

SPECIAL MEETING

Saturday, March 22, 1924.

The Common Council of the City of Indianapolis met in the Council Chamber, March 22, 1924, at 2:00 p. m., in special session, President Walter W. Wise in the chair, pursuant to the following call:

To the Members of the Common Council of the City of Indianapolis, Indiana:

Gentlemen—You are hereby notified that there will be a special meeting of the Common Council held in the Council Chamber on Saturday, March 22, 1924, at 2:00 o'clock P. M., the purpose of such meeting being to receive communications from the Mayor or City Controller of said City and for the introduction and consideration of a resolution asking for an investigation of the different departments of the City Administration.

Respectfully,

WALTER W. WISE,

President.

I, John W. Rhodehamel, Clerk of the Common Council of the City of Indianapolis, Indiana, do hereby certify that I have served the above and foregoing notice to each and every member of the Common Council prior to the time of meeting, pursuant to the rules.

JOHN W. RHODEHAMEL,

City Clerk.

Which was read.

The clerk called the roll:

Present: The Hon. Walter W. Wise, President of the Common Council, and eight members, viz.: Messrs. Bernd, Bramblett, Buchanan, Clauer, Claycombe, King, Ray and Thompson.

By Mr. Ray.

To the Officers and Members of the Common Council:

I have concluded that the proper, in fact to my mind, the only way to offer this resolution to the Common Council of the City of Indianapolis, is to embody it, and the facts upon which it rests, in written form, and in this form submit the same to you.

Well-defined and persistent public rumors and statements coming from most credible sources embody most serious charges which

tend to show an absolute and criminal disregard of the interests of the city as a whole, and the property rights of its individual citizens.

The Common Council of the City of Indianapolis is charged with the duty of investigating these rumors in a sane, fair, and if possible, judicial way, and to take such action as this investigation dictates regardless of the consequences to the persons who may be found guilty—if these rumors be true—and with absolute indifference to criticisms or comments upon their motives, coming from any source whatsoever.

I have spent a considerable portion of the last thirty days investigating these charges. I have consulted people in all walks of life. I have taken their views on this subject, and the almost unanimous view is that it is the duty of the Common Council of the City of Indianapolis to make a thorough-going, fearless, impartial, deep and comprehensive investigation of these charges, and to make such recommendations and take such action as the facts found to be true warrant.

The first thing I did after ascertaining that more than reasonable ground exists for belief in the facts which I shall hereinafter set forth, I consulted certain lawyers as to the law involved, should these facts be true, with the following results: These lawyers stated that there is a statute designated as Section 2423 of Burns' Revised Statutes of the State of Indiana, which is as follows:

"Officers interested in public contracts, 517. Any state officer, county commissioner, township or town trustee, mayor or a common councilman of any city, school trustee of any town or city, or their appointees or agents, or any person holding any appointive power, or any person holding a lucrative office under the constitution or laws of this state, who shall, during the time he may occupy such office or hold such appointing power and discharge the duties thereof, be interested, directly or indirectly, in any contract for the construction of any state house, court house, school house, bridge, public building or work of any kind, erected or built for the use of the state, or any county, township, town or city in the state, in which he exercises any official jurisdiction, or who shall bargain for or receive any percentage, drawback, premium, or profits or money whatever, on any contract, or for the letting of any contract, or making any appointment wherein the state, or any county, township, town or city is concerned, on conviction, shall be fined not less than three hundred dollars nor more than five thousand dollars, and be imprisoned in the state prison not less than two years nor more than fourteen years, and disfranchised and rendered incapable of holding any office of trust or profit for any determinate period."

And that this statute has been broadly interpreted by many decisions of the higher courts of Indiana, two of which, according to the view of these lawyers, have special application to the facts which will be hereafter set forth. These two cases are those of Noble v. Davison, decided by the Supreme Court of Indiana and reported in the 96th volume of the Northeastern Reports at page 325, and McNay v. Town of Lowell, 41 Appellate Reports of the State of Indiana, the same case also being reported in the 84th volume of the Northeastern Reports at page 778. Section 8746H Burns' Revised Statutes is said to contain a provision as follows:

"No member of such board, or any clerk, assistant or appointee, or employee thereof, shall hold any interest, either directly or indirectly, in any kind of enterprise whatever conducted for profit, within one thousand feet of any park, parkway or boulevard under the juris-

diction of such board, and the possession or ownership of any such interest shall operate to vacate the office or position held by such person and render him ineligible to hold any office or position under such board while such interest is either directly or indirectly possessed or retained by him."

I have been further informed that the first of the foregoing cases decides that if a member of a public board of a city after the election of such member, and before his term of office commences, is interested in a contract with the city acting through this board, this contract is void; and the second case, which if properly decided, is of great importance to the City of Indianapolis and the citizens of this city. It decides that if an officer receives money from an illegal contract, such money may be recovered by the municipal corporation paying the same. I have been further informed that it is the law that any person receiving any money as the result of his control over an officer of the city in relation to a contract, will upon the institution of a proper suit be held to hold such money in trust for the city. In other words that this money may be recovered by the city for the use and benefit of its taxpayers from the person having this influence and exercising it in relation to the particular city official.

If this legal advice be sound, it appears to me that we are remiss in our duty if we do not investigate the following facts and ascertain whether they are reasonably true. If they are, then not only has the administration of the municipal affairs of this city been debauched, and the standards of government painfully lowered, but those responsible for the same are now holding money belonging to the taxpayers of this city which may be recovered and this conduct upon our part will result to some extent at least in defending the standards of political and municipal decency, which should characterize the conduct of all municipal governments, and reducing in no small degree the burden of taxation under which all classes of citizens of this community are struggling. The most outstanding case that has come within my notice is that of Oscar F. Mann, a citizen of Indianapolis who has resided in this city for a period of thirty years and now lives at 4309 Central avenue. This gentleman in 1921, acquired a stretch of property which may be roughly described as about 1200 feet on West Michigan street with the same footage on West North street. On this property, Mr. Mann, in 1921, built four houses. These houses are still on these lots. After completing the building of these houses, he began an erection on this ground of a four-apartment flat. Before this building was finished, the builder heard it was to be condemned. At this time one, Rogers, was building inspector in this territory. This building inspector found no objection to the construction of this building until forced to do so by the Mayor of the City of Indianapolis. Later a building inspector of the City of Indianapolis, a man named Thaddeus Gurly, an architect named Hunter, and the Mayor of the City of Indianapolis, personally appeared upon the scene and pretended to inspect this building. As a result of this visit it was ordered that this building should be torn down. Mr. Mann was refused the right to remodel the building, but he was preemptorily ordered to tear the building down and by a singular coincidence these buildings are still standing. They have not been torn down and the incidents which I shall now state probably brought about this situation.

At this time Fred Cline was and now is a member of the Park Board. It was, as a result of these facts, clear to the witness that any building he should erect upon the premises would be condemned. At this time he was approached by one George Montgomery, who told him that he had a person who would buy this ground. Mr. Mann met Fred Cline, the member of the Park Board, who stated that he had some parties who could use this property. As a result of negotiations Cline became agent for Mr. Mann and sold the property to one Raphael Sanders. The consideration for this transfer stated in some detail was as follows: seven acres of ground in Flackvill, mortgaged for \$3,500.00; five lots in Northview Addition to the City of Indianapolis, encumbered to the extent of \$3,500.00; a lot on College avenue mortgaged for \$1,000; five lots on Martindale avenue. From my investigations, all of this property was owned directly or indirectly by Fred Cline. \$3,300.00 in cash was given in addition to this property. The actual value of this real property was about \$2,000.00. Consequently we have this situation in regard to this transaction: about \$5,300.00 was given for the property owned by Mr. Mann. This property was encumbered to the extent of \$35,000.00, making the total consideration for this property about \$40,000.00. Within a short time after this transaction, the Park Board of the City of Indianapolis of which Cline was a member, purchased on behalf of the City of Indianapolis, the same for \$78,000.00. From these facts I feel that you will infer that some or all of these persons other than Mr. Mann are holding about \$38,000.00 which belongs to the City of Indianapolis and the citizens of this city.

As shedding no little light upon the foregoing facts and others which will be stated, I desire to direct your attention to a state of facts which I understand has never been controverted. An inspection of the corporation reports in the office of the Secretary of State of the State of Indiana will show that on July 21, 1921, Fred Cline was vice-president of the Sunnymead Realty Company. He was appointed a member of the Park Board when the Mayor came into office in January, 1922. A report of the Sunnymead Realty Company filed with the Secretary of State on July 28, 1922, shows that N. B. Whelen is Secretary-Treasurer of the Sunnymead Realty Company. Investigation shows that N. B. Whelen is Nellie B. Whelen, secretary to Fred Cline, and resides at 1915 North Meridian street. I understand that she is a person of no considerable financial standing, and has been employed by Fred Cline for a number of years. The 1922 annual report of this corporation shows that one Fred Walker is vice-president of the Sunnymead Realty Company, his address being the same as N. B. Whelen, to-wit, 206 Hume-Mansur Building. This being the offices, upon the facts which I have in my possession, of Fred Cline's Real Estate Company, I understand that this Fred B. Walker is an employee having acted generally as his chauffeur. This Fred Walker's name does not appear in the 1921 annual report or in the annual reports prior to that time back to 1917. Fred Cline, according to the records of this corporation, was director thereof in 1918, vice-president in 1919, 1920 and 1921, but according to the records he was in 1922 succeeded to that position by his chauffeur. This Sunnymead Realty Company had purchased lots 304-5 in Osgoods Forrest Park, 5th Section, on October 31, 1922, paying approximately \$12,000 to the College Park Land Company. This deed is recorded in deed record 680, page 309. The Standard Oil Company

received a deed from the Sunnymead Realty Company on December 20, 1922, and recorded it on December 29, 1922, it being recorded in deed record 684, number 45390. The stamps on this deed show a consideration of \$27,500. This might suggest that we have our own "tea-pot dome," though perhaps on a miniature scale. The records of the Park Board show that in 1920, a resolution was passed in which it stated that at all times it refused to issue permits for commercial buildings, and in this resolution gasoline filling stations were referred to as congesting traffic on boulevards, which were made for pleasure purposes. On November 2, 1922, the Park Board Commissioners composed of Charles Bookwalter, Fred Cline and others granted a permission to the Standard Oil Company to erect a filling station, and wrote a letter to Francis Hamilton, building commissioner, on that day, to issue permits to the Standard Oil Company. It seems that the issuing of this permit was held up by action of the City Planning Commission under General Ordinance 79 in the year 1921, which prohibited the erection of filling stations within five hundred feet of a residence unless the consent of the City Planning Commission was obtained. This consent was obtained on November 14, 1922, the City Zoning Ordinance having been passed on November 20, 1922.

On November 16, 1923, the Mayor of the City of Indianapolis, Samuel Lewis Shank, transferred to the City of Indianapolis, acting by and through the Park Board, a certain portion of property belonging to him for the sum of \$9,527.00. Further comment upon this transaction is unnecessary. When tested by the law above cited, the conclusion is so clear that a statement of it would be a mere idle ceremony. This is another phase of this vital subject which has been investigated. This field is a very inviting one.

At this time it is deemed not proper to make a detailed statement of the facts gathered and considered in this line of investigation. This statement of this phase of this matter, in my opinion, will suffice. Within the last three months a bill of complaint was filed by leading attorneys of the Marion County Bar in behalf of some of the most respected and prominent citizens of the west side of Indianapolis. These citizens, by their attorneys, charged upon the record of the Superior Court of Marion County that the Board of Public Works of the City of Indianapolis was in collusion with certain contractors who were in a conspiracy to extort and fraudulently obtain money from the citizens of Marion County by the illegal letting and fraudulent execution of paving contracts, and that a certain person had such influence with the Mayor of the City of Indianapolis, and the Board of Public Works that contracts of this fraudulent character were let at his instance and dictation, he securing as consideration for his influence and conduct a certain percentage of the fraudulent avails of these contracts. This Board of Public Works, instead of meeting this situation in open court, where investigation into the charges could be had, has desisted in its efforts to carry out this particular contract in question. This, in my view, amounts to a tacit admission of the truth of these charges.

I have now, in a brief way, outlined the nature and character of these most persistent charges against the Mayor, Samuel Lewis Shank, and some of his most vital and controlling Boards. Space and other considerations prevent me from going into the matter in further detail. These facts would generally tend to alarm most any

community. If they are actual facts, they constitute a conspiracy to violate some of the most important statutes passed for the purpose of maintaining honesty and integrity on the conduct of city officials, and vitally effect the rights of the taxpayers of this city already groaning under exorbitant and indefensible taxation. These facts call upon us as representatives of the citizens and taxpayers of this city to take action. The action which I suggest and which I now embody in the form of a motion is that a committee be appointed to investigate these facts, and if found to be accurate, to take such steps as will enable the citizens of Indianapolis to recover such sums of money as have been fraudulently taken from them and such as will stop for a long time to come such prostitution of these vital offices of public trust and confidence.

Of course, I do not contend that the Common Council has jurisdiction to enforce the criminal laws. That duty resides elsewhere. As to offenses of this type, it is vested in the Grand Jury of Marion County and the Judge of the Criminal Court. These bodies, of course, must be aided by the prosecuting attorney of this County, otherwise they will fail to function. I know of no reason why if these facts are ascertained to be correct, that the Criminal Court of Marion County properly aided by an honest Grand Jury and an honest and efficient prosecutor will not do their part to vindicate the laws and afford the citizens and taxpayers of this County the necessary aid, but be that as it may, the duty of investigating these facts and taking such action as lies within our appropriate and legal authority rests upon us, it can not be delegated.

It is my firm belief that we should be recreant to our oaths of office and every duty we owe the citizens who have honored us by electing us into this body, if we do not take the action urged by this resolution.

OTTO RAY.

By Mr. Ray.

RESOLUTION NO. 1, 1924

WHEREAS, it has been common rumor in the City of Indianapolis that there is dishonesty and corruption as well as inefficiency in certain departments of the City government, and

WHEREAS, those rumors have now given way to open charges of dishonesty, corruption and efficiency, and

WHEREAS, if these charges are true the guilty should be exposed, discharged and prosecuted and all malfeasance, non-feasance and misfeasance corrected if any should be found to exist, and if such charges are unfounded the public has a right to be apprised promptly in order that it may not lose confidence in its servants and officials.

THEREFORE BE IT RESOLVED, that the president of the Common Council be and hereby is authorized and directed on or before the next regular meeting of the Common Council to appoint a special committee of five members whose duty it shall be to immediately investigate the charges and rumors regarding alleged misconduct in the handling of the City's affairs by officials and employes of the city and promptly make report of its findings in writing to the Common Council. That if said committee shall find it impossible to make

as thorough investigation as the nature of the cases warrant it shall be empowered and authorized to request the City Controller to promptly send to the Council an ordinance appropriating a reasonable sum to be used for the purpose of employing legal counsel and special investigators if needed to act under the direction of said Committee shall deem necessary. Said committee shall be known and designated as "Council's special Committee of Investigation".

AND BE IT FURTHER RESOLVED, that this resolution shall not be considered as in any way a reflection upon any official or employee of the city, but that the sole purpose of the same shall be to ascertain the facts and make an honest endeavor to clear up the cloud of suspicion which has fallen upon certain departments of the City government.

AND BE IT FURTHER RESOLVED, that said Council's Special Committee of Investigation when appointed shall have full power of access to all records of each and every department of the City Government pertaining to any investigation instituted by it and full power to compel the attendance of witnesses and production of books, papers and other evidence at any meeting of the said Committee and for that purpose such Committee may issue subpoenas, and attachments in any case of injury, investigation or impeachment and cause same to be served and executed together with all other powers necessary and legal in the premises.

OTTO RAY

Which was read a first time.

Mr. Ray moved that the rules be suspended and Resolution No. 1, 1924, be placed upon its passage.

The roll was called and the rules were suspended by the following vote:

Ayes, 9, viz.: Messrs. Bernd, Bramblett, Buchanan, Clauer, Claycombe, King, Ray, Thompson and President Walter W. Wise.

Mr. Ray moved that Resolution No. 1, 1924, be adopted.

The roll was called and Resolution No. 1, 1924, was adopted by the following vote:

Ayes, 9, viz.: Messrs. Bernd, Bramblett, Buchanan, Clauer, Claycombe, King, Ray, Thompson and President Walter W. Wise.

President Wise appointed the following to serve as the Special Committee of Investigation:

Messrs. Claycombe, Ray, Bernd, Buchanan and President Walter W. Wise.

On motion of Mr. Ray, the Common Council, at 2:45 o'clock p. m., adjourned.

Walter W. Wise

Attest:

President.

John N. Rhodehamel

City Clerk.