

## SPECIAL MEETING.

COUNCIL CHAMBER, CITY OF INDIANAPOLIS, IND.,

MONDAY, April 23, 1917.

The Common Council of the City of Indianapolis met in the Council Chamber, Monday evening, April 23, 1917, at 7:30 o'clock in special session, President Michael J. Shea in the chair, pursuant to the following call:

INDIANAPOLIS, IND., April 23, 1917.

*To the Members of the Common Council of the City of Indianapolis, Ind.:*

GENTLEMEN—You are hereby notified that there will be a special meeting of the Common Council of the City of Indianapolis held in the Council Chamber on Monday evening, April 23, 1917, at 7:30 o'clock, for the purpose of receiving communications from the Mayor and from the City Controller for the introduction, consideration of and final action on an ordinance appropriating money for Memorial Day expenses and for the introduction, consideration of and final action on an ordinance penalizing acts or utterances of disloyalty to the Government of the United States of America.

Respectfully,

MICHAEL J. SHEA,  
*President.*

I, Thomas A. Riley, 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.

Respectfully,

THOMAS A. RILEY,  
*City Clerk*

Which was read.

The Clerk called the roll.

Present: The Hon. Michael J. Shea, President of the Common Council, and 6 members, viz.: Messrs. Barry, Young, Miller, Porter, Connor and Graham.

Absent, 2, viz.: Messrs. McGuff and Lee.

COMMUNICATIONS FROM THE MAYOR.

EXECUTIVE DEPARTMENT,

CITY OF INDIANAPOLIS.

INDIANAPOLIS, IND., April 23, 1917.

*To the President and Members of the Common Council, Indianapolis, Ind.:*

GENTLEMEN—I return herewith without my signature General Ordinance No. 32, 1917, the same being an ordinance entitled,

“An Ordinance relating to conduct of persons toward the government of the United States of America.”

I return this ordinance without my signature and approval for the reason that an attempt was made to pass the ordinance at the same meeting of the Common Council at which it was introduced, and upon the final vote taken upon its passage two votes were cast in the negative against the ordinance.

The City Charter expressly provides that no ordinance can be passed upon the same day it is introduced unless such ordinance is passed by unanimous consent, and at least two-thirds of the Council must be present and voting at the time of its passage.

The voting upon the final passage of this ordinance as shown by the records of the Council not being unanimous and the vote having been taken at the same meeting it was introduced, therefore said ordinance was not legally passed and my signature to the ordinance as presented to me would not make it a legal and binding ordinance of the city.

When this ordinance was presented to me and my attention was called to the fact that it had not passed by the unanimous vote of all the members present, I referred the question to the Corporation Counsel and have just received his opinion, holding that said ordinance was not legally passed.

For your information I transmit herewith the Corporation Counsel's opinion given upon this matter, which I ask may be read for the information of the members of the Council.

I regret very much that I am compelled to return this ordinance without my approval, in view of the fact that its passage was requested by Mr. Murdock, who is the United States Secret Service Agent in this locality and has charge of the investigation of all matters which would arise from the conduct of individuals coming within the provisions of the ordinance, and I desire that the city administration shall give the fullest co-operation to the Federal authorities in all matters growing out of or pertaining to our preparation for war.

In view of the fact that a majority of the members of the Common Council have shown their desire to pass this ordinance, I am sending you herewith duplicate copies of a new ordinance covering the same subject matter as that contained in the old ordinance, except that the penalty provided in the old ordinance is changed so as to stipulate a fine of three hundred dollars, instead of five hundred dollars, and a section has been added fixing the time when the ordinance shall take effect.

In view of the fact that the Secret Service representative of the Federal Government has requested the passage of this ordinance, I hope that the

new form of ordinance will be introduced at your earliest meeting and that the same will be passed at the next meeting of the Common Council, so that when the ordinance is finally adopted there can be no question as to the legality of the same growing out of the manner in which it was finally passed.

Respectfully submitted,

J. E. BELL,  
*Mayor.*

DEPARTMENT OF LAW,  
CITY OF INDIANAPOLIS.

INDIANAPOLIS, IND., April 23, 1917.

*Honorable Joseph E. Bell, Mayor, City Hall, City:*

DEAR SIR—I have yours of 21st inst. relative to General Ordinance No. 32, relating to conduct of persons toward the Government of the United States of America, which you say was passed on the same day on which it was introduced, and that unanimous consent was given for the suspension of the rules and the consideration of the ordinance, but that upon its passage there were two negative votes. Section 52 of the Cities and Towns law, constituting the charter of the city of Indianapolis, contains this provision: "That no ordinance shall be passed on the same day or at the same meeting that it is introduced, except by unanimous consent," etc. This provision, you will note, relates not to the consideration of the ordinance, but to the *passage* of the ordinance, and an ordinance cannot be said to have unanimous consent to its passage when there are negative votes cast upon its passage, and I am, therefore, clearly of the opinion that the passage of the ordinance was not effective and the ordinance therefore void.

You will note in the penalty clause of the ordinance that it provides for a fine of "not exceeding five hundred dollars." This would permit the court to assess a fine of three hundred dollars or less. The city charter provides that "for one offense no penalty or fine shall exceed three hundred dollars," but also gives the Judge of the City Court power to assess fines not exceeding six hundred dollars. I am of opinion that the penalty clause in this ordinance, fixing a penalty of not exceeding five hundred dollars, is valid, and that the court would have power to assess a fine of three hundred dollars, but my opinion is not free from doubt. I have, therefore, rewritten the ordinance and fixed the penalty at not exceeding three hundred dollars, and if you will submit the ordinance for passage I think you should submit the ordinance as redrafted and handed you herewith.

Yours truly,

WM. A. PICKENS,  
*Corporation Counsel.*

INTRODUCTION OF GENERAL AND SPECIAL ORDINANCES.

By the Mayor:

General Ordinance No. 35, 1917. An ordinance relating to conduct of persons toward the Government of the United States of America.

Be it ordained by the Common Council of the City of Indianapolis, Ind. :  
SECTION 1. It shall be unlawful for any person, in the presence or hear-

ing of any other person, to do any act, make any sign or gesture or say or write any word expressing disrespect or contempt for, defiance of or disloyalty to the Government of the United States of America.

SECTION 2. It shall be unlawful for any person, in the presence or hearing of any other person, to do any act, make any sign or gesture or speak or write any scurrilous, indecent, vile or profane word or words concerning the President of the United States of America or, in time of war of the United States with any other country or government, any word or words expressing disrespect or contempt for, or defiance of, the President or the army or navy of the United States of America.

SECTION 3. It shall be unlawful for any person to publish or circulate, or transmit by mail or otherwise, or have in his possession for the purpose of publication, circulation, transmission by mail or otherwise, any written or printed matter, whether of words, signs or pictures, in any form, that expresses disrespect or contempt for, defiance of or disloyalty to the Government of the United States of America.

SECTION 4. It shall be unlawful, while a state of war exists between the United States of America and any other country, nation or government, for any person to publish, circulate or transmit by mail or otherwise, or have in his possession for the purpose of publishing, circulating or transmitting by mail or otherwise, any written or printed matter, whether word, sign or picture, in any form that expresses disrespect or contempt for, or defiance of, the President of the United States of America.

SECTION 5. It shall be unlawful to incite, urge or advise strikes or disturbances by or among the workmen in any factory, shop or mill or other concern making any munition or munitions for the Government of the United States of America or the allies of the United States, or in any factory, shop or mill which in time of war has been offered to the service of the United States, or in any factory, shop or mill engaged in the manufacture of food or drug products, in time of war, or in any public utility or public-service company, in time of war, where such strike or disturbance might tend to embarrass or interfere in any way with the carrying out of purposes of the United States, or in any way assist or encourage the enemies of the United States.

SECTION 6. Any person violating any of the provisions of this ordinance, upon conviction, shall be fined in any sum not exceeding three hundred dollars, to which may be added imprisonment for a term not exceeding six months.

SECTION 7. This ordinance shall be in full force and effect from and after its passage and publication in the Indiana Daily Times for two weeks successively.

Which was read a first time and referred to the Committee on Public Works.

On motion of Mr. Porter the Common Council, at 8:00 o'clock P. M., adjourned.

*Michael J. Shea*  
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President.

ATTEST:

*Thomas A. Riley*  
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City Clerk.

