

# The World.

VOL. 3, No. 31.

DULUTH AND SUPERIOR, SATURDAY, DEC. 4, 1897.

FIVE CENTS.

## GAY ON THE RACK

City Fathers Discuss Mr. Gay's Informal Proposition  
and Propound to Him Many Knotty Problems.

ALDERMAN JEFFERSON REMINDS MAYOR TRULSEN OF HIS  
MUNICIPAL REFORM LEAGUE PLATFORM AND  
ITS BROKEN PROMISES.

A special meeting of the city council was held Friday evening of last week devoted almost exclusively to the water works purchase. Preliminary to the proceedings an official stenographer was appointed and his report of the interrogations put to Mr. Gay and his answers are hereto appended.

During the proceedings a statement was read from County Auditor Halden informing the council that if the payment of the personal property tax due from the company to the county, amounting to \$54,815.72, was not provided for in the agreement to purchase, no part of it can ever be collected. Later when a motion in committee of the whole was made requiring the company to pay these taxes as a condition precedent to the submission of a proposition to the people, it was defeated, only Aldermen Jefferson, Simpson, Harker, Trevillion, Burg and Tischer voting aye. Another amendment pro-

viding that the bonds to be issued bear only 4 per cent interest, met with even less favor, Burg and Tischer voting with the majority.

Following are the questions and answers as prepared by R. Murchison, the stenographer:

Moved by Alderman Jefferson seconded by Alderman Simpson that the council hear from Mr. Gay in reference to the personal property taxes of the Duluth Gas and Water company. Carried.

Mr. Gay: Gentlemen of the Council—The matter of taxes is a subject that does not concern me or my constituents one way or the other. I am a bondholder of the company and I am standing between the other bondholders and the city. When the times comes that the property shall be sold under a master the question of a clear title will be given which I shall be prepared to turn over to the city of Duluth, but as for taxes or any other bills that the company may have I know nothing and care nothing about them. Taxes do not affect the bondholders one way or the other. The utmost you can ask me to do is to give you a clear title to the property which will be satisfactory to City Attorney Richards. That I am prepared to do.

Alderman Rowley: I should like to hear from the city attorney in regard to this matter of the city's making any arrangements with the bondholders in regard to

taxes. Mr. Richards, city attorney: Mr. President and Gentlemen of the council: As I understand it these personal property taxes are a charge against the gas and water company itself. They do not become a lien against the real estate, consequently the property and franchises of the Duluth Gas and Water company are foreclosed upon under mortgage of the bondholders and pending foreclosure a sale takes place by a master in chancery the title will pass to all of the property of the Duluth Gas and Water company including the personal property and real estate. In other words the bondholders through their sale will claim all the property and they will not have to pay the personal debts of the Duluth Gas and Water company, so that they would in that case be able to give a clear title to the property of the Duluth Gas and Water company to any buyer so far as the personal taxes are concerned. It would be otherwise if the taxes were a lien on the property. I understand in regard to personal taxes that the county can sue and get judgment and the judgment against the company would be a lien upon its real estate but it would be a lien that would be subject to the mortgage.

Alderman Stevens: Is it not a fact that the hydrant rentals have been turned over to the bondholders?

Mr. Richards: The Central Trust company of New York claims the hydrant rentals prior to February, 1897.

Alderman Hale: Mr. Richards, if we should buy this plant would that necessarily end that suit for hydrant rentals?

Mr. Richards: No, it would not.

Q—Do you think that buying the water plant would not injure our chances in that suit?

Mr. Richards: I cannot see how it would injure our chances in that suit.

Alderman Sang: Would it in any other way?

Mr. Richards: It is difficult to see how it would. This is the way it would appear: The city would be resisting a claim and it would be known that the city had bought the plant and this would result in a judgment against the city. Probably a jury would not be as much inclined to favor the city's contention as they might under the existing situation. That, however, is a matter of speculation.

Alderman Sang: Your idea is that we should not buy the plant?

Mr. Richards: That would have to be done in the name of the county through the county judges.

Alderman Rowley: Do you know anything about the Minnesota stockholders of the company?

Mr. Richards: I know nothing whatever about them.

Alderman Sang: Is there not a list of the stockholders among the records of the city?

Alderman Crasswell: I should think a copy could be found.

Alderman Jefferson: Mr. Gay, have not the bondholders a lien upon the water plant?

Mr. Gay: I have not heard any expression of opinion one way or the other about that.

Q—You don't know anything about that?

A—No, sir.

Q—I will put it in another way. Have they agreed to turn over the back hydrant rentals to the stockholders in consideration or part consideration that they will not enter into any litigation to turn this plant over to the bondholders?

A—I know of no arrangements of that kind between the two. My own conversation with the bondholders has been as to the price I could purchase the bonds from them for in case I succeeded in negotiating the sale of the city.

Q—You don't know that the company only realized on the sale of the 250,000 65 cents on the dollar?

A—That is news to me.

Q—You don't know anything about that?

A—No, those were issued ten years ago, long before I had any connection with the company at all.

Q—Do you not know that the 1,113,000 5 per cent bonds only realized 35 cents on the dollar?

A—That is out of the question for the reason that those bonds were bought and placed by the city in the hands of the company of Chicago who sold them at a par sterling.

Q—Can you have examined the books of the company?

A—No, I have not, but I know that direct from both the principals of the company.

Q—Don't you know that in the neighborhood of 400,000 of the 5s is not accounted for on the books?

A—I was not aware of that.

Q—Ever hear of it?

A—No.

Q—Are you familiar with the affairs of the company; you had a large interest in it and certainly familiarized yourself with their affairs in every way, shape and manner, examined their books, etc.?

Q—I don't know that it is necessary for me to reply to that question, I am a holder of the company and I became a bondholder of the company. I supposed sufficient information of the merits of the company itself. I have never seen the books of the company.

Q—Then you don't know of course that a large amount of the proceeds of the sale of the gas and water company's bonds was not used in the construction of the plant?

A—No, it does not devolve upon the purchaser to guarantee the use of the money. I paid 98 and accrued interest for my bonds and that is all I know and care to know or need to know.

Q—Can you state positively what the status of the company for the year ending Nov. 1, or any other year, were?

A—The last official statement that I have seen of the company is for the year ending Dec. 31, 1896, wherein the net earnings shown to be \$415,000.

Q—You have not seen any statement since?

A—No, I have not. I do not know of any having been drawn up.

Q—Can you state what their expenditures were during that time?

A—I have not seen a copy of the same as last year, that the figures would not vary much one way or the other as against last year.

Q—Does not the company state in their foreclosure proceedings that the plant has depreciated in value to a great extent and the revenue has fallen off largely?

A—I have not seen a copy of the foreclosure proceedings. I do not know.

Q—And that it will not pay sufficient to pay the interest on the bonds and that the company was in default for interest for some time. Is not that a fact?

A—It was a fact owing to the city's not paying the hydrant rentals.

Q—Does the complaint not state that the plant has so depreciated that it would not sell for one-half the face value of the bonds?

A—No, it says nothing of the kind.

Q—How do you know? You have read it, have you not?

A—I am simply informed.

Q—Have you any access to the books whatever?

A—No, sir, none at all.

Q—You could not state with any degree of certainty? Couldn't you state on some of these questions on hearsay? Doesn't the books or you were furnished this information from other sources, show large expenditures of money for other purposes?

For the purpose of carrying elections? For the purchase of these bonds, for the election of city officers who favored the company?

A—Nothing of the kind.

Q—Have you heard of a company called the Commercial Light and Power company?

A—No, just Commercial company. It was organized for the express purpose of dealing in stocks and bonds of the gas and water company, of which I understand George Elder was president, some-

body of the name of Christie, of the firm of Christie & Collier, was secretary, and some members, so far as I can find out, were old-time residents of Washburn & Lewis, and I think the name of MacDonald, a bond broker of Chicago, knew anything about that company?

A—I know Mr. MacDonald, he has been an employee of mine in the past.

Q—Has this company any connection with this sale?

Q—Where you at the Chicago conference with the mayor?

A—I was not. I arranged that with Mr. Truelsen, the mayor, and Mr. Fleming, his honor, the mayor, who went with him, so that both sides directly interested in the controversy might come together and carry their interview entirely apart from any negotiations that I had done and I purposely avoided, although the interest justified my presence there, I purposely avoided making such request in order that they might come together as they did.

Q—Was any representative of the English bondholders at that conference?

A—Mr. Untermeyer and their attorney, Mr. Fleming, his honor, the mayor; Mr. Washburn was there.

Q—Mr. Gay, did you not, some time last week, get an option from the bondholders, the bondholders agreeing to give you all you could get from the city over \$114,000?

A—I did not. I never had an option on these bonds. The foreign bondholders never would give an option. They won't today.

Q—Have not the bondholders entered into an agreement with you to take 4 per cent in exchange for their bonds, but if you can get 5 per cent bonds, they, the bondholders, will pay you 10 per cent for doing the business?

A—Nothing of the sort. On the contrary, they have agreed to take Duluth bonds bearing 10 per cent interest.

Q—Have you any kind of an agreement with the bondholders, they agreeing to pay you 10 per cent interest in exchange for the city to pay more than 4 per cent?

A—Nothing at all. I have no commission to sell bonds, and of course if you haven't your own agreement of this sort, you will please pardon me, I am an old fogey sort of fellow and can't get the things down in scientific terms as the attorneys do.

Alderman Sang: Do you want that taken down?

Alderman Jefferson: Oh, no. Have you entered into some kind of agreement with the principal bondholders of the company to give them the Duluth bonds in exchange for their bonds, and will you come into competition with you for buying of bonds, and also that if you happen to buy more bonds, and of course if you know you are going to be a great deal less than par, that the company give you the bonds in exchange for par and what you bought them for?

A—No, there is no arrangement of that kind; the only understanding that exists is that I have described to your council here.

Q—Does your offer of \$125,000 include the Lakeside plant?

A—Yes, sir.

Q—Will your offer be that you will give an absolutely perfect title to the plant for \$125,000?

A—A perfect title, satisfactory to your city, and I will give you a title to the plant.

Q—If, after an examination of your title by the city attorney, there appears to be some claims that you have not included, some claims turn up, you know, in your offer will you agree to allow the city to hold back a percentage of the bonds sufficient to cover those claims, and after those claims are tried in the courts and decided that the city is held by them, will you agree to forfeit the bonds to the city to hold back?

A—I should not agree to that, because foreclosure proceedings would shut out any possible claim. I turn over to you a title from sale under master it would preclude the possibility of such claims.

Alderman Simpson: Mr. Gay, what, if any, conditions for water or gas have the company made with corporations or individuals?

A—I do not know of any contract except the one with the West Duluth company which was referred to at our last meeting.

Q—Don't you think the city is entitled to know before they express themselves what they want to do?

Mr. Washburn: I don't know what the question means.

Q—I mean for rates in the future—do you know?

A—No, I do not.

Q—How can you expect the city to act not knowing but that the rates are practically hypothesized for two or three years?

A—That would not be possible.

Q—Would it not be possible for the gas and water company to make a contract with an elevator company, say, for two or five years?

A—I presume it would be.

Q—But how can you know that they would give a bonus to get it?

A—I never heard yet of a water company making a contract more than one year except with a city; I never heard of one for several years.

Q—I think in Chicago they have made contracts of that kind of the packing houses, or do you know?

A—I do not know. I supposed they were held to their rates by their charter.

Q—I suppose they could make a low rate?

A—Presumably.

Q—Does the city be sure there was no such thing?

A—I think it would be very simple thing for the managers to give a statement. That is our duty, and I am morally certain that I never heard of the existence of any contract of that kind, although I could not say that such a contract does not exist.

Mr. Washburn: In order to avoid the expense of negotiating the foreclosure proceedings, all of the expenditures of the company have been limited to paying the current expenses such as a receiver's pay and every payment that has been made has been first passed upon by me as attorney for the Central Trust company, the mortgagee. In the course of that work I have become advised that there are with a few people where large quantities of water have been used a contract rate made instead of the ordinary rate—I do not know how to express that, a few persons who have such rates, I am not guaranteeing anything here in that line, but I am morally certain that the only way any of those contracts have been made was by the year, and I inquired some into it and was advised by the managers that the reason they made those contracts was that if they didn't make the hydrant the parties would not use the water. They were, for instance, for running elevators—they used some other method and so they made contracts that way, but I am morally certain that the contracts are all from year to year and made by the year. I do not think of good sense that a contract made for a term of years.

Q—But you have never looked it up especially?

Mr. Washburn, continuing: And in any event there can be no contract at this time that was not made long subsequent to my having said that I was willing to bet my hat—and it is a pretty good bet—that I would not be able to get out of this proceeding unless the parties wished to confirm it.

Alderman Rowley: Would not this foreclosure cut off all such contracts?

A—I entertain no doubt of it.

Alderman Simpson: Do you think it is the best thing to have the city attorney's opinion?

A—I should not want to advise the council of that.

Q—As a citizen of Duluth and as an attorney of good sense, and I am morally certain that I never heard of the existence of any contract of that kind, although I could not say that such a contract does not exist.

A—I simply came down tonight by request in case something should be asked

in these proceedings of matters under my control. I do not represent Mr. Gay, but am willing to give any information that I have at my command. I should say I should answer that question in this way that I have always had great faith in the opinion of City Attorney Richards.

Q—Mr. Gay, why do you not furnish us a schedule of what you offer to sell us?

A—My proposition covers everything that I think any reasonable person could ask or that your attorney would ask.

Q—Don't you think we are entitled to know what we are getting before we bid a dollar?

A—Certainly.

Q—How do you expect us to assure you so you can cable over to England until you give us a schedule?

A—The proposition covers all rights, franchises, privileges and real estate of the company and all material on hand.

Alderman Jefferson: You have not given us an abstract of title to the real estate?

Mr. Harrison: That is not done until the city agrees to buy; everything will come.

Mr. Simpson: Do you think there is a member of this council knows what real estate the gas and water company owns?

A—(Mr. Gay)—I do not know.

Q—How do you think we are prepared to act upon it until we do know?

A—You don't want more than all the gas and water company own do you?

Q—I would like to know what we are paying \$125,000 for?

A—All the property of the company.

Q—Will you make any written representations as to the condition and quality of the gas and water plants?

A—No.

Q—Will you?

A—I will not.

Q—Will the bondholders?

A—I don't think the bondholders know, or are in a position to state.

Q—You warrant that the water mains lying along the street car lines are not partially or completely destroyed by old and water plants?

A—No, I am not. I do not pretend to be an expert in those matters.

Q—Is it not a fact that the machinery and the works is worthless or practically so?

A—I do not see how that can be; it is supplying the necessary gas to the city of Duluth.

Q—You are pretty well posted on gas, are you not?

A—Fairly so.

Q—Will it not take \$150,000 to \$200,000 to put the plant in position to manufacture gas economically?

A—I could not answer that question. I looked over the gas plant a few years ago and that is the last I have known of its condition.

Q—How can the city be informed on that point?

A—They are open to make any investigation they choose.

Q—You would not care to make any representations?

Q—When you purchased the bonds of the 1,105,000 issue was part of the consideration for so doing a part of the Prindle guarantee?

A—I had nothing to do with the Prindle franchise one way or the other. I bought the bonds on their merits.

Q—You never heard of the Prindle franchise?

A—I have heard of it since.

Q—You secured the return to the city of the Prindle franchise in part consideration of this purchase?

A—I know nothing about this franchise.

Q—You still hold the \$1,105,000 of the city's bonds?

A—I hold a portion of them.

Q—What portion?

A—I hold a block of them myself, in addition to which there are held one-half of the issue, five or six hundred thousand.

Q—If this purchase is consummated at this price, will it not tend to enhance the value of the bonds you already hold?

A—I hope so.

Q—Will it not?

A—That remains to be proved; it is impossible to say.

Q—You have no opinion that you care to express.

Q—After the consummation of the deal can you not sell the bonds on a 4 per cent basis?

A—No, it is impossible.

Q—If the city sold the bonds on this purchase at 4?

A—It is out of the question. That has already been corroborated by independent authority.

Q—If we sold a lower rate bond, what then?

A—It would not be possible.

Q—But if we did you would make a profit, would you not?

A—No, you would not make a loss.

Q—On those you hold?

A—Oh, I hope I should make a profit, could be forthcoming.

Q—You hold about half of them, you say?

A—With others who have more than half.

Q—One per cent for thirty years would make about \$30,000 profit you would make?

A—They couldn't be sold at that price at all.

Q—Would not this contemplated issue of bonds be more valuable in your hands than the bonds of the former issue than if held by other parties?

A—They probably would be worth more in my hands than in competing houses.

Q—Did you not on June 17 last make a statement that \$1,655,000 was the lowest figure that the bondholders would accept for both the gas and water plants?

A—I did.

Q—Have you changed your mind?

A—No, at all. The very thing corroborated by my taking into my own hands the risk of offering the plant at \$250,000 less, and by Mr. Truelsen, at Chicago, that was what was the consent of the bondholders, and Mr. Washburn will also corroborate that. That was the lowest price and is the lowest price.

Q—Are they going to get that now?

A—No.

Q—You were mistaken at that time?

A—No, not at all. They do not offer it at any less price now.

Q—You do?

A—Begging your pardon, I have not offered.

Q—What are you here for?

A—I have made no offer to you yet.

Q—We have been very fair with you, Mr. Simpson, you understand what we intend to do. (The last remark by Mr. Harrison.)

Q—I am informed that the gas and water company sell meters at \$1.10 each which can be had at about \$5.00 each. Is it on such profit as this that you base your figure on the earning capacity of the plant?

A—I know nothing about the rates.

Q—You are acquainted with the remainder of the bondholders, are you, any of them?

A—Some of them, with some of them, only those in this country and my friends from the other side whom I have met in connection with these negotiations.

Q—Do you or any of the bondholders feel any remorse for neglect in allowing the careless management of the water plant so that hundreds of our people have been poisoned by the impure water and have had the fever and died?

Alderman Sang: Do you want that printed?

Alderman Simpson: Yes, sir.

Q—We are here to discuss the purchase of the plant and not what this gentleman's opinion is.

Mr. Chairman (Crasswell): I think this is taking a pretty wide latitude.

Alderman Simpson: It is not material to this council to know the quality of the water we had, etc., I withdraw the question.

Alderman Hale: I would like to ask if your mortgage covers the Lakeside plant?

Mr. Washburn: The mortgage covers everything. The mortgage, the decree of court, specifically covers the real estate in the Lakeside plant. My understanding is that originally there was a separate company out there and that this company

acquired originally all the stock of that company, and whether they decided it over in form I do not know, but the mortgage covers all the property of this company under this mortgage, and I give notice that I claim everything, hide and hair, that the Duluth Gas and Water company has got so far as that goes, and whether they hold it by deed or by transfer over of all of the stock makes no difference to me. I claim everything the Lakeside company has got, and my present opinion is that they formally conveyed it over, but whether they did or not they conveyed the stock. The mortgage was a blanket mortgage covering everything.

Alderman Harker: Do you know whether Lakeside real estate is included in this transfer?

Mr. Washburn: Yes. This decree was entered in circuit court upon bill and answer instead of evidence being introduced, and because it was