

IS ITS FRANCHISE VALID?

The Charter of the Citizens' Street-Railroad Company Was Never Signed.

It Is Doubtful, However, Whether This Fact Makes the Contract Void—Ex-Mayor Caven's View of the Matter.

A discovery has been made that raises a question of the validity of the franchise of the Citizens' Street-railway Company—whether, in fact, the Citizens' company has any franchise. The discovery came about in this way: On Friday a conference was held at the office of Van Vorhis & Spencer to ascertain whether there was not some way to compel the Citizens' company to start its cars.

A reporter of the Journal saw Messrs. Van Vorhis, Spencer and Bernhamer last evening, and from them learned the following history of the case: In 1903, when John Caven was Mayor and Cyrus Butterfield was city clerk, two companies had incorporated and were asking the City Council for the use of the streets for the operation of a street-car line.

Subsequently the company that had failed to secure the franchise reorganized under the name of the Citizens' Street-railroad Company, applied for a charter, and an ordinance granting a franchise was introduced by Dr. Thompson and passed Jan. 15, 1904. This ordinance, among other provisions, repealed the ordinance of 1893, which had granted a franchise to the Indianapolis company.

For some reason or other in transcribing the two ordinances to the ordinance-book, that of 1904 granting a franchise to the Citizens' company, was copied first. It occupies pages 72 to 80 of "The General Ordinance Record of Indianapolis, 1893-1907," while the ordinance of 1893 occupies pages 81 to 90 of the same book. The ordinance of '04, that under which the Citizens' company holds its alleged rights, is not signed. The other is. At the top of each page, covered by the ordinance of '03, appears, written in a bold hand, "This ordinance repealed."

So far as an examination has been made all amendments to the street-car ordinance made since that time, have reference to the unsigned ordinance. It might be claimed that since the ordinance of '04 repealed that of '03 all the company would have to do would be to fall back on that of '03, but to this it is answered that the company named in the ordinance of '04 had no rights under that of '03.

The city charter then in force was that adopted in 1903. Upon this particular point it is provided that no ordinance should be in force until transcribed into a book for that purpose. The ordinance, signed by the Mayor and attested by the clerk, is the ordinance in the light of the city charter would, therefore, hold that the Citizens' Street-railroad Company is not occupying the streets of Indianapolis without right or warrant. A suit in court will probably be required to test the question.

In his interview with Messrs. Van Vorhis, Spencer and Bernhamer the representative of the Journal was informed that some time ago, while in the office of the Citizens' company was a party on trial, this ordinance book was desired in evidence. The clerk's office was ransacked for it but it could not be found, and the evidence desired had to be secured from other sources. Subsequently the book was returned, but no one knows how, or when, or by whom.

A Journal reporter called upon John Caven, who was Mayor of the city in 1904, and informed him of the question that had arisen regarding the validity of the street-car charter. Mr. Caven was very much surprised to learn that such a question had come up. "I always supposed," said he, "that the ordinance had been signed, if I ever thought about it at all. This is the first time it has ever been called to my attention. Our custom then was for the Mayor and city clerk to sign and attest ordinances after they had been copied into the record book. It is possible, however, that the ordinance could have been missed in turning the pages. I remember that in one case in court involving the Citizens' Street-railroad Company, and that the record book could not be found. I was then called in as a witness to testify regarding the ordinance. I understand that the book was afterward found."

across on Fifteenth street, and in no case will we cross on Twenty-second."

An idea was advanced yesterday by a gentleman who wishes to have something in it. Said he: "Attorney Van Vorhis induced the County Commissioners to add on a clause to the county franchise to the effect that if the Broad Ripple Company was delayed in building its road by injunction proceedings brought by the Citizens' company, or any person acting for it, that the time so lost should be added to the time in which the railroad company has to build the road. The Citizens' company has now occupied Central avenue with its tracks, and it looks as though the injunction proceedings would have to be brought by the Broad Ripple company itself. In that case the matter would be carried over to the next year. As the injunction proceedings would not have been brought by the Citizens' company the time lost, according to the provision in the franchise, could not be added to the time given the Broad Ripple company to build the road. In the event that it could not build the road its charter would be forfeited."

The suit of Hanway & Lancaster, contractors of this city against the Edison Electric Company, which has been pending so long in the federal court, was compromised yesterday by the agreement of the company to pay the contractors \$4,000. The latter firm had the contract to build the electric railway from Broad Ripple to Indianapolis under the old franchise.

This is in line with the Broad Ripple company's avowed intention to build the road. Mr. Belknap is interested largely with the president of the Edison company in street railroad enterprises and the contract for the road here will be let to that company.

COMING MUSICAL EVENT.

Theodora Pfaffin and Others to Appear in Concert for the Letter-Carriers.

Branch 39 of the National Association of Letter-carriers, have made arrangements for an unusually attractive entertainment, which will be given at Tomlinson Hall Wednesday evening, March 2. The object of the entertainment is to raise funds to defray the expenses which will naturally come to the association at the time of the national convention of letter-carriers, which will be held here in August.

For the Wednesday night concert the association is particularly fortunate in having secured Miss Theodora Pfaffin, formerly of this city, to sing. Miss Pfaffin has sung in Chicago with success, and a week ago made her debut in New York at Chickering Hall, and the Chicago Press has this to say of it: "Word reaches us that she had agreed to accept, and has now an assured artistic standing of high rank in the Eastern metropolis. The critics speak unanimously in words of praise of the beauty, richness, range and cultivation of her voice, and of the artistic manner in which her numbers were given. Applause, encores and flowers were showered on her in abundance. It is with more than ordinary pleasure that we record Miss Pfaffin's success in New York."

ENOCH ARDEN CASE AVOIDED.

Deserted Wife Refused a Marriage License Until She Is Divorced.

Edward Smith and the necessary witness called at the county clerk's office yesterday afternoon to secure a marriage license. "What name?" said the urbane Daniels, the deputy assigned to the license desk. "Edward Smith."

"The lady's name?" queried Mr. Daniels, as he wrote. "Sarah Garren."

"Now, this affidavit," said the clerk to the witness, "says that you know both these parties, that they are not nearer related than second cousins, and that neither the wife or husband is living."

"Then I can't sign it," said the witness. "The woman had a husband four years ago, but he ran off and left her,—and ain't seen him since."

"Has she never obtained a divorce?" asked Mr. Daniels. "Never tried to. She thinks he is dead—anyhow she has never heard of him."

"Then I can't give you a license," was the information given. "I don't want to violate the law or be a party to an Enoch Arden affair."

The deputy clerk scribbled "void" across the face of the page and returned to his work. He had missed a \$2 fee and a sale of a five-cent marriage certificate for 50 cents—cheaf as dirt, too, for the money.

LOCAL NEWS NOTES.

Attorney-general A. G. Smith spoke before a large crowd of Democrats at the Johnson county Democratic convention held at Franklin yesterday.

Marriage licenses were yesterday issued to William O. Sullivan and Rosina Adair, Charles Graff and Belle Durban, William D. Burkhard, Jr., and Zittah Hughes.

There will be a people's temperance meeting in the interest of local option at the Meridian-street M. E. Church this evening, at 7:30 o'clock.

The Meridian-street M. E. Church Sunday-school instead of its usual Sunday-school exercises this morning will devote the time to memorial services for the late Daniel Stewart.

The quarterly meeting of the Y. P. S. C. E. of the Christian churches, to have been held at North Indianapolis to-night, has been postponed until Sunday evening, March 6, on account of the street-car strike.

BARBARIC CRUELTY.

Prisoners Confined in a Damp and Sickly Dungeon at Michigan City.

Secretary Johnson, of the State Board of Charities, returned yesterday from the northern prison at Michigan City, where he and Mr. Nichols, president of the board of directors, went on Thursday to make an investigation of the numerous rumors that have been circulated lately with regard to punishments at the institution. The mother of a prisoner who recently died at the prison received a letter from another convict stating that her son's death was due to the long confinement in the prison dungeon, and asking her, in justice to the other prisoners, to report the matter to the Governor. The Governor's attention was drawn to the matter, and Mr. Johnson and Mr. Nichols, of Richmond, went there on Thursday.

Mr. Johnson would not say much in regard to the matter, more than that a radical change in the mode and limit of punishment at the northern prison would soon be made. The dungeon is a damp, murky, gruesome place, wholly unfit to keep human beings in, and both Mr. Johnson and Mr. Nichols decided at once to recommend a reform.

BAD CUTTING AFFRAY.

Bleedy Fight at that Wholesale Breeder of Vice, the Merry-Go-Round.

Francis Dawson and Edward Wiles, two boys, got into a fight at the merry-go-round, at Missouri street and Potomac alley, last night, and the latter was pretty badly cut up. W. C. Good, the special officer on duty there, attempted to eject the boys from the building, and he, too, became mixed in the brawl. The Wiles boy was sent home to 575 South Illinois street, where a physician was summoned to dress his wounds. Dawson and Good were both arrested. This is the place that was written up as a notorious hold-out for improper characters in last Friday's Journal.

It is just such scenes as this that these places of amusement engender, and the sooner a community is rid of them the better. Characters congregate there mainly for evil motives, and not for the amusement which the arational crowd, which of itself is innocent enough.

MILLER'S Spring hair, America's best, just received. DALTON, Hatter, Bates House.

Is against all kinds of soap for harness dressing except Oileite of Iron, which is a genuine oil dressing for harness, carriage curtains and buggy-tops, and all kinds of leather. Hundreds of our citizens say it has no equal. Send for circulars and price-list. GEORGE K. SCHOFFERD, 82 E. Market street, Indianapolis, Ind. in every town. Harry Smith, general agent.

SILVER-PLATED WARE.

We have just received a line of Tea Sets, Water Sets, Cake Baskets, Brandy Chasers, Sugar Servers, etc. This line just at hand gives us the most complete stock of silver-plated ware in the city. Our prices are especially low and an inspection of our stock is invited.

Bingham & Walk, Leading Jewelers, 12 East Washington St. General agents for the Fatah, Philippe & Co. Watches and Constantin and Ekagra, celebrated Swiss Watches.

WOOD CARPET. EASTMAN, SCHLEICHER & LEE. CARPETS, DRAPERIES, WALL-PAPER. The Largest House in the State.

SUBSCRIBE NOW FOR THE OPEN DOOR. THE SERMONS AND PRAYERS OF OSCAR C. McCULLOCH. WM. B. BURFORD'S, 21 West Washington St.

BUSINESS PROPERTY. Seventy-six feet of ground on Massachusetts avenue, corner of an alley, good depth and vacant ground enough for another store room. Frame buildings now renting for \$600 per annum. If you want a bargain call at our office and let us give you the facts.

SEE US NOW. JOHN S. SPANN & CO., 86 East Market Street. CATHCART, CLELAND & CO., Books, Stationery, Wall-paper. RED-LETTER DAYS.

Such are birthdays and wedding days, when remembered by friends with loving tokens. A beautiful and enduring tribute of regard may be found in a fine Steel Engraving, a Water-color or an Etching. These, choicely framed and hung in parlor, sitting-room or dining-room, add greatly to the beauty of a home. These are but suggestions. A full stock at the H. LIEBER CO., 33 South Meridian street. Studies for rent. Art materials and art handbooks. The Sunday Journal, \$2 Per Annum

HERMAN E. MARTENS' GREAT ROOM SALE OF WALL-PAPER TO-MORROW, MONDAY, FEBRUARY 29.

Last Tuesday we gave the first "ROOM SALE" of Wall Paper ever held in Indianapolis. IT WAS A GRAND SUCCESS. Our store was crowded from 9 a. m. to 4 p. m. In order to accommodate the hundreds whom we were unable to wait upon in the great rush we have decided to give

Another Room Sale TO-MORROW.

Extra salesmen have been hired and floor space cleared and we can assure all who attend this sale that they will be promptly waited on. Come early and avoid the rush. Doors open at 9 a. m.; close at 4 p. m.

Table with 2 columns: PRICES THAT ASTONISH. Left column lists paper and border quantities with prices (60c, 75c, 75c, \$1.00). Right column lists paper and border quantities with prices (\$1.00, \$1.50, \$1.50, \$2.00).

Each bundle contains enough Paper and Border for a room 12 feet square and 9 feet high. Extra rolls of ceilings, sides and yards of border can be had at 50 per cent. off from usual selling price on this day.

HERMAN E. MARTENS CORNER PENNSYLVANIA AND MARKET STS.

DIAMONDS SPECIALTY, LOWEST PRICES IN THE STATE FOR WATCHES. COM'S STOCK. And your money refunded any time less 10 per cent. 16 East Washington Street.

TUXEDO PARK. Compare our prices on Tuxedo Park with those of other subdivisions. Remember Tuxedo Park is only sixteen minutes' ride from the Court-house on the Irvington electric line, and is the same distance east as Twenty-fourth street on the north. \$100 Buys a nice level 40-foot lot in Tuxedo Park; \$10 cash and \$5 a month. \$150 Buys a beautiful 50-foot corner in Tuxedo Park; \$10 cash and \$7 per month. \$200 Is the price of one of the choicest lots in the addition. One block from Irvington electric line; \$10 cash and \$10 per month. \$300 Is the highest price for any lot except Washington-street frontages; \$10 cash and \$10 per month. \$500 Gives you the choice of any inside lot on Washington street; \$15 cash and \$15 per month. \$600 Fine Washington-street corner lot, 4x138. Only two left; \$15 cash and \$15 per month. BUILDING AND LOAN Association stock taken in payment. SECOND MORTGAGE taken upon payment one-third the purchase price. All payments CANCELED in case of death of the purchaser. We will meet you at Tuxedo Park every afternoon from 2 to 5, with plans and full information. C. H. & E. J. RICKERT, 58 EAST MARKET STREET.