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City's Troubles in the Courts

Mayor Hayes Filed His Bill Against the Solons

A Statement of Facts

Agreed Upon by the Two Sides to the Controversy

Pro Forma Decree Signed

It Supports the Contention of the Councilmen—Taken to Court of Appeals

After long wrangling and many delays the municipal muddle has been submitted to the courts, and now, at last, the latter will decide whether the council's amendments to the ordinance of estimates, the mayor's veto and the "outlaw" levy ordinance are legal.

Yesterday afternoon a "statement of facts" satisfactory to both the mayor and the council was filed and Judge Stockbridge rendered a pro forma decree supporting the latter's contentions. An appeal was taken at once, and the papers in the case were sent to Annapolis and deposited with the clerk of the Court of Appeals. Before the end of next week, possibly, the contest will pass into history.

Solons Take a Hand

As told in the Herald of yesterday the "statement of facts" was prepared by the city law officers Thursday without the help of the solons. When the latter heard of this they made a vigorous protest, and in consequence the paper was not filed Thursday afternoon, as had been intended. Instead, it was handed to Major Venable, the leader of the Council, Thursday night. He examined it carefully and in it he found many things that were unsatisfactory to himself and those on his side of the argument.

Yesterday morning he and President Gephart, of the first branch, held a conference with Mayor Hayes and city Solicitors Whyte, Bryan, Field and McElroy. To six of the seven sections of the statement the representatives of the council made objection. After a three hours' session their claims were allowed. Then the papers were filed and the legal battle begun.

Wording Was Changed

The wording of most of the questions to be laid before the court was unsatisfactory to the solons. For instance, the query as to the levy ordinance was as follows:

“Is the ordinance not void because it was passed before the report of the board of estimates was received by the council?”

Major Venable objected to all of the words following the word “void.” The mayor and Mr. Whyte attempted to change his views, but he was obdurate and finally the words in dispute were stricken out and the question was made to read: “Is the levy ordinance valid or void?” Five of the remaining questions were similarly amended.

Major Venable also insisted upon the addition of a statement regarding the board of estimates’ failure to send to the council with the draft of the ordinance of estimates a report upon the taxable basis. Mr. Whyte objected upon the ground that this incident is not recorded upon the council journal.

“It will be necessary to prove it,” said Mr. Whyte.

“It would be necessary to prove it if it were upon the journal,” replied the major. And he won his point.

Agreement Reached

The councilmen also contended that “the mayor and city council” should not be made joint plaintiffs with “Thomas G. Hayes, a taxpayer.” Finally, however, they agreed to sanction the plan, with the understanding that the solons were not to help the mayor to fight the case.

When the councilmen and the mayor at last came to terms Mr. Bryan, in company with H. Arthur Stump, the attorney for City Collector Gorter and Comptroller Smith, the defendants took a copy of the bill to the home of Judge Stockbridge, on North Calhoun street, where the decree was signed. A copy had been left with the clerk of the Circuit Court No. 2 to be placed on the docket. As soon as Judge Stockbridge had affixed his signature to the papers the clerk’s office was communicated with by telephone, and the bill was sent by express to the clerk of the Court of Appeals at Annapolis.

Pro Forma Decree

The pro forma decree signed by Judge Stockbridge answers all of the questions in a manner favorable to the defendants. It is adjudged that the council had the right to amend the ordinance of estimates; that the mayor’s veto of the disputed sections was illegal’ that the council had the right to pass a levy ordinance without waiting for a report from the board of estimates, and that the amended improvement sections of the ordinance of estimates are binding.

By agreeing to this formal decision against him, the mayor’s attorneys secure the right of presenting the opening and closing argument before the Court of Appeals. Mr. Hayes’ individual counsel is Mr. Edgar H. Gans. The councilmen in all probability will retain Mr. Bernard Carter. As Mr. Whyte and Major Venable will also take a hand, the case promises to be a battle of the giants.

It was necessary to have the records in the hands of the court of Appeals by today in order that the case might come up at the January term, which begins Monday. The counsel interested will endeavor to have it moved up on the docket so that an early opinion can be had and the difficulties between the mayor and council adjusted. The bill filed is a very voluminous

one, covering 37 closely typewritten pages. It goes into the history of the controversy between the mayor and council in detail.