disbursement of all funds of the city and the expenses thereof, an amount equal to 1 per cent of the amount collected." It is held that aside from the \$1,000 paid the treasurer as additional salary and 1 per cent paid the county for expenses the city should not be put to any additional expense for collection or disbursement of taxes. And yet the finance committee of the city council has from month to month since the consolidation of the treasurer's department passed these items in direct violation of the charter. It is alleged, Comptroller Lebeck maintains the county should pay for these expenses, but he said he has been helpless in the matter, although he declared

EAGLES LIGHT ON FLORENCE

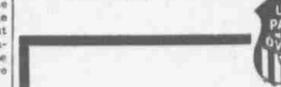
New Aerie of American Birds Installed at Town to the North.

An aerie of the Fraternal Order of Eagles was installed at Florence Wednesday night by A. J. Lepinski of Hastings, deputy grand president for Nebraska of the order. The Benson aerie was present with its full

BIRTHS AND DEATHS

The following births and deaths were reported to the Board of Health during the twenty-four hours ending Thursday noon: Births—C. O. Wyman, 345 California, girl; Frank Smith, 1317 William, girl. Deaths—Mrs. Laura Giesko, Aetna hotel, 61; Mrs. Marie Sandberg, 402 South Twenty-seventh avenue, 61; George Reed, 254 Pierce, 41; Hannah Baker, Tenth and Paul, 61; Margaret McKenna, 1814 Clark, 61; Martha M. Seeshel, 515 South Twenty-sixth avenue, 7; Mrs. Lottie Sandis, Rock Springs, 41.

UNION PACIFIC



CALIFORNIA

Does not depend upon flowers and palms alone for its beauty—there are mountains—wonderful natural scenery and charming watering places innumerable. And then the air is better—different—there's the scent of the flowers, of course, but a drier, finer air, like Colorado. It is

A Great Winter Resort

California is the place for you this winter. No other place is just like it for your winter's trip.

The direct line to California is the

UNION PACIFIC

For Booklets and Full Information Inquire at CITY TICKET OFFICE, 1324 FARNAM ST. PHONE DOUGLAS 334.

Tetley's

INDIA AND CEYLON Tea

Is equalled by no tea in the matter of delicate flavor, refreshing quality and perfect purity. It has become the tea standard of the world.

McCord-Brady Co., Wholesale Agents, Omaha.