

CAN'T PAY THE BILL IN FULL.

LITTLE CITY MONEY AVAILABLE FOR THE WATER-WORKS COMPANY.

According to City Counselor Rozzelle on the \$43,000 in the General Fund Is Available to Pay Hydrant Rentals Only—Paving Companies Will Compete With the Barber Monopoly—The Mayor's Christmas Fund Grows.

The special attorneys for the city in the Water-works case submitted to Mayor Cowherd yesterday their opinion on the matter of taking the \$90,000 held in the bond and interest fund and transferring it to the general fund to be paid to the National Water-works company for back hydrant rentals. The opinion holds that the only money available to pay the water bill is the \$43,000 in the general fund. The opinion is as follows:

"Replying to your request for an opinion as to what funds are available for the purpose of complying with Judge Caldwell's order in the water-works case, I have this to say:

"That order says: 'It is further ordered and adjudged that Kansas City pay to the said company out of any revenues in its treasury available for the purpose 75 per cent of the principal of the hydrant rentals due under the said ordinance contracts prior to November 15, 1893, and that said Kansas City pay to the company monthly out of any funds in its treasury available for that purpose 80 per cent of the hydrant rentals to become due in the future on the basis of the said ordinance contract.

"It is further ordered and adjudged that in the event that the said Kansas City shall not have in its treasury money available sufficient to pay the amounts on account of hydrant rentals furnished and to be furnished hereunder, then the said city shall pay so far as it can the amounts herein required from its available funds, and the failure of the city to pay the balance shall not give the company the right to shut off the water from the city or its inhabitants, or to refuse or fail to continue to supply water to the city or its inhabitants.'

AN OPEN QUESTION.

"This order leaves open the question as to what funds are available, and such was the intention of the judge at the time of making the order. Unquestionably there is available the sum of \$43,000, the balance remaining out of the apportionment from the general fund at the beginning of the fiscal year of 1892 in accordance with section 2 of article 3 of the charter to pay hydrant rentals to accrue during said year.

"The \$90,000 collected to pay interest on bonds voted for a water-works system is not, in my judgment, available within the meaning of the judge's order. These bonds were voted for the purpose of enabling the city to 'provide for the construction or for the construction and purchase of a complete system of water-works.' The bonds can be used to raise money to pay for such portion of the water-works now in existence as may be incorporated into the new water-works system. The money collected is no part of the general fund. It may ultimately go to the payment of the first year's interest on the bonds when issued, or to a sinking fund for the benefit of such bonds, or back to the taxpayers who paid it for a specified purpose. But it was collected for such a specific purpose and can not be diverted. Certain it is that the law forbids taking a fund collected for one purpose and using it for another.

WHAT THE STATUTE SAYS.

"Section 3560 of the Revised Statutes of Missouri, 1889, provides: 'If any member of any town or City Council, or of any County court or commission or body charged with the administration and management of the affairs of any county, or any executive officer or member of the executive department of any city, town or county in this State, or any member of any board or commission charged with the administration or management of any affair of charity or fund of a public nature, by whatever name the same be called, who shall knowingly and without authority of law vote for the appropriation, disposition or disbursement of any money or property belonging to any such city, town, county, charity or fund, or any subdivision of such city, town or county, to any use or purpose other than the specific use or purpose for which the same was devised, appropriated and collected, or authorized to be collected by law, or shall knowingly, advise or promote the appropriation, disbursement, of any such money or property, for any purpose not directed and warranted by law, and such illegal appropriation, disbursements or dispositions be in fact effected, every person so offending against the provisions of this section shall be deemed and taken to have feloniously embezzled and converted to his own use such money or property, but if the same be not effected, then such person so voting, advising or promoting the said illegal appropriation, disbursement or disposition of said money or property as aforesaid shall be deemed and taken to have feloniously attempted to embezzle and convert the same to his own use, and upon conviction of either or any such offense shall be punished by imprisonment in the penitentiary not exceeding five years or in the County jail not less than six months, or by a fine not exceeding four-fold the value of such money or property.'

A REFERENCE TO CALDWELL SUGGESTED.

"No officer or attorney of the city would be justified in the face of the stringent provisions of the foregoing statute in voting, advising or promoting a diversion of a fund collected for one purpose through the vote of the people without a specific order of court designating that particular fund and requiring its appropriation.

"Even if there were a doubt about the correctness of the opinion herein given, yet in view of the foregoing statute the risk is too great for any person to take the chances. The simple solution of the matter is to apply to Judge Caldwell, who granted the order, and have him decide whether the fund may be taken or not."

Mayor Cowherd said yesterday that he had notified the Water-works company of the substance of this opinion and that he understood that the company would apply to Judges Caldwell and Phillips for an opinion in the matter.

The Mayor has called a meeting of the Council for tonight. Besides a large budget of routine business to be transacted is an ordinance providing for the payment to the water company of a portion of the \$43,000 in the general fund.

TO GLADDEN MANY HEARTS.