

# CITY MUST PAY FOR WATER

SEVENTY-FIVE PER CENT OF ITS BIG HYDRANT BILL MUST BE LIQUIDATED.

**Judge Caldwell So Rules in the Water-Works Case—He Gives It to Be Understood Also That the Company Must Sell Its Plant and That the City Must Buy It.**

The National Water-works company must sell its plant and Kansas City must buy it.

The city must pay a portion of accrued and accruing hydrant rentals and the company must continue to supply the city with water.

Thus ruled the Federal court at St. Louis yesterday in the case of Kansas City against the National Water-works company of New York. The final hearing of the case was set forty days hence.

Both parties to the controversy regard the ruling of the court their victory, the city because it assures a speedy settlement of the vexed question; the Water-works company because it obtains by the ruling practically all for which it contended.

A special dispatch to THE TIMES from St. Louis says that when the United States Circuit court met yesterday morning Judge Caldwell prefaced his order in the water-works case by asking how much money the city had on hand applicable to the payment of back rentals. Mayor Cowherd replied that \$42,000 or \$43,000 could be applied for that purpose, although it was part of the general revenues of the city and had not been collected for water purposes.

Judge Caldwell then said: "This court orders that the city pay 75 per cent of the back rentals and 80 per cent of the contract price of water since the expiration of the contract."

Attorney Hagerman, for the city, objected to paying the company any money, as the city had a good claim for damages, but if compelled to do so, the company ought to be obliged to give bond, as it was completely insolvent.

#### THE ORDER PREJUDICES NEITHER SIDE.

Judge Caldwell replied that the court had the whole water-works system in its grasp and would see that the city should not suffer. The order would not prejudice the rights of either party at the final hearing. "It is not an admission that the city owes the company anything," added the judge.

Mr. Hagerman suggested that an order should issue restraining the company from shutting off the city's water. Judge Caldwell said there need be no fear of the company's doing that. He pledged himself that water would continue to run without interruption through the company's pipes until the city became the owner. The Water-works company was bound to keep the system in good repair and to operate it efficiently and if it did not or could not, he intimated a receiver would have to be appointed. He repeated yesterday's talk that the city was bound to buy the works under its contract, and the company was obliged to sell them.

#### THE COMPANY MUST SELL.

He repeated also that the city and the company ought to get together so that the case should come to a speedy final hearing. "The city must buy those works at a fair price," he added, "and the company must sell."

Continuing, Judge Caldwell said he thought favorably of appointing a commission to visit Kansas City and examine the system and report as to its efficiency and value.

Both Hagerman and Krauthoff thought that this might be a good way out of the difficulty, provided the other side should get no undue advantage. Judge Caldwell said the court would guard against that.

Objection was made by Mr. Hagerman that perhaps the city would not be able to pay the full amount of rental as the judge had ordered, but he said it would do the best it could and would then make a showing to the court. The court said it would make proper allowances for the difficulties of the situation.

#### COUNSELOR ROZZELLE SATISFIED.

City Counselor Rozzelle returned from St. Louis yesterday. He said he considered that the city had won a victory by the decision, which was more of a benefit than an injury to the city's side of the case. He said that the decision would bring the case to trial soon, and that would hasten

the acquirement by the city of the plant.

"I can't say that I am surprised," said Alderman Huttig, "for I had expected and predicted that the court would call on us for about 75 per cent of the amount claimed by the company. As to the city's ability to pay I can say little. We have about \$40,000 belonging to the water fund, which is unquestionably available, and about \$90,000 of the interest fund, as to the legality of using which there is some doubt. At all events the city can get the money somehow.

"It is not hard, I think, to foretell the outcome of the whole dispute. The city will become the owner of the present system, paying for it upon a basis fixed by the court; a new supply plant will be built, and the city will then, for all time, own its water-works.

#### HUTTIG URGES A COMPROMISE.

"I see," Mr. Huttig added, "that the court suggested that the case ought never to reach a hearing, and I really don't see why it should not be settled if we only go about it in the right way. A settlement would mean an enormous saving in expense, and I have been trying all along to keep that question in view. Both in and out of Council I have urged that the expenses connected with this matter should be kept down, and I fancy the time is not far distant now when everybody will concede that I was right."

#### MR. TIERNAN IS HAPPY.

President Tiernan of the Upper House said that he didn't think it was quite safe to express an opinion without reading the full text of the order made yesterday. So far as he understood its purport, however, he regarded it as a victory for the city. "The city," he said, "has also stood out for municipal ownership, while the company has insisted upon a renewal of its franchise. Very well, the city gets what it wanted and the company, while it gets the money it claimed—or a part of it—fails in its contention that the city had no right to buy.

"As to the immediate payment of that big sum of money, I wouldn't like to say anything until the counselor has given us his opinion upon the legality of using the \$90,000 in the interest fund. Personally, I think we can properly use it, and if so, of course, there will be no trouble. If not, we may have trouble in getting the money. It will be 'horse and horse' then—the company won't be able to furnish pressure and the city won't be able to furnish money. I was the originator of that movement to hold back the hydrant rent. Of course I knew all along that we would have to pay something some time, but I never thought it would come so soon."

"Yes, everything looks all right for the city. It seems to me that the bond-holders of the outfit are the people to do the worrying and fretting about this time."

#### HOW THE CITIZENS' COMMITTEE REGARDS IT.

J. F. Richards, chairman of the citizens' committee formed to consider the building of an independent supply plant, said yesterday that, if he understood the decision rightly, it was just what the committee wanted. The court would decide just what the city should pay for the distributing plant, and as soon as that was done the committee would go ahead and build the new supply plant across the river. While awaiting the final settlement of the water-works litigation the committee would go right on forming its plans so that work could be begun as soon as the matter was settled.

Union Pacific Law Notes