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We carry a nice line of them in La Valieres, Stickpins, Rings and Cuff Buttons, etc., etc.

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W. H. Lyon
The Cask Jeweler.

Attorney J. K. Hood Discusses Validity of Franchise Matter

EDITOR THE INTELLIGENCER:

In view of the recently published opinion of Mr. Sullivan that the water and lighting contract made by the city council last winter was and is void for the reason that it was an attempt to create a bonded indebtedness without the vote of the people and was therefore in violation of certain provisions of the constitution of 1895, it seems to me necessary that I make this statement in order to prevent misunderstanding as to my position in the matter inasmuch as he and I were the city's attorneys when that contract was made and he is now the city's attorney.

I then thought and still thing that the city council had the legal right to make the contract in question. Mr. Sullivan's contention seems to be that the only ground for questioning the validity of the contract rests on the question as to whether the agreement to pay the company for water and lights from month to month as furnished during a term of years created a bonded indebtedness within the meaning of the constitution without authority from the people so to do as expressed in an election held for that purpose.

I claim no infallibility of opinion, legal or otherwise. In fact, it is my errors and shortcomings that help to keep me humble and sympathetic toward my fellowmen. But I certainly ought to know what a municipal bond is, for every outstanding bond against the city of Anderson was issued during the 12 years that I was actual and active city attorney, except the $8,000 issue of city hall bonds, which were issued while I was mayor.

The very fact that neither I nor Mr. Sullivan nor any other member of the bar nor citizen of Anderson, it is fair to presume, for one moment thought that the making of the contract for water and lights was creating a bonded indebtedness within the meaning of the constitution in some evidence as to how both lawyers and laymen construed the meaning of "bonded indebtedness," for not only the lawyers but the laymen know that no bonded indebtedness can be created except by a majority vote of the electors of the municipality cast at an election ordered by the city council as a result of a petition from a majority of the freeholders asking for the election.

One of the fundamental rules of construction is to give to language the ordinary and common meaning which the average man understands by it. The generally accept i meaning of municipal bonded indebtedness is that the city issue and sell its bonds for the purpose of raising a fund with which to perform some municipal work or improvement. The very fact that the constitution requires that municipalities shall, on issuing bonds, "create a sinking fund for the redemption thereof at maturity," strongly supports that view. The average man, whether a lawyer or a layman, would be sorely puzzled to see any necessity for creating a sinking fund to pay water and light rentals which are due and payable monthly.

The necessary procedure for issuing bonds is as follows, by way of illustration: A majority of the freeholders of the city sign a written petition to council asking that an election be held on the question of issuing the bonds of the city to a certain amount for the purpose of making certain improvements, as for instance, paving streets. The voters cast their ballots saying yes or no on the question as to whether, in the first place, they are in favor of the paving and, in the second place, whether they are willing for the city council to issue and sell enough bonds to raise the amount of money that is necessary to do that paving. If the majority votes in favor of issuing bonds for that purpose the city borrows the required sum by issuing and delivering its bonds to the man who lends the money, bonds being nothing but promises to pay back the money with interest, and the money is turned into the treasury and paid out as the work is done. Of course the city thereupon levies a tax for the purpose of paying the interest on the bonds each year, and is also required to create a "sinking fund" with which to pay the principal of the debt when due. Of course everybody understands that a "sinking fund" merely means that the city must lay by each year such sum of money as will in the aggregate enable it to pay the principal of the bonds when due. On the other hand, if a majority of the people vote no, then the paving, as a matter of course, is not done. In other words, the question really voted on is "shall we have paving."

What would the people be asked to vote on when it comes to making a contract for water and lights? Certainly not as to whether we should have water and light—for that is an absolute necessity and a fixed policy. We might as well be asked whether we want sunshine and showers. They could not vote on the question of confirming or rejecting any proposed contract. In all probability, for it is not likely that responsible people who would be able to satisfactorily furnish water and lights would care to go to the trouble and expense of making a contract that might be whimsically rejected, or that might be rejected for some feature that could be easily agreed on if it were possible to find out the ground of objection. It must be remembered that if Mr. Sullivan's contention is valid, that there would be no contract on which to vote unless one was voluntarily entered into by those proposing to furnish water and lights for the purpose of submitting it to the people for ratification or rejection. It is not a question of voting on the contract that has already been made. If that contract is invalid then the company would have the same right as the city to treat it as void.

When, then, would be submitted to the people for their decision? It could only be, in my judgment, the question whether the city should undertake municipal ownership and control of the water and lighting systems, or whether the city council should make the best contract possible with some responsible person to furnish water and lights to the city and its inhabitants on the most satisfactory basis that could be negotiated. Suppose that question had been submitted to the voters and a majority had voted in favor of municipal ownership, which would have required the city to issue bonds to carry that into effect. It is possible to conceive that a majority of the people might thereupon refuse to vote the necessary bonds. Granted that such is not likely to be the case, still it can not be denied that such is a possibility and that an absurd result would follow. Our constitution is not likely to require that which may lead to an absurdity.

On the other hand, suppose a majority of the people had voted in favor of the city making the best contract possible with some private concern to furnish water and lights. What kind of a predicament would that have placed the city council in? If Mr. Taylor should have been asked to submit a proposition under such circumstances he might have replied that he was not in the market just then and that when the city council had tried all other possible contractors that they might call around to see him again if they had not obtained what they desired. When that time came, as it certainly would have come, then he could have submitted his proposition on terms of his own choosing and then told the city council that the people had already voted against municipal ownership and that they must accept the contract offered by him or look elsewhere. Such a predicament would have deprived the city council of the strongest leverage that it had to force the most favorable terms possible, for without the threat of municipal ownership and control, which was constantly used by the city council in the contract made, the city would have been under the necessity of making that contract without the least competition or pressure in its behalf.

As tested by common sense, which is a very necessary and important factor in the successful practice of law as of every other business, it does not seem to me that the making of this contract was the creating of a bonded indebtedness within the meaning of the constitution. The men that made that constitution were men like John E. Breazeale, George E. Prince, D. H. Russell, J. M. Sullivan, J. Perry Glenn and L. D. Harris, who were members from Anderson County, and I do not believe that they intended to say that the making of a contract for the furnishing of water and lights was a creation of a "bonded debt" that required a vote of the people to ratify. They doubtless meant just what the average man understands to be meant by a bonded debt, namely a debt created by the sale of bonds, from the proceeds of the sale of which some corporate purpose is accomplished.

But Mr. Sullivan thinks that the supreme court has already decided that the making of such a contract whereby the city merely obligates itself to pay a monthly rental for water and lights for a term of year is the creation of such a bonded debt as required a vote of the people to make the contract valid, and refers to the Charleston case and the Fountain Inn case authority for his conclusion. I do not reach the same conclusion from those cases that he does. In fact I think that the latter of those cases pointedly indicates that the court does not deem such a contract as creating a bonded indebtedness in the constitutional meaning.

The Charleston case was merely an attempt on the part of the city of Charleston to avoid the constitutional limitation as to indebtedness by having organized a water company which was ostensibly to issue a million and a half dollars worth of bonds for the purpose of installing a proper water system and letting the city of Charleston in effect guarantee the payment thereof by binding itself to pay the equivalent of nearly $80. per hydrant per year for 50 years, the term for which the water bonds were to run, unless the city in the meantime should be able to take over the plant. The supreme court very properly held that that was an attempt to increase its bonded indebtedness, which already far exceeded the constitution limitation, and that the proposed contract was therefore void. While Mr. Justice Fope, who rendered the decision in that case, used language that indicated that he believed the making of a contract for water and lights would amount to a creation of a bonded debt within the meaning of the constitution, the other three justices concurred only in the "result" of his decision, which means that they refused to commit themselves to any reasoning or statement made in the opinion other than the mere conclusion, namely, that that particular contract was invalid.

The Fountain Inn case was an attempt on the part of a citizen to prevent the making of a lighting contract between the town and the Enoree Power Company after "a special election was held in said town in which the question of making said contract was submitted to the qualified electors thereof, and the majority of them voted in favor of making the contract." The only two questions involved were whether the town had authority to order the election and whether there was a proper registration of voters. Mr. Justice Hydrick wrote the opinion and began the opinion by saying: "It may be conceded that the proposed contract is of the nature of a bond debt (referring to the Charleston case), which can not be created without the sanction of the majority of the qualified electors of the town, constitution, Art. 8, Sec. 7." If he and the other members of the supreme court were of the opinion that that contract created a bonded indebtedness it is not likely that they would have used that peculiar language, to wit: "It may be conceded that the proposed contract is of the nature of a bonded debt." To my mind, it was merely equivalent to say that for the purpose of deciding the two questions involved it may be conceded that it was cerating a bonded debt, but even if such were true, and an election was necessary, then the town council had authority to order the election and consequently the contention that it was without such authority overruled. In coming to that conclusion the court further used this languauge: "Moreover, as the making of the contract is the creation of a bonded debt," etc., but that, to my mind, merely meant, namely, that it may be conceded for the purpose of this decision that the contract was a bonded debt, and still the constitutional requirements as to creating a bonded debt had been complied with.

But let's concede for the sake of argument (as the supreme court did above) that our contract was invalid at the time it was made, and then the question naturally arises whether the city and the citizens are now estopped in fairness and justice from raising that question. Mr. Sullivan came to the conclusion that they were not, and quoted the case of Milster vs. Spartanburg, 68 S. C., 33, in support of his view. That was a case brought by a citizen to require the city of Spartanburg to collect taxes from a cotton mill that had been exempted from taxation for a period of ten years by the city council. I think the following quotation from that same decision more in point than the portion quoted by Mr. Sullivan, to wit: "That most serious question for the court is, did the inaction and delay amount to such laches as will make the granting of the petition unjust and inequitable? If so, whatever may have been the rights of the petitioners, they should not now be inforced. In solving this question the important inquiries are: (1) Was the delay unreasonable; and (2) Would its natural result be injury to the party against whom the relief is sought?" That involves moral questions that every man can answer for himself. Every citizen has had the right to go directly to the supreme court to have the validity of the contract tested from the very day that it was signed. And if that court should hold that the delay was not unreasonable, could it hold that the natural result of setting the contract aside would not cause injury to the company? I hear that the company has spent something like $30,000 in putting in new mains. Section 6 of the contract provides that "the company shall immediately upon acceptance of this ordinance, or as soon thereafter as it conveniently can, and within 12 months from acceptance, replace all water mains of four inches, or less, in diameter, that are now used to supply water to fire hydrants with mains not less than six inches in diameter," etc. Had the company delayed putting in those six inch mains up to this date it could well have been charged with indifference to its contractual obligations and that it would likely fail to perform that part of its contract within the time specified. Would the injury done the company be entirely compensated for by the city reimbursing it for the expense incurred? It is not conceivable that any fair minded man would be willing to set the contract aside unless the company was fully compensated for all moneys expended in improving its services so as to save it against the very injury that the court speaks of. I do not believe the supreme court would set asied the contract under the circumstances even if it should come to the conclusion that the contract was invalid when passed and would then have so declared had the question been promptly raised.

If the supreme court should declare the contract invalid I will have the satisfaction of knowing that I gave our former clients, the city council, the best service I was capable of, for it goes without saying that they relied absolutely on their attorneys to take care of the legal phases of the matter. They, as well as the public, might well feel that the city attorneys had been derelict in duty had they permitted useless waste of time, effort and money in negotiating a worthless contract. I would feel deeply mortified if such should have proven to be the case.

Now a few words as to the business side of the matter. The members of council and their attorneys spent much time, day and night, in working on the negotiations leading up to the adoption of the contract. So far as I know, every one of them was working to obtain a contract that would be fair and just to the city as well as to the company. I found Mr. Taylor and Mr. Orr alert in behalf of their company, as it was their duty to be. I never saw the slightest effort on their part to mislead or deceive any one and I believe that I can say for every member of that council, as I say for myself, that the negotiations were conducted without the least deception on either side, and that every phase of the matter was thoroughly and repeatedly discussed and understood, and the utmost publicity given thereto as everybody will remember.

The test of the intelligence and fidelity with which work is done can generally be found in the results accomplished. Let us look at some of the benefits that were accomplished in behalf of the city and its citizens:

The water consumer now gets 3,000 gallons for 75 cents as against 2,000 for 75 cents under the old contract. We tried very hard to make the minimum 50 cents but found that somebody would have had to pay more than a reasonable rate if the minimum consumer obtained water at less than a reasonable rate.

All four inch water mains are replaced by not less than six inch mains and only six inch mains shall now be installed.

The city now pays $40 per hydrant as against $50 under the old franchise; and as the city is now required to pay for the water used for sewerage and sprinkling and other purposes, the individual consumer obtains his water at the lowest minimum possible.

The city has the right at any time to purchase the entire water plant on a basis that would be fair and just to the city and company.

The minimum consumer of electricity pays 11 cents per killowatt hour with five per cent. discount in ten days as against 12 1-2 cents under the old contract, as I remember. When this was under consideration the officials of the company stated that they would reduce that charge to 10 cents as soon as arrangements could be made to adopt that rate in Spartanburg and Greenville, and that Anderson would be given the benefit of that rate though it was a less consumer than either of the other two cities. I understand that that rate has been put in effect.

The city has the right once in every five years to purchase the company's electrical plant and appliances in use in the city for furnishing electric lights and small power in connection therewith at the time of the purchase by paying a fair and reasonable price therefor, and a scehme is provided for arriving at that price if the city and company can not agree. While the term of the contract is 40 years, still the city may terminate it in each five years thereof by purchasing the plants of the company.

I think the city council negotiated an excellent contract; that no other body of men could have done better. My understanding was that the three members who voted against the ratification of the contract did so because they thought it desirable to submit it to a vote of the people and not because they did not think that the contract was a fair and just one to the city.

I am handing Mr. Sullivan a copy of this statement before its publication. Had he shown me a copy of his opinion before publication, which every consideration of courtesy and mutual interest and liability in the premises required, I would have tried to save him from the unhappy plight into which he has let his extreme partisanship throughout this whole matter lead him.

I shall endeavor by every proper and honorable means to uphold the validity of this contract, made by our clients with our assistance, as their trusted attorneys, and not only on that account but for the additional reason that I believe that the people of Anderson, whom I have ever striven to faithfully serve as a municipal officer, are enjoying and will enjoy the fruits of a fair and beneficial contract that probably could not be duplicated should they be deprived thereof by any unwise action on the part of their present city council. Indeed, I entertain a very confident hope that at least a majority of the council will abandon the effort to deprive the people of the benefits of that contract as soon as they shall have had the opportunity of studying the matter thoroughly enough to reach an independent conclusion thereon.

JNO. K. HOOD.

W. W. Long, State agent of demonstration and director of extension at Clemson College, advises South Carolina farmers not to sell or dispose of a bushel of their cowpeas this fall, but instead to buy all the cowpeas they are able to buy, in order to have the peas to sow after small grain next season. South Carolina lands will be incalculably improved by such a practice, according to Mr. Long.

Encouraging reports are reaching Clemson College from the county demonstration agents. In most sections of the State more wheat is being sown than ever before in the history of those sections. Clemson's agents have been conducting a grain and live-at-home campaign daily ever since the outbreak of the European war and effects are beginning to be noticed on every side.

Mrs. Lander

Laid to Rest Yesterday Afternoon at 3:30 in Williamston.

The funeral services of Mrs. Laura Lander, who died Wednesday night at Greenwood, were held in the Main Street Methodist church there yesterday afternoon at 12:30 o'clock conducted by the Rev. L. F. McGee and the Rev. Dr. John O. Wilson. Following the services in the church the body was taken to Williamston in a special train over the Interurban railway, the remains being accompanied by some 30 or 40 people from Greenwood. At the services at Greenwood the following gentlemen served as pallbearers: Hon. C. A. C. Waller, Dr. R. B. Epting, Capt. J. G. Jenkins, J. T. Medlock, W. A. Williams and George C. Hodges, Jr.

The interment at Williamston took place at 3:30 o'clock, six sons of Mrs. Lander serving as pallbearers. Mrs. Lander is survived by the following children: Mrs. John O. Wilson, Greenwood; Mrs. George E. Prince, Anderson; Mr. Neil S. Lander, Anderson county; Dr. Frank Lander and Dr. W. T. Lander, of Williamston; Mr. A. M. Lander of Pelzer; Mr. E. M. Lander, Calhoun Falls; Mr. M. M. Lander, of Jacksonville, Fla., and Dr. John M. Lander, Rio Janeiro, Brazil. The floral tributes were profuse and exquisite.

The Unexpected Happens.

"It was an unusual situation that confronted our fox hunting club and nobody knew just what to do."

"What happened?"

"Why, they unexpedly started up a fox."

PLANS FOR RAISING OF BELGIAN RELIEF FUND

DISCUSSED YESTERDAY BY COMMITTEE AT CHAMBER OF COMMERCE

MEETS SATURDAY

For Purpose of Announcing Plans And Putting Them Into Practice.

Ways and means for raising funds for a Christmas offering for the Belgian widows and orphans who have been left in destitute circumstances by the European war were discussed at some length yesterday afternoon at a meeting of members of the educational committee of the Chamber of Commerce. At the meeting, which was held at the Chamber of Commerce, but a few members of the committee, including one clergyman, were present, it was decided to hold another meeting next Saturday afternoon at 3 o'clock, at which time a committee, which was named yesterday afternoon, will suggest plans for going about the raising of this fund.

Present at the meeting yesterday afternoon were Messrs. E. C. McCants, superintendent of the city schools; F. M. Burnett, secretary of the Y. M. C. A.; P. H. Whaley, secretary of the Chamber of Commerce; M. M. Mattison, Dr. A. L. Smethers and the Rev. J. H. Gibboneyfl rector of Grace church. The Rev. Dr. W. H. Fraser, pastor of the First Presbyterian church, telephoned his regrets that he was indisposed and could not come out to the meeting, while the Rev. Dr. J. F. Vines, pastor of the First Baptist church, sent a letter stating that he was out of the city and regretted that he could not attend.

Various plans were suggested at the meeting for raising a fund for the Belgians. Mr. Burnet announced that he would give the proceeds of the opening day at the Paramount motion picture theatre, or the proceeds of the day performance. In order to make the attendance as large as possible on that day, he suggested that he would procure a series of pictures especially pleasing to children and have the matter called to the attention of the school children of the city by their teachers. The Rev. Mr. Gibboney came forward with a suggestion that contributed envelopes be printed and distributed by the pastors to the chairmen of various committees, who would see to it that the members of their committee gave an offering of some kind.

After a thorough discussionn of the matter it was decided to appoint a committee consisting of Messrs. Whaley, Burnett and Gibboney to map out a program for the meeting which will be held Saturday afternoon at 3 o'clock. In the meantime letters will be sent to the pastors of every church and superintendents of every Sunday school in the county urging them to attend this meeting.

Knights

Of Pythias Did Amplified Third Rank Work Here Last Evening.

A hundred or more Knights of Pythias, representing practically every lodge in the county, gathered last night in Chiquola Lodge hall in special session for amplified third rank work, which was carried out by an expert team of the local organization.

The third rank was conferred upon Messrs. Frank Brownlee and F. E. McHugh, and the work was put on in good form.

Following the exercises a delightful smoker was enjoyed, the Knights remaining at the hall until a late hour and enjoying the good fellowship which is so characteristic of this order.

Disolve

Well Known Law Firm of Hood & Sullivan Is Ended.

Formal notice of dissolution of the well known law firm of Hood & Sullivan—composed of Messrs. John K. Hood and G. Cullen Sullivan—appears elsewhere in The Intelligencer this morning.

This well known partnership has been in force for the past seven or eight years, during which time they enjoyed a large and lucrative practice. The announcement of the dissolution will come as a surprise to the large number of friends and clients of both.

Neither Mr. Hood nor Mr. Sullivan have made any announcement as to their plans for the future.

Preaching at Welcome.

There will be preaching at Welcome Baptist church Saturday afternoon at 3 o'clock. The hour was announced for 11 a. m. but is changed to the afternoon. This information is given out by the Rev. H. C. Martin.

We Can Raise Your Salary!

That is—by making your money go farther in the purchase of good meats. We cut meat and we are also cutting the prices; read these prices.

Loin Steak, per pound 20c
Best Roast, per pound 15c
Pork, per pound 15c and 20c

All others in proportion, and 16 ounces to the pound.

G. P. FOWLER
Phone 755.

Christmas Holiday Rates

The Charleston & Western Carolina Railway will sell cheap Excursion tickets account of the Holidays. Tickets on sale, December 16th to 25th inst., Dec. 31, 1914 and Jan. 1st, 1915. Final Limit Jan. 6th, 1915. For rates, etc., apply to

Ernest Williams,
General Passenger Agent, Augusta, Ga.

Nanzetta's Prescription.

Try a bottle of Nanzetta's Prescription for impure blood, kidney, liver and stomach. It has pleased hundreds and thousands, why shouldn't it please you. Doctors and druggists claim it can not be improved upon, for what it is recommended.

Sold and guarantees by all leading drug stores and the Nanzetta Medicine Company, 114 Coffee St., Greenville, S. C. Fone 1218.

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With every Wizard Floor Mop you buy from us at One Dollar we will give you FREE, of charge, a 50c bottle of Wizard polish.

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