

THE DIRTY WATER WARS OF MARK McDONALD

CITY COUNCIL.

Meets to Open Bids for Bonds and New Water Works.

The City Council met at the Council Chambers at 10 o'clock p. m. Monday to open and consider bids for waterworks bonds, also bids for the construction of new waterworks. Mayor Woodward occupied the chair and a full council was present.

There was only one bid for the bonds, \$165,000, but as it was not accompanied by a certified check of 10 per cent of the total issue, the Council adjourned until 11 o'clock in the hope that a check would come by the 10 o'clock mail.

The Council reconvened at 11 o'clock and proceeded to consider the bids for the construction of new water works. There were two bids sent in – one by Garratt & Co. of San Francisco for \$164,900, and one from Robert Effey of Santa Cruz for \$161,000. Both bids were accompanied by a certified check for \$10,000. The bids were received and ordered filed. On motion of Councilman Collins all action on the bids for new waterworks was deferred until October 4th next at 2 o'clock.

It was also resolved to re-advertise for bids for the bonds, and all bids for same duly accompanied by a check will be opened and considered on the 4th of October next at 2 o'clock. The bid of J. M. Bunting for the digging of wells at \$2 per foot for the first hundred feet was opened. The bid was received and placed on file.

- Sonoma Democrat, 29 September 1894

CITY COUNCIL MEETING.

Water Bonds Sold and Bids Accepted for Erection of New Works.

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...The reading of bids (or the purchase of the water bonds was called for. A bid from Robert Effey of Santa Cruz, offering \$170,500 accompanied by a certified check on the California Bank of San Francisco for \$10,000 was read and accepted.

Mr. Berka moved that the Council consider the bids for the construction of the water works. Two bids were read, one from W. T. Garratt & Co. for \$164,900 and one from Robert Effey for \$161,000.

Mr. Keegan offered the following resolution:

"Whereas, The bid of Robert Effey for the construction of water works for the sum of \$161,000 is the lowest and best bid therefore, and is accompanied by the proper certified check;

"Therefore, be it resolved that said bid be accepted and the contract be, and the same is, hereby awarded to said Robert Effey, and the mayor and city clerk are hereby instructed and authorized to execute the necessary papers on behalf of said city of Santa Rosa."

- Sonoma Democrat, 6 October 1894

Suit to Enjoin the City.

A suit was filed in the Superior Court, late Tuesday afternoon, by John D. Cooper, plaintiff vs. City of Santa Rosa, the individual members of the Council and the city clerk, for the purpose of perpetually restraining the city or council from entering into a contract with one Effey for the construction of the proposed new waterworks... Plaintiff alleges that he is a taxpayer of the city and that the city has not sufficient funds in its treasury to meet the obligation of the contract and therefore claims that the contract is forbidden by the charter.

Sonoma Democrat, 13 October 1894

New Organization.

An organization known as the Taxpayers Protective Union, whose members comprise many of the heaviest taxpayers in this city, was formed last night, the object of the association being to protect the interests of the city in all matters relating to the collection, use and disbursement of public funds.

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- Sonoma Democrat, 13 October 1894

Another John D.

There are two John D. Coopers in Santa Rosa and John D. Cooper, the Fourth street wine and liquor dealer, wants it to be understood that he is not the plaintiff in the suit brought against the city.

- Sonoma Democrat, 13 October 1894

J. M. Jones vs. Council.

An action was begun yesterday by J. M. Jones as plaintiff against the Common Council, Mayor and City Clerk of Santa Rosa to restrain them from entering into a contract with Robert Effey for the construction of waterworks on the ground that Effey furnished his own plans and specifications and that the same are not in accordance with the plans and specifications adopted by the Council and for which the people voted in 1893.

- Sonoma Democrat, 27 October 1894

[advertisement.]

ADDRESS TO THE PROPERTY OWNERS IN SANTA ROSA.

...Prior to 1893 the city by a careful exercise of its powers and the judicious expenditure of its funds had been placed in the front rank of all cities of its class in the State as regards streets, lighting, and sanitary arrangements; and all this was accomplished without the incurring of any debt above the ordinary annual revenues of the city. In the beginning of 1893 the Common Council, consisting partly of new members, together with the mayor, moved by feelings of sympathy and a desire to relieve the wants of the people, determined to make an advance upon the former methods, in force in city affairs, and to give the citizens municipal improvements proportionate to the ideas of the Council. To this question the mayor and Council gave their time and the same financial skill that characterized the individual members in the management of their own business, and we can now look at partial results.

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In March, 1893, the Council determined that the public necessity demanded the acquisition, construction and completion of a permanent system of municipal waterworks. With regard to the correctness of this decision we have nothing whatever to say. In April, 1893, the Council, with the approval of the Mayor, passed an ordinance by which it was declared that the public interest and necessity of the city of Santa Rosa demanded the acquisition, construction and completion by the city of a permanent system of municipal waterworks, including all necessary bonds, rights of way, water rights, structures, aqueducts, pipes, wells, reservoirs and machinery for the same, at a cost of \$165,000, and according to plans adopted by the Council.

An election to determine whether or not the city would incur such indebtedness for the purposes above set forth was held on May 8th, 1893. The notice of election to the voters stated that the vote would be upon the proposition as above specified. The Council and Mayor issued an address to the citizens; Mayor Woodward permitted himself to be interviewed, and offered the following, not as a bribe to voters, perhaps, but as evidence of good faith: "In constructing the waterworks the Council expects to let the contracts for supplies and labor in separate sections, possibly four or five. One will be for the machinery and pumping works, one for the reservoirs, one for the buildings, one for the pipe, and the Council will invite bids in the open market for the necessary amount of pipe, one for the ditching and the laying of the pipe. The object of this is to give our fellow-townsmen an opportunity to bid upon some portions of the work as they would care to do." The majority in favor of the bonds was large, and bonds were offered for sale.

After the lapse of a year, the bonds not yet being sold, the Council ... [bought a rock-crusher for street gravel an "official extravagance," spent \$1,500 testing well water, while library trustees were considering closing it for lack of funds] ... on August 31, '94, authority was given to the proper officers to borrow such money as was needed, no limit being named, at one of the local banks. It therefore became necessary to restore confidence, and it seems, also, to sell the bonds. Generally speaking, 4 per cent, bonds do not sell at eight; buyers demand a profit. To dispose of the bonds and at the same time secure the buyer from any contingent loss, the Council on Sept. 8th, '94, advertised the bonds for sale and on the same date advertised for bids from contractors to construct water works complete. One Robert Effey of Santa Cruz, a city of municipal waterworks, and a debt of large size upon which the interest is unpaid offered to construct the works according to his own plans and specifications for \$161,000, "the city to furnish all necessary real estate, rights of way and water. This bid was made at a time when there was not a cent in the Treasury. The bid was accepted when both the Council and Effey

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knew that such a contract would be void. It then became necessary to sell the bonds to protect Effey, and on Oct. 4 he bid for the bonds \$170,500, being the only bidder, a fact which he doubtless knew. No one would accuse the Council of having made a trade with Effey, by which he was to receive the bonds for work; but it is a fact that the bonds are not yet sold nor issued; that there is yet no money in the Treasury. It is also a fact that the work which Effey proposes to do can be done for \$120,000 and that a responsible party will put up \$100,000 undertaking as security for such work; but he did not bid on Sept. 24 for the reason that no independent contractor would bid for work to be furnished a city without funds.

There are so many uncertainties connected with these matters that we feel compelled to ask the Mayor and Common Council: Is it not true that your rock-crusher is a failure; that you have exhausted the city funds and have been borrowing money; that you refused to support the Public Library, and only granted assistance when it was seen that otherwise the Library would close; that you advertised for bids to construct waterworks when you knew that there was no money to pay for the same; that there is no minute in the records of the Common Council of the deal you made with Effey; that Effey never filed any bond, either on the bid for the construction of works or on the purchase of bonds; that you made an agreement with Effey to trade bonds for work, and that he never intended and you never expected that he would deposit a dollar in the City Treasury; that you appropriated more than \$3000 out of the City Treasury to pay for work that should have been paid for out of the proceeds of the waterworks bonds; that you levied a tax of 25 cents on the hundred dollars to pay for bonds that had not been sold;

We respectfully submit to the property owners the matters above set forth as facts of record, and in view of the tendency to extravagance ask the citizens whether or not it is time to investigate the manner in which the agents of the city are discharging their duties.

By order of

Tax Payers' Protective Union.

- Sonoma Democrat, 3 November 1894

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The Tax Payers' Union.

The Tax Payers' Protective Union, whose address is published in another column, is composed of well-known and reputable citizens of Santa Rosa, the objects and purposes of which association are to protect the interests of the city in all matters relating to the use and disbursement of its public funds, and such other matters as may be conducive to the public good.

- Sonoma Democrat, 3 November 1894

There is a miniature model of the new waterworks in Hood, the jeweler's, window. Mr. Effey and Mr. Cozad are represented in the act of pumping the water, while Messrs. Cooper, Jones and Farquar stand around and admire the free flow of water.

- Sonoma Democrat, 10 November 1894

Tender of City Taxes.

On account of the possible invalidity of the water works bond tax of 25 cents on the \$100, levied by the City Council, the following named taxpayers refused to pay such tax, and tendered to Marshal Steadman, as tax collector, the library tax and general tax only, that is 70 cents on the hundred dollars instead of 95 cents: [53 names, including W. Mock, M. L. McDonald, Mrs. M. L. McDonald, Santa Rosa Water Works Company, Santa Rosa City Street Railway, H. W. Byington, M. Doyle, San Francisco and North Pacific Railroad, M. J. McDonald, J. M. Jones and John Cooper. [NOTE: W. G. Skinner was not included as he did not own property in the city.] The above tax payers are assessed for over three-quarters of a million of dollars.

- Sonoma Democrat, 24 November 1894

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CITY COUNCIL.

...The council took up the consideration of the water bonds and passed a resolution recinding the resolution of contract of the sale of water bonds to Robert Effey of Santa Cruz.

A new resolution was adopted changing the date and place of payment of the present issue of the water bonds, the first payment on which falls due on Dec. 1st. next.

The place of payment was changed to New York. The interest is made payable twice a year instead of annually and both interest and principle is made payable in gold instead of legal tender as formerly.

Robert Effey of Santa Cruz made a new offer for the bonds with the correction as intimated. His offer was par with accrued interest to the date when his offer should be accepted. The council accepted Mr. Effey's offer.

- Sonoma Democrat, 24 November 1894

Taxpayer's Union.

...In view of the action of the Council on November 17th, in adopting ordinance No. 156, directing an issue of bonds with interest payable semi-annually instead of annually, as provided by ordinance No. 148, passed April 4, 1893, and as was set forth in the notice of election held May 8, 1893, and also providing for a change in the place of payment from the city treasurer's office to the city of New York, and also providing that such bonds be made payable in "gold coin of the United States of the present standard of weight and firmness," instead of gold coin or lawful money of the United States. It was decided by the association to test, at the proper time, the validity of the bonds, which up to this time had not been questioned. An invitation was extended to citizens who are in favor of the objects of the union to become members. It was also announced that any one desiring further information could obtain the same by applying to the attorneys for the association, C. S. Farquar and Gil P. Hall, or to any of the members.

- Sonoma Democrat, 1 December 1894

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Others Represented.

C. S. Farquar, representing Cooper, Jones and others in matters connected with the sale of the water works bonds, and restraining the sale of property for taxes levied to pay the principal and interest thereon, made application on Monday to the Superior Court to be permitted to file a brief as amicus curix in the matter of a controversy lately submitted between W. G. Skinner, the city of Santa Rosa, its mayor, Common Council, other officers and Robert Effey. Judge Dougherty granted the application and allowed him until Wednesday noon to file a brief upon the points involved.

- Sonoma Democrat, 1 December 1894

Water Bond Suit

On Saturday last there was filed in the Superior Court, an agreed statement of a case, for the purpose of having judicially determined certain points regarding the new issue of bonds; the validity of the water bond tax of twenty-five cents on the hundred dollars levied on October 5th, and other matters. The controversy as submitted for decision is between W. G. Skinner, a taxpayer, Woodward as mayor, the Common Council, Mobley as city clerk, Cowan as city attorney, Johnston as assessor, Vanderhoof as treasurer, Steadman as marshal and tax collector, and Robert Effey... In brief the questions presented are the following:

1. The power to issue bonds under the last Ordinance No. 156.
2. Power to levy tax to pay the same.
3. Validity of tax of Oct. 5th.
4. The power of the Council to take money from the general fund in case the tax levy of Oct. 5th be declared void.

The matter is submitted to Judge Dougherty for decision.

- Sonoma Democrat, 8 December 1894

THE DIRTY WATER WARS OF MARK McDONALD

CITY COUNCIL.

...Robert Effey of Santa Cruz submitted the following letter:

To the Honorable Common Council of the City of Santa Rosa: For the \$165,000 four percent semi-annual gold water bonds of the City of Santa Rosa, California, dated November 1st, 1894, with interest and principal payable in New York I herewith offer you par and accrued interest to date of delivery of said bonds, if legally satisfactory to my attorney.

Signed, Robert Effey.

On motion of T. P. Keegan, the following resolution was adopted:

Whereas, Robert Effey has offered to purchase the \$165,000 four per cent water works bonds issued in pursuance of and in compliance with the form of bond set forth in Ordinance No. 156 of the city for face value of such bonds in gold coin of United States.

Resolved, That said offer be and is hereby accepted and the city treasurer is hereby authorized and directed to deliver the said bonds to said Effey upon receipt of, the price herein specified.

- Sonoma Democrat, 8 December 1894

The Waterworks Bond Suit.

The action, or agreed statement of facts, entitled "W. G. Skinner, the City of Santa Rosa, and others," which was submitted to Judge Dougherty on Dec. 1st, for decision...When the case was called application was made by H. W. Byington, D. C. Bane, Thomas Hopper, J. D. Lodge, M. Doyle, Andrew Markham, A. P. Overton, J. D. Cooper and J. F. Boyce to be permitted to intervene in said matter, on the grounds that they were citizens, residents and taxpayers in said city, and had an interest in the matters in controversy. They also alleged that the agreed statement was not in all respect true, and that Skinner had not brought the action in good faith; that he owned no real property in the City of Santa Rosa; that the matter was of public interest, and that the rights of the citizens would be in danger unless there was a full presentation to the court of all points involved in the proposed action of the Council in issuing bonds different from those, to the issuance of which the electors of the city had assented by their vote on May 8, 1893.

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A. B. Ware and C. S. Farquar on behalf of the interveners argued at great length in support of the proposition that all taxpayers had an interest in the proceedings and should be permitted to appear in order to protect the rights of the citizens against the alleged illegal action of the Council; and further that the agreed case was neither fair nor just, and offered to prove by Skinner himself, that he had no interest whatsoever in the matter and owned no real property in the city.

Mr. Goodwin representing Robert Effey of Santa Cruz, Mr. Cowan representing the city and Common Council and other city officers including himself, and Mr. Russell representing Mr. Skinner, opposed the application to intervene on the ground that they had prepared their own statement of facts, and whether true or not the law would not permit any interference by any party in the proceedings agreed upon.

Judge Ham after a careful consideration of the subject, decided, although apparently with some doubt, that the statute in such cases would not permit any intervention. But he intimated that it was of the utmost importance that the case should be determined upon a full statement of facts, and that an action might be brought by any taxpayer sitting forth in full all facts necessary to a complete examination of the matter. The Judge also permitted the attorneys for the interveners to present their complaint and also to offer to prove that the action was not brought in good faith, and gave an exception to all rulings to permit an appeal to the Supreme Court.

- Sonoma Democrat, 15 December 1894

BONDS VALID.

...the judge decided the matter from the bench, and also the agreed case of Skinner et al. He held that the bonds proposed to be issued would be valid, although the place of payment, the payment of interest and the kind of money in which they were payable, were all different from what was proposed in the original bonds, and to which the people assented at the election of May 8, 1893. In his oral opinion he held that the payment of interest semi-annually did not add to the burden of the taxpayer, and that the payment of the money in New York would also not add to the burden for the reason that it was the duty of the treasurer, at his own cost, to see that the money was paid at the proper place.

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With regard to the question as to the payment or agreement to pay the bonds in "gold coin of the present standard of weight and firmness," the court stated that he believed such agreement to be beyond the power of the City Council to make, and therefore that such provision was void, but that it did not invalidate the bonds. The water bond tax was held valid on the ground that the City Council appeared to be doing the best it could to dispose of the bonds...

- Sonoma Democrat, 22 December 1894

WATER RATE WAR

The City Council Reduces the Schedule.

...The evening was principally passed in fixing water rates for the years 1895-6. The principal reductions in water rates were as follows: For families of five or less, from 75 cents to 65 cents per month; each additional person, from 16 cents to 10 cents. The rate for private bath tubs was cut from 20 cents to 15 cents; for one horse and vehicle, from 26 cents to 20 cents per month. Other reductions were made, the whole aggregating a loss of about \$2000 to the water company.

Colonel McDonald and Superintendent McPike of the Santa Rosa Water Company gave reasons why the rates should not be reduced. The Council seemed disposed to allow a fair return on the money invested in the water works, but the estimate of the Council of the value of the water works differed about \$33,000 from the amount which the water company claimed their books showed as invested.

Colonel McDonald pointed out that with the reduced rates, and after the deduction of expenses, the amount netted would not pay a fair return on the money invested...

- Sonoma Democrat, 2 March 1895

THE WATER BONDS

City's Issuance of Bonds Invalid.

The Supreme Court Reverses the Superior Court.

Decided That the Bond Issuers Did Not Comply With the Conditions of the Ordinance.

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The Supreme Court has decided that the issuance of bonds by the city of Santa Rosa to raise funds for the establishment of a water system was illegal, and Santa Rosa must wait awhile longer for her water works.

This has been decided in the agreed case brought by W. G. Skinner, a taxpayer of Santa Rosa, to restrain the city government from levying a tax and issuing bonds for the purpose of raising \$165,000, the amount the water-works were to have cost. It appears that the highest bidder for the bonds was Robert Effey, mayor of Santa Cruz, and Skinner's suit was to prevent the purchase on the ground that the issuance was invalid. The Superior Court sustained the bonds, and Skinner took an appeal to the Supreme Court.

It is now decided that the issuance of these bonds was invalid for many reasons. The Court remarks:

"In the case at bar where the question arises before the bonds have been determined, we hold that the city has no power to issue them in a form which does not substantially comply with the terms stated in the ordinance of submission and notice of election, and with the statute under which the proceedings were had."

Now it is found that the bonds were not issued in such form.

For instance, the conditions stipulated in the bonds differed materially from those recited in the ordinance submitted to the people upon the question of the advisability of issuing the bonds. The ordinance called for bonds drawing interest at 4 per cent, payable annually; whereas the interest stipulated in the bonds is 4 per cent, payable semi-annually. This, the Supreme Court holds, means that the bond issuers raised the interest without authority to do so. This they say is obvious, for if it did not raise the rate purchasers would not insist upon it.

Now, if the Common Council could change the conditions of an ordinance of submission at will, they could deceive the people as they choose. They might agree for interest at 2 percent, according to an ordinance, and then issue bonds calling for 6 per cent interest. The act of the Legislature under which a city is permitted to issue bonds was intended to protect the taxpayers, as much as possible, and the Supreme Court finds that illegal methods have been employed here. — Bulletin.

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HISTORY OF THE CASE.

The history of the case is as follows : The election on the question of the issue of water bonds was held May 6, 1893, and was carried, the amount of bonds to be issued being \$165,000.

The bonds were advertised at 4 per cent, interest, but there were no bidders on them.

On September 8th, 1894, the Council re-advertised for bids on the bonds and on the same date for bids to construct the works.

Robert Effey of Santa Cruz offered to construct the works according to plans submitted by him, for \$161,000, the city to furnish rights of way, etc. On the 4th of October following, Effey bid \$165,500 for the bonds.

At a meeting of the City Council held December 1st, 1894, the bid of Effey was accepted and the city treasurer was authorized to deliver the bonds to Effey on receipt of the money.

On the same day as the acceptance of the bid of Effey, suit was brought before Judge Dougherty by W. G. Skinner vs. the mayor and council on an agreed statement of facts between plaintiff and defendant to test the validity of the bonds. It was held by the opponents of the bonds that they had no notice of the suit, and they were not satisfied with the agreed statement upon which it was submitted On December 31 C. S. Farquar, representing Cooper, Jones et al. tax payers, made application to be permitted to file a brief as amicus curix in the Skinner case.

Judge Dougherty allowed him three days to file a brief. On Tuesday, December 12, the case came up for hearing before Judge Ham of Napa, Judge Dougherty declining to consider it, he being an interested party. The case for the intervenors was argued by C. S. Farquar and A. B. Ware Esq., and by Mr. Cowan for the council and Mr. Russell for Skinner. Judge Ham decided that the statute would not permit any intervention and the case would have to rest on the statement of facts as agreed between Skinner and defendants.

The case of the validity of the bond issue was argued before Judge Ham, Attorney Farquar contended that under section 18 of article 11 of the constitution that the Council had submitted to the electors of the city in the notice of election the manner of incurring the proposed indebtedness; that no change could now be made from the manner proposed, and to which the assent of the electors was given, and that, therefore, the bonds proposed to be issued under ordinance 156 were beyond the power of the Council to issue; also that no tax could be levied to pay a debt which did not exist.

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On the 21st of December in the Superior Court of Napa, Judge Ham decided in the case of Cooper vs. Steadman that the tax sale of the delinquent water tax rate was legal, and at the same time decided from the bench the agreed case of Skinner et al. He held that the bonds proposed to be issued would be valid although the place of payment, the payment of interest and the kind of money in which they were payable, were all different from what was proposed in the original bonds, and to which the people assented at the election of May 8, 1893. In his oral opinion he held that the payment of interest semi-annually did not add to the burden of the taxpayer, and that the payment of the money in New York would also not add to the burden for the reason that it was the duty of the treasurer, at his own cost, to see that the money was paid at the proper place.

After the decision of Judge Ham, which was a great surprise to the intervenors and opponents of the validity of the bonds, C. S. Farquar brought suit, Jones et al. vs. the city, before Judge Buckles of Solano praying for an injunction to prevent execution of the contract with Effey, to which the attorney for the Council demurred. Judge Buckles on February 26th denied the demurrer of counsel, and held that all their acts after October 4th, when they undertook to award the contract to Effey, were illegal. In the course of his ruling on the demurrer he covered nearly all the points at issue as to the validity of the bonds and the Effey contract, holding about as the Supreme Court now decides.

The Supreme Court, in the case of Skinner, reverses the decision of Judge Ham as to the validity of the issue of the bonds, which practically decides also the case of Jones vs. City, enjoining execution of contract with Effey.

- Sonoma Democrat, 29 June 1895

TAXPAYERS' UNION.

Resolution Adopted in Regard to Water Supply.

At a meeting of the Taxpayers' Union held Saturday night, the following resolutions, submitted by Col. H. W. Byington, were unanimously passed:

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Whereas, It has become apparent that the water supply at present furnished this city by the Santa Rosa Water Company is inadequate to the increasing wants and necessities of this municipality and that the management of said company fails to meet the approval of the patrons thereof, thereby causing much dissatisfaction and complaint among the residents of our city, resulting in factional strife and expensive litigation, therefore we the "Taxpayers' Protective Union" hereby

Resolve, That we are in favor of municipal ownership of some improved system of water works that will furnish an adequate supply of good water to the citizens and taxpayers of Santa Rosa at a reasonable cost therefore; also

Resolved, That we believe a water system supplied by gravitation is preferable both in point of economy and permanency to a system known as the pumping system.

Resolved, Further, that we are in favor of purchasing or constructing a gravity system of water supply for this city, provided the same can be obtained at a reasonable and equitable cost, therefore

Resolved, Also that a committee of three be appointed by this union to confer with the officers of the Santa Rosa Water Company with a view of obtaining a reasonable proposition from them for the sale to the city of Santa Rosa of the entire plant of their water system as it now exists, such proposition if so obtained and approved by this union, then to be submitted to the City Council and if by them approved, to be by ordinance submitted to the qualified electors of this city for their sanction or rejection.

In view of the paramount importance of this question and the facts expressed in the foregoing resolutions, we appeal to all citizens who have at heart the well being and future advancement and prosperity of Santa Rosa, to unite with us in our laudable efforts to promote the interests of our citizens and protect the honor and credit of our young and growing city.

H. W. Byington.

A committee consisting of A. P. Overton, H. W. Byington and A. B. Ware were appointed to take the matter up and see what could be accomplished.

- Sonoma Democrat, 6 July 1895

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WATER WORKS BOND ISSUE

Water Question on the Same Ground as After the Election.

The Interest to Be Paid Annually in Gold Coin at the City Treasurer's Office.

...Councilman Collins introduced ordinance No. 162 calling for the repeal of ordinance No. 156, and providing for the issuance of bonds to the number of two hundred of the value of \$825 each, to draw interest at the rate of 4 per cent, per annum, payable in gold coin at the city treasurer's office. The ordinance was referred to the ordinance committee, and under a suspension of rules the ordinance was placed before the Council and unanimously adopted. The new ordinance amends the last action of the Council in regard to a bond issue for a water system, and places the matter in the same position it occupied the day after election. The only change was the payment of the interest annually at the city treasury, instead of semi-annually and in New York city, as provided by the former amended ordinance....

- Sonoma Democrat, 27 July 1895

THE WATER BONDS

Have Been Sold and the Contract Let.

What Mayor Woodward Has to Say About the Matter.

Water Pipe Purchased and Work on the Pumping System to Be Begun at Once.

The bonds voted by the city for the municipal ownership of water works have been sold, and it is reported that active operations will be commenced in the near future.

Mayor Woodward was seen last night by a Democrat reporter and had the following to say in regard to the sale of the bonds and the proposed works:

"Yes, the sale was made quietly; we did not wish the opposition to know of our plans until they were perfected and the contract let. Negotiations have been pending for the last month, but the contract for the works has been let, and the money for all but the first series of bonds, of which there were five which came due the 1st of December, 1891, has been deposited with the city treasurer. About two hundred tons of mains will arrive in this city from San Francisco this week, and will be laid where proposed, new street work is to be made, so that it will not necessitate the

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tearing up of streets after the improvements have been made. The remainder of the contract for piping has been placed in Birmingham, Ala., and between 1700 and 1800 tons will be required.

"Robert Effey, mayor of Santa Cruz, is the purchaser of the bonds, and he has sublet the contract for the construction of the works to P. B. Perkins of San Francisco, who has an excellent reputation as an expert water works man."

"Was your visit to the East connected with the sale of the bonds?" was asked of Mayor Woodward, "No, not directly. I did look into the record of Mr. Perkins to some extent, but otherwise it was one purely of pleasure. The sale was made and the money is in the city treasury, and we are glad it has been consummated. With all the trouble and worry it has caused the Council, a number of us were heartily sick and tired of the whole business, and had it not been that we owed it as a duty to the people we should have let the matter drop long ago.

"The wells will be sunk on the five acre tract of land negotiated for by the city with A. L. Fisher, situated on the extension of Sonoma avenue. the site for the reservoir, which will contain half a million gallons has not yet been selected, but Mr. Perkins will be here next Saturday, when a choice will probably be made. The reservoir will be a cement one, and will receive the oversupply — that is, if the water is not used by the city as fast as it is pumped into the mains the overflow will go into the reservoir; and during the night, when the engines are not at work, it is from this reservoir that the city will receive its supply.

"There will be two pumps, each one capable of pumping a million gallons of water per day, so that should one in any way get out of order the other could immediately be used, and as the city at the present time only uses about 500,000 gallons a day, the city can grow considerably without the size of the pumps being increased."

"Do you expect any further litigation in regard to the bonds?"

"I do not see what more can be done by the Santa Rosa Water Works Company. Mr. Effey has bought the bonds as issued originally, and there is no question as to their legality,"

- Sonoma Democrat, 5 October 1895

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NEW WATER SUIT FILED.

The Water Works Contract Alleged to Be Illegal.

Action to Have the Agreement Between the City Council and Robert Effey Set Aside.

The suit of which notice was given some days ago was filed with the county clerk Wednesday afternoon. Wesley Mock is the plaintiff and through his attorneys, A. B. Ware, C. S. Farquar and Gil P. Hall, prays for an injunction against the Mayor and Common Council, enjoining them from entering into a contract with Robert Effey for the construction of water works. The complaint alleges:

"That on September 24th, 1894, the date of the Effey bid and of the Garratt & Co. bid for the construction of said water works were collusive.

"That it was understood and agreed by and between said bidders and said Mayor and Common Council that said Garratt & Co. should put in the highest bid; that the written portions of the said bids are in the same handwriting, and that such facts were then known by said defendants last above named; that prior thereto said defendants, the Mayor and Common Council, city clerk and treasurer had an agreement or understanding with Robert Effey that it he would present said bid for said bonds and said bid for said construction; that both bids would be accepted and that the said Council would deliver to him, said Effey or to any person he might designate, said bonds in exchange for said work...

...That the meeting of said Council of September 28, 1895, was secret and that none of the transactions had thereat were known to the public or to plaintiff till about October 3d; that each of said defendants was notified on October 5th following that an action would be at once brought as soon as the papers could be prepared to set aside said contract of September 28th between the city of Santa Rosa and Effey on the ground of illegality and fraud; that said Council and mayor have directed said Effey check of \$10,000 delivered with his said bid to be returned to him; that the same was then returned as directed and no other was ever given; that at the time of the passage of the Tupper resolution of September 28th above set forth, there was not nor has there ever been \$161,000 or any sum in the city treasury or in the hands of the treasurer thereof applicable to the construction of water works.

"That there is no minute on record of said Council showing to whom said bonds are alleged to have been sold, but that the fact is said bonds are now in the hands of Seligman & Company in New York City, but the same were neither sold, issued or delivered to them or to any other person

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whatsoever; that at the time of drawing said warrant for \$161,000 in favor of Robert Effey, the fund known as the "City Water Works Fund" had not been created; that said warrant is as follows, to-wit:

No. 8180. CITY ORDER. \$161,000.

Santa Rosa, Cal., Sept. 28.

To the Treasurer of the City of Santa Rosa: Pay to Robert Effey, or order, the sum of one hundred and sixty-one thousand dollars, for construction of water works for city, and charge to city water works fund.

By order of the Common Council,

C. L. Mobley, Clerk.

E. F. Woodward, Mayor.

Endorsed; "Paid September 28, 1895."

Endorsed on back: "Robert Effey."

"That said warrant was drawn without any claim or demand against the city ever having been presented, made or verified therefor; that said Effey has given no bond whatever to the said city of Santa Rosa in relation to said contract entered into September 28th, nor has said city. Common Council or mayor asked for or required one; that said Effey is almost, if not wholly, insolvent.

"That said mayor and Common Council agreed, before said bonds, now in New York, were in existence, that the same, when ready, should be sold and delivered to Robert Effey, and that it was also understood that no other bids would be permitted for said bonds. All of which resulted in the letting of the contract for the construction of water works at a figure at least \$31,000 higher than if the same had been let in the open market after, instead of before, a sale of the bonds.

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"Wherefore plaintiff prays for a judgment and decree of this court setting aside and declaring void said contract of September 28th, also for a final injunction against said mayor, City Council and clerk, enjoining them and each of them from entering in a contract with Effey or any one until such bonds shall have been sold and the money placed in the treasury."

- Sonoma Democrat, 19 October 1895

Work Progressing.

Work on the new water works is progressing. About forty men are engaged digging trenches on Second street and fifteen men have begun excavating at the Brush place on Rincon Hill. One of the workmen employed there says the elevation is about the same as the dome of the court house.

- Sonoma Democrat, 19 October 1895

PUMPING STATION.

Progress Being Made on the City Waterworks.

Considerable Water Found in the Bed of the Creek.

Excavating and Blasting for the Reservoir - Effect of an Explosion of Dynamite.

The scene at the dam and where the power house for the new water works is to be built is one of activity and hard work. A crowd of men are employed laying the masonry, handling the rock, mixing cement and shoveling gravel, and reminds one of a nest of ants or a hive of bees.

The dam across the bed of the creek has been completed and seems to be answering the purpose for which it was built, and is a source of satisfaction to the promoters of the scheme.

A four horse power gasoline engine has been rigged up in the bed of the stream, and a Democrat reporter was informed by the engineer that it had been pumping steadily day and night for five days at the rate of 200,000 gallons per day, and still there was no perceptible decrease in the amount of water, and it is thought that in all probability the supply from the creek alone will be enough to supply the city if it remains as indications are at present.

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At the reservoir another crew of men are at work, some with horses and wagons hauling away the rock and dirt as it is dug, while others are preparing the holes preparatory to blasting..

...The reservoir is to be 120x120 feet and will be of considerable depth.

- Sonoma Democrat, 9 November 1895

WATER WORKS ACCEPTANCE.

The call meeting of the Council on Thursday was so sudden that not even the clerk knew the meeting was to convene. A long resolution was adopted, the kernel of which is practically "an order taking possession of the new system in the name of the city. It is as follows:

Resolved, That the City of Santa Rosa take immediate possession of all of said water works as the same are now constructed and hold the same as the owner and proprietor thereof.

It is true that a series of conditions are appended to this important act, but the question arises: Why does the city abandon an impregnable position for a weaker one, fortified only by verbal conditions, under which, in case of future contention, they may or may not be able to maintain the rights of the city.

- Sonoma Democrat, 4 January 1896

A NEW MOVE.

The Council Accept the Half-Finished Water Works.

Looks More Like Buckley and Boss Tweedism Than the Proceedings of a Santa Rosa Council.

The Council held a special meeting on Thursday evening, and to the great surprise of the public accepted the new waterworks in its present wholly incomplete condition, without the least notice of any such intention.

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This cuts off those, and there are many of them, who do not believe the work is being done according to plans and specifications, as far as they can make out what the real plans and specifications are, for they have been practically a sealed book to the general public.

In fact, it has been publicly shown in the press, and practically acknowledged, that in instances cited the work was not in accordance with and the parties making the complaint have stated that they were not at all satisfied with the attempted explanations, and intended, after further investigation, to make further protest.

It is also claimed by those who have examined the reservoir which is being built that it is not up to the requirements of the contract. The first contract required a concrete wall five feet thick, going up on a "batter" to three and one-half feet, and presumably the plans are the same. In place of it, in the reservoir being built, there is only, as is claimed, six inches of stone, overlaid with two inches of cement.

It was the intention to have fully investigated what was required in this matter, when those who were interested in it were met by the acceptance of the work by the city. All this, coupled with the fact that a member of the Council is furnishing supplies for the work, and that others are otherwise under obligations to the contractor, makes this sudden action on the part of the Council extremely questionable. In fact we heard it characterized by many citizens as an outrage on the public.

Who ever before heard of such proceedings on the part of a public body? The contract is first let in secret session, the money supposed to be paid before the work is begun, and the work is then accepted when half done and in the face of a belief on the part of many that it is not in accordance with the contract, all the proceedings being in the nature of a star chamber Council.

The Council have in this and many other matters acted as though they were under no responsibility to anybody, and were determined to force their ends, regardless of the interests of the people they represent. They have now gone too far. The confidence of the citizens in their good faith was shaken before, and this extraordinary, if not highhanded action, in view of the personal interest of some of the members in furnishing supplies, and in other ways, will destroy what faith was left in them. But forty-three of the one hundred and ten hydrants required are in, and the work is in a totally unfinished condition and unfit to be received. The first duty of a representative body of men having the disbursement of the money of the people, is to guard their interests and to see that those who pay tax money get its value. The Council act as though

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this sacred duty was reversed, and they were the representatives of an adverse interest instead of guardians of a public trust imposed upon them by the people of Santa Rosa.

Talk about bossism and Buckleyism! Why, neither Buckley or Boss Tweed would have dared to so defy the public!

- Sonoma Democrat, 4 January 1896

WATER WORKS CASE.

Amended Complaint Filed Friday in the Superior Court.

Grounds of Fraud Specifically Alleged - Order to Show Cause for Contempt.

Plaintiff Mock in his amended complaint asks the court to set aside and declare void the contract between Effey and City of Santa Rosa and that the same be cancelled; also for a final injunction against said mayor and City Council enjoining them for entering into a contract with Effey or any one for construction of water works until such bonds shall have been sold and the money placed in the treasury of the city; also enjoining P. B. Perkins from proceeding with said work of construction; also for a decree directing Council to recall said bonds and to retain the same till duly sold and money paid...

...said defendants and each of them has caused a resolution to be adopted and entered in the minutes of the proceedings of said Council on January 2d, accepting the present system of water works now in course of construction in on incomplete condition and in that said defendants have actually attempted and are now attempting to execute the intentions of the ordinance. Now, therefore, it is ordered that E. F. Woodward, mayor and Berka, Collins, Harris, Keegan, Tupper and Wilson constituting the Common Council and Paul B. Perkins show cause before this court on the 1st day of February why each of them should not be adjudged guilty of and punished for contempt of this court in impeding the administration of justice...

- Sonoma Democrat, 1 February 1896

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SANTA ROSA STRIFE.

Wesley Mock Says He Will Thrash the Person Who Impugns His Motives in the Water Suits.

SANTA ROSA, Cal., Feb. 1.— The legal battle over the construction of the new water works goes merrily on. The plaintiff's attorneys have made some sensational moves in the course of the litigation, while the defendants have contented themselves with purely defensive tactics. But it is now declared by some of the most prominent persons connected with the defense that from now on the city will assume the aggressive.

In an interview recently had with the plaintiff, Mr. Mock said to a Call representative: "I am acting in my private capacity as a citizen for the good of the community and am not the tool of a corporation, as has been stated." Mr. Mock further said he did not propose to be called a "tool" and would inflict personal chastisement upon the first person who applied this epithet to him...

- San Francisco Call, 2 February 1896

MOCK VS. COMMON COUNCIL.

Defendant's Attorneys Say Daingerfield Has No Jurisdiction.

Arguments on Citation to Show Cause Why They Should Not Be Punished.

The case of Wesley Mock vs. The City of Santa Rosa commenced Saturday morning before Judge Daingerfield in Department 1 of the Superior Court.

The first preliminary skirmishing commenced when Judge Rutledge, attorney for the Mayor and Common Council demurred to the order to show cause why the defendants in the suit should not be punished for contempt of court. The grounds for contempt were: That the Council not only had paid in advance for the water works, but while a motion in the case was pending before the court, it had accepted the works so far as completed in order to anticipate any ruling that might be made by the Court, and upon this question was based the arguments which consumed the entire day.

Judge Rutledge's demurrer consisted of three parts. First — He denied the power of the Judge to issue an order in the case while in San Francisco. Second — He had no jurisdiction in this court as he had not been asked by one of our Superior judges to preside. Third — He demurred to the

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citation on the ground that the act of the Council was legislative and could not be punished for contempt of court.

The first two grounds were quickly disposed of as it was shown that anywhere within the boundaries of the State of California could a judge make an order of court, at his home, or away from it and that he need not necessarily be in the courtroom. That it had been stipulated Judge Daingerfield should preside at the trial of the suits, and his invitation was shown by the stipulation drawn up by Judge Rutledge himself, in which it said that as he had heard certain portions of the case it was agreed he should preside until its conclusion; the Superior judges claiming that they were disqualified by being interested parties.

That the act of the Council was legislative and could not be punished for Contempt, and that to be in contempt there must first be an order for injunction Attorney Lynch spent the afternoon upon.

Numerous authorities were cited upon this point.

Contempt was divided into two classes – criminal and civil. The first was that of public justice; the second of private rights.

This action being a civil case it was deemed an invasion of the private rights of plaintiff in the suit to have his cause virtually settled outside the court without a hearing, by the action of the Council in paying for and accepting the works before their completion, and in this anticipating what might be a ruling in his favor by the court, thus defeating justice.

The argument was continued until late in the evening and was left unfinished, The Court then continued the case for ten days.

- Sonoma Democrat, 22 February 1896

LEGAL STRIFE AT SANTA ROSA.

Lawyer Lynch Tries to Have Editor Lemmon cited for Contempt

SANTA ROSA, Cal., March 17.— The case of Wesley Mock vs. Santa Rosa, growing out of the water works contract dispute, was on trial here to-day before Judge Daingerfield of San Francisco. Something of a sensation was created when Attorney Lynch for the plaintiff read an editorial from the Daily Republican of March 6, 1896, entitled, "Democratic Opposition." The

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article is from the pen of A. B. Lemmon, editor of the Republican, and accused Lynch, Judge Daingerfield and others connected with the case of being Democrats. These statements, Lynch declared, were false and contemptible. The language used in the editorial, he said, was calculated to bring the court into contempt, as being biased by political motives. Lynch wanted Editor Lemmon cited to appear before the court to show cause why he should not be punished for contempt.

Judge Daingerfield said, in discussing the editorial, that while it might be contempt he did not believe it worth considering, and consideration of it might aggravate the case...

- San Francisco Call, 18 March 1896

CONTEMPT.

The Republican's Pleasantry Not Appreciated.

Attorney Lynch and Judge Daingerfield Express Themselves.

Different Bids for the Water Works Contract Written by the Same Hand.

The continuation of the Mock case was taken up in Department One of the Superior Court Tuesday.

The proceedings promised to be unusually interesting, and more than the ordinary crowd of listeners sat out the long hours, following with close attention the development of facts in regard to the sale of the water bonds and the letting of the contract for the building of the water works, which until today has only been one of general rumor without a definite idea of what was claimed by either the plaintiff or defendant.

The first matter brought up was the retiring of Attorneys Rutledge and Cowan as attorneys for Effey and Perkins, and of Goodwin as an attorney for all the defendants except Effey and Perkins.

City Clerk Mobley was the first witness called, and he testified to the payment to Perkins of \$1000 for tappings and \$1200 for the laying of pipes and making connections with the wells, outside of the amount called for in the contract.

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The promise of something out of the usual order seemed about to be realized when Attorney Lynch, at the end of Mobley's examination, proceeded to read an article published in the Republican of March 6th, which he designated as a contemptible and scurrilous article. He was, however, stopped by Judge Daingerfield, who said that the only proper way to bring such a matter before him was by affidavit, which was promised by Lynch to be forthcoming.

J. P. Overton, George P. Noonan and L. W. Burris were then each called in turn as experts to testify as to their opinion from experience gained as cashiers of different banks having to pass upon the signatures and endorsements of checks, whether the two bids for the construction of the water works and the envelopes they were contained in — one purported to have been put in by Robert Effey for \$161,000 and the other of Garratt & Co. for \$164,900 — were not written by one and the same person, their judgment to be based upon a comparison of the handwriting in the two different bids and upon the envelopes. J. P. Overton and George Noonan both said that in their opinion the same person wrote both bids. Mr. Burris felt confident that the writing on the envelopes was the same, but was not so sure about the bills. At the same time he would have paid out money on the different writings as belonging to the same person.

Mr. Lynch then announced that he was prepared to read his affidavit in relation to the article published in the Republican, and was as follows:

"In the Superior Court of Sonoma County, State of California—ss. Edward Lynch being duly sworn, says, that on March 6, 1896, the Evening Republican, a newspaper published in Santa Rosa, published an article, a portion of which is as follows: 'Mock, in whose name the suit has been brought to hinder the people from getting a water system of their own, is a Democrat. The president and secretary of the old water company are Democrats. Lynch, the principal attorney, and Daingerfield, the judge who hears the case, are all Democrats. Take these and the Santa Rosa Democrat are obstructionists at every stop of the work, and it appears that practically all the opposition to this water works enterprise has been Democratic.' That in publishing said language the publisher of said newspaper referred to the suit of Wesley Mock vs. The City of Santa Rosa and others, now pending in the above entitled court, and said language was calculated and intended to bring the above entitled court into contempt and being biased by political motives in the trial and hearing of said action. That the statement that affiant is a Democrat or ever was one, is false.

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That A. B. Lemmon is the publisher of said newspaper and was such on March 6, 1896, and as affiant believes, is the person responsible for the publication of said language. That said paper was published on March 6th, 1896, and circulated and read in Sonoma county and elsewhere, Edward Lynch.

Subscribed and sworn to before me this 17th day of March, 1896. Somers B. Fulton, Clerk.

By R. L. Thompson, Deputy Clerk.

In reply to this the Court had the following to say: "There is no doubt in my mind that an article of that kind is contemptuous. But I am of the opinion that taking any official notice of a matter of that sort would magnify it into an importance which it does not deserve. Any official notice of a contempt of that kind, it seems to me, would only be likely to increase rather than diminish the undeserved attacks that are often made by the newspapers upon public officials. To take cognizance of a matter of that kind would defeat its own purpose. The article is obviously unfair when we consider that two of the leading attorneys on the other side are Democrats. I think, gentlemen, we have given the matter all the attention it fairly deserves."

The Court also jocularly remarked, by way of suggesting some redress to Mr. Lynch, that he might bring an action for libel against the editor of the Republican for stigmatizing him as a Democrat.

Attorney Goodwin was then called upon to take the stand. This came in the nature of a surprise, as there had been no intimation given him that he was to be called upon. But only a few questions had been propounded to him before he had made an objection to answering certain questions, and the rest of the day was spent in arguments on the objection.

Lynch was asking Goodwin questions in regard to the sale of the water bonds when he objected to answering the questions on the ground that it was information he had received in his capacity as a lawyer, and that it could not be pried into, and also that it was immaterial and irrelevant, in that it in no way affected the point at issue in the present suit. Half the afternoon was spent in the arguments on this point, and court adjourned with the point undecided, and it will be taken up this morning.

- Sonoma Democrat, 21 March 1896

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ABOUT THE BONDS.

Goodwin Begins to Tell What He Knows.

After a Day and a Half of Argument He is Made to Talk.

Lynch Asks if There is Nothing to Conceal, Why Goodwin Objects to Testifying.

The Mock case Wednesday was one of arguments chiefly, almost the entire day being spent in the attempt of one attorney to cross examine another; the witness, Attorney Goodwin, who was on the stand, objecting to the answering of questions on the ground that they were privileged confidential communications received while in the relation of that of attorney and client.

Exhaustive arguments ensued, consuming most of the day, but late in the afternoon all had been said that could well be said and the witness on the stand was compelled to answer the questions propounded, Judge Daingerfield ruling that Effey was so closely connected with both the sale of the bonds and the letting of the water works contract that to get at the true state of affairs it would all have to be gone into; also that the communications and evidence sought were not such as by law were sacred, and could be enquired into.

Here was a situation where a city had sold bonds and let a contract, all of which was supposed to be by advertisement known to the world, and actually with a witness upon the stand who was cognizant of all the facts in the case refusing to tell what he knew about the sale of the bonds or any of the transactions in relation to them or the letting of the contract. A point made by Attorney Lynch in his argument was that if there was nothing to conceal, if everything was as it should be, it could be proved by witnesses upon the stand in ten minutes; or if the plaintiff had to prove what had actually taken place, where was the objection to answering any and all questions that might be asked upon the subject.

Whether the council has acted in good faith or not remains to be seen, but in the meantime every question so far that has been asked about the sale of the bonds – who bought them? what did the city of Santa Rosa get for them? how were they paid for? and who got the money for them? if paid in checks, what was the amount of each check? upon what bank were they drawn? and other questions of a similar nature – have not yet been satisfactorily answered, and what answers have been forthcoming had to be forced out by the operation of law. Nothing was voluntary, and if one could judge by the witness on the stand his position could hardly be more uncomfortable. He sat and squirmed and wriggled and asked for questions to be read and re-read seemingly for the purpose of weighing them in his mind and the answers he should make; nor did he answer any question he could be perfectly positive of, but went behind the

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words, "it was about such and such amount," "I don't remember," "I can't say." Answers were changed, but by dint of hard questioning a certain amount of information was brought out which will need subsequent testimony to entirely explain.

Goodwin took the stand about five o'clock and his testimony, in brief, is as follows:

"Was in New York with Mr. Woodward," In reply to question, What did you get for bonds? he said : "One check for \$135,000, or something like it; another for \$11,000, or something like it. They were handed Mr. Woodward. They were in a sealed envelope. I had seen the checks before then; might have been that day or previous evening. Next saw checks September 28th in Santa Rosa, in National Bank. Went to New York with Woodward; arrived September 17th and stopped at same hotel; saw checks there three or four days after. Left with Woodward and went to Chicago; next met Woodward in San Francisco on September 28th, in the evening. Don't know what the checks stated; think they ran to me; think they were signed by Seligman; don't know date; don't know that I had certificate in my hand. September 28th I gave Woodward a check to make amount - \$160,000 by Mr. Swain, one of Perkin's bondsmen; think it was drawn on bank of British Columbia; think I got that check on afternoon of September 28th from Swain; don't know date; it was made out for enough to make up par and accrued interest on bonds; don't know exact amount, aggregated \$165,000; don't know whether it was certified. I returned that check to Mr, Swain next day; went back next day to San Francisco, took check with me. I handed that check to Woodward about 7 or 8 o'clock on September 28th; think in Council Chambers in Santa Rosa; don't remember where. Think I got back the \$11,000 certificate. It was turned back to me by Vanderhoof. I gave that \$11,000 certificate to Swain; don't know whether he cashed it or not: received also the check for \$135,000 in Santa Rosa that same night from Vanderhoof. He turned it over to me to pay for works. I gave Vanderhoof a warrant for \$161,000 drawn by city clerk and mayor; don't know if I saw Effey endorse warrant. I might have gotten the warrant from Effey. I suppose I received all the papers, the \$135,000 certificate, the \$11,000 certificate, and check for balance from Vanderhoof that night, I don't think I ever reported to Effey the amount for which I sold bonds, I did not pay him any money for bonds, I paid him money in reference to water works. I met Cowan, Woodward and Perkins in my office in San Francisco on September 28th separately. I think I drew bond for Perkins."

The third day of the trial of the Mock suit commenced Thursday with Attorney Goodwin still on the stand. The outside shell of facts had been pretty well cleared away and the testimony ground along through the very heart of the transactions and a pretty clear idea of what took

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place can now be formed. There are still some little bits of testimony needed to patch out the main fabric, which would be incomplete without them.

The interesting details of what the profit was in the construction of the water works and who profited by it are still in the dark and may or may not be elicited in the testimony that may follow. President Brush has still to tell what part he played in the little drama. Paul B. Perkins is also wanted to complete the examination begun into what he knows, but Mr. Perkins at present is away in the southern part of the State and application was made for a bench warrant to issue for his appearance. The sheriff was ordered to go through the formality of calling Paul B. Perkins to Court from the court house steps, but there was no response and for the time being the attorneys did not press their request for the warrant.

So far only the plaintiffs in the case have introduced any evidence, but have made considerable headway in taking their testimony. They have attempted to show: First, that the bonds were not sold at par for gold coin of the United States. Second, That there was no competitive bidding for the water works contract. Third, That there never was any money in the city treasury. Fourth, That Vanderhoof, although he said he received \$105,000, in reality received but \$146,000. Fifth, That the city never was secured by more than a \$40,000 bond for work aggregating \$161,000.

Goodwin — We left San Francisco on September 2d and got to New York on September 7th, We were three or four days transacting the business. I reached San Francisco on my return on the 10th. Prior to leaving San Francisco I understood the contract was to be carried out by Effey. Garratt & Co. were to supply the bonds for the contractor. We got a telegram while in New York stating that Garratt & Co, refused to go on Effey's bonds. I think the telegram was to Woodward. I believe we got it Thursday, September 12th; prior to that I had not introduced Effey to Perkins; I introduced him about the 26th or 27th of September; prior to the receipt of the telegram I had not talked with Perkins about the waterworks; I thought Effey was managing that to his own satisfaction; I had known Swayne for many years; I had made no agreement with Swayne. I drew a draft of an agreement between Effey and Perkins upon the employment of Effey; I think Perkins procured Swayne to act as the bondsman; I may have had something to do with it; I drew the bond for Mr. Effey and gave it to Mr. Perkins, and there were some blanks to be filled out; I may have seen Swayne sign the bond; he signed it at the request of Perkins; as I remember there was a bond of \$40,000, and a guarantee of \$120,000; Woodward told me in the city that the Council would accept a bond of \$40,000 with the guarantee; this was on September 27th; I think I was in Santa Rosa between my return on September 10th and September 28th; I think I saw Mr. Tupper and one other; I did not discuss the bonds with them; the only person I dismissed the

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bonds with was Woodward; this \$120,000 was deposited in the bank to the order of Effey or Perkins; Effey may have given the certificate to me, or may have given it to Perkins; I don't know whether Brush certified that Effey or Perkins had the money on deposit; I think this was an agreement between Perkins and the bank that that money was to be a guarantee, I don't know whether the money was placed there by Effey or Perkins; I don't know that the money was placed in the bank upon which that certificate was made; I drew the agreement between Perkins and the bank; I don't know that the city had a copy of it; I don't know that the city was ever informed of such an agreement; I put the \$135,000 certificate that night in the bank; Brush said he would cash it; I suppose that certificate belonged to Effey, but I gave it to Brush, Effey didn't ask me for it; the city clerk turned over to me the warrant for \$161,000 and these checks had been delivered to me by Vanderhoof in return for the warrant; I don't know the Perkins bond was executed before I came to Santa Rosa; the \$125,000 certificate was the basis of the \$120,000 deposit to Effey; I think the \$15,000 balance was turned over to me; I think the balance was a certificate on a bank in New York and in my favor; I endorsed it afterwards and gave it to Swayne; Swayne got three things, the check for \$15,000, the \$11,000 check and the check which was the difference between the price received for the bids and the \$161,000 and which was about \$20,000; Swayne was one of Perkins' bondsmen and they were given him to protect him from liability on the bond; I think most of that money went into the construction of the works; I don't know when Swayne cashed those checks; there was a loss of \$20,000 on the sale of the bonds; Perkins needed money to construct the works with; I don't know where Perkins is now; I don't think he is in Santa Rosa...

Here the sheriff was ordered to call Perkins, he having been subpoenaed on the former hearing and partially examined. The witness failed to appear. Witness continuing: Brush had a copy of the agreement with Perkins; I am sure Perkins' copy is not here in Santa Rosa; I don't know where Perkins is but can write to him – [Inquiry also reveals the fact that Mr, Brush in also absent and has been] I was to account to Effey for the city bonds and give him the whole thing; I don't think I even had any interest in them. Effey had to sell the bonds below their par value; he lost about \$20,000. The question was here asked Mr. Goodwin what he got for the bonds. It was objected to as being irrelevant and being a privileged communication. The Court overruled the objection after argument and the witness was required to answer. The witness answered:

I sold the bonds for the amount of the two checks received in New York, about \$145,000; I cannot be positive within perhaps \$2000 of the exact amount; The matter was made up on the

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basis of 5 3/8 per cent, interest; I don't know whether Perkins' price for the construction of the works was fixed or not; before I went to New York Effey said he would give me a certain amount in this matter; I have paid Effey seven, eight or nine hundred dollars; I don't know what Perkins did with the checks; I suppose part of the checks given to Swayne would come back to me and part to Perkins; there has been no agreement as to what I am to be paid; I have no idea what is in the sack now.

E. F. Woodward – I first met Effey in '93 and Goodwin about the same time; started for New York Monday, Sept. 2; took the bonds with me; I got the bonds from Vanderhoof to deliver to Effey through his attorney, Goodwin; I was to deliver them to him upon the receipt of the money for them; Goodwin and I went to New York together; I delivered the bonds to Goodwin about the middle of the week after we got there; Goodwin turned the bonds over to Seligman; we were all together; I got two certificates of deposit amounting to about \$146,000. the certificates were handed to me in an envelope; I don't know the dates nor their exact amounts, nor the bank or firm drawing the checks; I know nothing definite about the checks; I don't know who signed them; I never presented them for payment; I reached California on Sept. 27; first stopped at San Francisco; went to see Goodwin but did not find him; came to Santa Rosa that night and went back to San Francisco with Cowan the next morning; went to Goodwin's office and met Perkins for the first time; also saw Goodwin and Effey; did not meet either Swayne or Haslett; Goodwin told me Perkins was the man who would likely construct the water works; I don't know to whose order that \$120,000 was to be deposited; it was not deposited to the order of the city; nothing definite was said about it; I don't know who made the proposal regarding this; I told them I thought it would be accepted; I had no authority to do this; I never met Swayne or Haslett; neither of them came to Santa Rosa that night; the transaction at the city hall the night of Sept. 28 were so closely interwoven that I cannot remember the exact order; Goodwin, Cowan, Effey, Perkins and myself came on the same train at 7:30 o'clock; Mr. Goodwin was at the meeting; I took out the envelope containing the two checks I had received in New York from my inside pocket, and handed it to Mr. Goodwin; I think he gave the checks to the treasurer; I saw Goodwin open the envelope and immediately commence his transactions with the treasurer; I cannot tell what he did with the treasurer; I did not see what was done with the warrant for \$161,000; I went to the National Bank that night; I did not see anything; I was in the president's office; I think Effey was there, in and out, also Perkins and the treasurer; I don't remember any agreement with Perkins or the bank regarding these matters.

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THE MOCK SUIT.

What Was Developed in the Case on Friday.

The Amount Paid in Checks by Goodwin \$133,601.87 – \$120,000 Paid Perkins.

The last of the direct testimony for the plaintiff in the Mock case was taken Friday and late in the afternoon the plaintiff's attorneys rested.

The case at present is one made up of facts, but without definite form or shape, and not until the arguments are being made will the relevancy of many of the things gone into be made plain to the public. Thousands of questions have been asked and answered and the transactions concerning the sale of the water bonds and the letting of the contract are now pretty generally known.

According to the testimony of Attorney Goodwin and Mayor Woodward the bonds were sold to J. and W. Seligman of New York by Effey's agent Goodwin for \$144,601.87 or thereabouts, at a discount of about \$21,000. Two certificates of deposit were brought back from New York by Mayor Woodward, aggregating \$144,601.87. They were in Mayor Woodward's possession until the evening of September 28, the night the contract was let.

These certificates were handed by Woodward in an envelope to J. W. Goodwin, who handed them to City Treasurer Vanderhoof. Then immediately thereafter Goodwin presented a city warrant for the price of constructing water works - \$161,000 – to Vanderhoof for payment, and he thereupon paid the warrant with the same checks given for the bonds.

In Vanderhoof's testimony he said he received \$165,000 in two certificates of deposit, one for more than \$120,000 and the other for an amount large enough to make up \$165,000. He, however, could not tell for what amount the certificates were drawn, who drew them, to whom made payable, the dates, or in any way identify them. Between the testimony of Vanderhoof and that of Goodwin and Woodward there is a discrepancy of about \$20,000.

The plaintiff will claim that the statute provides that the bonds shall be sold at par for gold coin of the United States, and that the contract for construction of water works was not let according to law, in that the bidding was not competitive; because the water works constructed by Perkins were not those called for by the notice to contractors, and because contractors were notified to give a bond for \$120,000, which was afterwards waived, and because bidders were not told they

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would be paid for the work in advance and no bond would be required, Robert Effey having received full payment for the work and no bond having been required from or given by him, although a bond for \$40,000 was given by Perkins, which, however, it is claimed, was worthless; that there was collusion, in the fact that the two bids, one purporting to come from Garratt & Co. of San Francisco, the other from Robert Effey, were both written by the same person, Robert Effey, and the bid accepted was not a bona fide low bid, but was at least \$41,000 too high.

[..]

A great deal of looseness and irregularity mark the sale of the bonds and letting of the contract at every stage, but whether these will show sufficient cause to gain a decision remains to be seen.

One of the strongest points claimed by the plaintiff is that radical changes were made in the plans and specifications as advertised for in the notice to bidders. Monjean's plans and specifications were the ones advertised for, but when the contract was awarded to Effey he submitted his own plans and specifications, which were radically different from those given to the world as the ones to be built.

One of the points Judge Daingerfield asked counsel for both sides to throw light upon was, supposing that, for the sake of argument, it was conclusively proved that the bid of Garatt & Co. and that of Robert Effey were written by one and the same person, does the evidence in the case show that the Common Council were aware of that fact. Attorney Lynch, touching upon this fact, said that the Council had as much evidence of the fraud as has been produced in court; that the writing on the envelopes was so nearly alike that it did not require more than an ordinary examination to see that they had both been written by the same person, as no attempt had been made to disguise the writing; he also argued that it was as much the business of the Council to see that there was not collusion and fraud in the submitting of bids as it was a bank cashier to satisfy himself as to the genuineness of a signature.

Another point in the argument claimed by counsel as an illustration of the methods pursued in the numerous transactions was that Mayor Woodward went to New York and turned over the bonds and got in return \$144,601.87, which was the entire amount received for the bonds, yet in the affidavit sworn to by the mayor, with this knowledge of the facts, he said that \$161,000 was a reasonable sum to be paid, and that they should not be built for less; \$20,000 more than the bonds brought and still the contractors and attorneys had to make all their profits after this out had been made in the sale of the bonds...

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...Judge DeHaven then made the opening argument for the defendant, and it was a forcible address. The Judge is a finished speaker, but in his speech did not enter into details to any extent, leaving that for his associates. He admitted a great deal had been brought out that he should not have advised being done, but in most of the instances he maintained it was not a violation of the law.

The Council, he said, had a perfect right, if they saw fit, to pay for the construction of the water works in advance, at the same time he thought it would have been much better if the works had been paid for in installments as the work was completed. He also said that he thought it would have been much better if the Council had exacted a good and sufficient bond; at the same time, whatever the bond might have been, it today would have been a worthless piece of paper, as the work had been finished according to the plans and specifications submitted. Whatever had been done, a great deal could be excused on the ground of expediency.

As to the bond transaction and their sale, he thought the Council had a perfect right to trade the bonds (or the work, as it was completed; that if the contract for the water works had been let, and the contractor paid in stock, no question could have been raised. Judge DeHaven's speech was listened to by the largest crowd seen in the court room since the commencement of the trial. He will be followed Wednesday by his associates.

- Sonoma Democrat, 28 March 1896

The Republican says that a vote of censure would be equivalent to tolling the officers of this city to stand in with rings and cliques. In answer there has been evidence enough produced before Judge Daingerfield during the past two weeks to show that if there was any ring it was within the City Council. The suit just finished before Judge Daingerfield shows that Mayor Woodward sold bonds worth to this city \$163,000 for \$143,000; that the actual cost of the water works was but \$110,000 whereas this city has paid in profit to schemes and in law suits at least \$73,000 more than they were worth, most of which might have been saved; it has shown gross irregularity in every step the Council has taken in the matter, under the plea of doing the will of the people. Mayor Woodward and the Republican would ask the people to endorse such actions by the election of Woodward as mayor. The city has engaged extra attorneys for defending another suit brought on by the questionable method of letting the street lighting contract. We suppose the

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Republican also endorses their course in this matter. It is not a question of censure with the Democrat, but a question of good government.

- Sonoma Democrat, 4 April 1896

SANTA ROSA SENSATION

Mark L. McDonald Sued by an Attorney for Wesley Mock.

Pay Demanded for Services in Opposing the City's New Water System.

SANTA ROSA, Cal., April 29.— A mild sensation was created here this afternoon when it was learned that Mark L. McDonald had been sued for nearly \$1000 by one of the attorneys for Wesley Mock in the celebrated case of Mock vs. The City of Santa Rosa.

It has long been an open secret here that the Santa Rosa Water Company, of which Mark L. McDonald is president, was paying the bills in the long and expensive litigation to prevent the city from accepting and using the new water system. The last phase of this bitter legal fight was the petition of the plaintiff for an interlocutory injunction restraining the city from accepting the completed water system from the contractors...

...C. S. Farquar of Petaluma has also been one of Mr. Mock's attorneys in this case, and he avers that his services were reasonably worth \$1000, of which only \$162 has been paid...

- San Francisco Call, 30 April 1896

McDonald's Answer.

Some time ago George M. Brush commenced suit against Mark L. McDonald to recover \$1,000 alleged to be due on an assigned claim from G. S. Farquar for legal services rendered by Farquar in the Mock case, says the Republican.

The answer of McDonald has been filed by Attorney Lynch. McDonald denies that Farquar, in his professional capacity or any other capacity, performed services at defendant's special request, and further denies that any trial of said action has been had in any superior court, or at all.

[illegible microfilm] Farquar agreed to carry the case through the superior court for \$250, and also to the supreme court if necessary for \$250 more. The complaint alleges that the \$162.50

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claimed by plaintiff to have been paid Farquar by McDonald was paid by the Taxpayers' Union. Copies of the receipts alleged to have been given the union by Farquar are included in the answer.

- Petaluma Courier, May 20 1896

Editor Democrat; I desire space in the Democrat to correct a misapprehension as to my connection as plaintiff in the pending suit of Mock vs. Santa Rosa. The impression has gotten out that I am working for and in the interest of the Santa Rosa Water Works. This I deny. I am a member of the Tax-payers' Protective Association and am working in the interest of that Association, and as I think to the best interests of the city of Santa Rosa. Mr. Mark McDonald is and now, was never, a member of the Taxpayers' Association and never attended any of their meetings. This suit began before the commencement of the work on the proposed water works, and for the purpose of preventing the fraudulent sale of the bonds and the fraudulent letting of the contract, and as the result has proven in the trial of the case, it would have been well for both the City Council and the city if it had been sufficiently advised to have prevented the grant disregard of law and incompetence, to say the least of it, which followed the beginning of this suit. At a well attended meeting of the Tax-payers' Association Saturday evening it was the unanimous expression of the meeting that their suit to prevent the squandering or unlawful use of the city's money should be continued and to leave no stone unturned that will prevent the consummation of this Effey-Perkins-Goodwin bond contract business. I am not opposing the city's ownership of water works or working to defeat the will of the voter at the ballot box. Mr. McDonald is interested as to the termination of the suit, as are other tax-payers, and will doubtless assist in its prosecution. Further than that Santa Rosa Water Works is not in the case.

W. Mock.

- Sonoma Democrat, 16 May 1896

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The bond of \$4000 required by Judge Daingerfield in the above suit was filed yesterday afternoon, with and Mark L. McDonald as sureties. The bond was approved by the judge, and an order issued restraining Perkins from proceeding with the construction of the water works, and also restraining the city and the Council from accepting any portion of the works as constructed.

- Sonoma Democrat, Volume XXXIX, Number 40, 16 May 1896

WATER FOR SANTA ROSA.

An Arrangement by Which the New System Can Be Utilized.

SANTA ROSA, CAL., June 11. — Owing to the legal entanglements in which this city is involved over the new water system, it is hard to determine who owns the works and to whom the consumers of city water are to look for a continuation of the supply. If the city should formally accept the completed system it would probably be construed into contempt of court on the part of the members of the City Council. Contractor Perkins is as yet the owner of the works, although paid for with city funds, and has been operating the system ever since its completion.

The Council last night determined to enter into a contract with Mr. Perkins, to run during the pendency of the action for an injunction. Mr. Perkins agrees for the sum of \$400 per month to preserve the works in its present condition and to supply the city and its inhabitants with water free of any other charges during that time. It was further resolved by the Council that nothing in this contract should be deemed an acceptance of the works, nor should it be deemed as waiving or affecting any of the rights of the city or any rights of Wesley Mock as a taxpayer or as plaintiff in the action pending.

- San Francisco Call, 12 June 1896

A NEW SUIT.

Santa Rosa Water Works vs. City of Santa Rosa.

New Allegations in the Amended Complaint Filed Monday.

It is Alleged That There Are Three Miles of Piping Less Than Should Have Been Laid.

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An amended complaint was filed with the county clerk Monday by Attorney Lynch, representing the Santa Rosa Water Works company, in the suit of Santa Rosa Water Works company vs. the City of Santa Rosa.

The complaint asks judgment and a decree of the court declaring void the contract between the City of Santa Rosa and Robert Effey and that the same be cancelled. That the authorities of the city be enjoined from accepting the whole or any portion of the waterworks constructed by Perkins; that they be directed to recall said bonds and retain the same until duly sold according to law; and that the mayor and council be restrained from operating the waterworks.

The essential portion of the new complaint, some of which have already been developed while others are entirely new, are as follows: That since 1873 plaintiff has been a corporation duly organized and is a taxpayer resident in this city; that defendant has expended about \$174,000 in the construction of its plant and that it is reasonably worth \$250,000. Then follows the ordinances and election proclamations and notice to contractors.

The complaint alleges Garratt & Co. agreed with Robert Effey that he should become the only actual bidder for the waterworks and in the event that Effey became the contractor he would enter into a contract with Garratt & Co. to build the works for \$120,000; that when Effey made his bid he knew that he could construct the waterworks for \$98,000 with a reasonable profit. Then follows a recital wherein the plans of the waterworks constructed by Perkins differ from the Monjeau plans as advertised. The complaint alleges that the bonds are now in the hands of J. & W. Seligman of New York, and that the same are neither sold, issued or delivered to Seligman & Co. or to any other person.

That the bid of Effey and his confederate, Garratt & Co., was at least \$63,000 more than would have been paid if the general public had been notified of the conditions under which paid contract was to be let...

- Sonoma Democrat, 13 June 1896

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CITY COUNCIL

Important Matters Before the Meeting Tuesday Night.

Contractor Perkins to receive \$400 Per Month to Furnish the City With Water.

There was a meeting of the City Council Tuesday night, Mayor Jesse in the chair. A resolution was passed authorizing the mayor to enter into a contract with Contractor Perkins at a salary of \$400 a month to furnish the citizens of water and to look after and preserve the new water system. In this resolution was a proviso that the contract in question should not in any way effect any writ of the order of the Superior Court in the Mock suit nor should this contract be construed as an acceptance of the water works in any degree.

- Sonoma Democrat, 13 June 1896

NEW WATER COMPANY.

Articles of Incorporation Filed With the County Clerk.

Fountain Water Company Will Enter the Field of Competition in this City.

Within the last few days articles of incorporation of the Fountain Water Company have been quietly filed with the county clerk, and it may not be long before Santa Rosa will have a third company in their midst ready to supply water to those dissatisfied with the irregularities of one or supposed unhealthiness of the other of the two corporations now furnishing water to the inhabitants of this city.

[..]

The new company expect to derive their supply of water from the large spring which has been recently developed upon the Captain McDonald place, and at the present time, after careful measurements, is flowing a stream of 2,760,000 gallons per day and it is expected to still further increase the flow.

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The spring within the last few months has been cleaned out and is a hole averaging twelve to fifteen feet in depth and as large around as a good sized house, with a rocky bottom, covered with a layer of two or three inches of gravel. The water bubbles up through fissures in the rock, but everything is now in readiness, preparatory to sinking a shaft two feet in diameter a hundred feet below the bottom of the spring, when it is expected that the flow of water will be enormously increased.

- Sonoma Democrat, 14 November 1896

THE COUNCILMEN MUST PAY THE BILL.

Wesley Mock Wins the Suit Over the Santa Rosa Water Works Contract.

Judge Daingerfield Holds That the Members of the Council Are Financially Liable.

ALLEGATIONS OF FRAUD SUSTAINED

Judgment Entered forth Difference Between the Value of the Plant and the Amount Paid for It.

The decision of Judge Judge Daingerfield in the case of Wesley Mock vs. the City of Santa Rosa, delivered Wednesday, if sustained by the higher courts, will be attended with very important effects upon municipal administration. The lawyers for the plaintiff in this case made what is believed to be the first attempt to fix upon the members of a City Council the financial responsibility for any maladministration of a trust fund in which fraud is proved. The decision sustains this position and enters judgment against the members of the old Common Council of Santa Rosa for the differences between the money expended for the city water works and the value of the plant acquired by the city.

The people of Santa Rosa voted on May 8, 1892, in favor of the issuance of \$165,000 in bonds to build a system of water works, in accordance with plans and specifications furnished by C. Monjeau, an engineer of Cincinnati. The Union Iron Works, the Risdon Iron Works, W. F. Garratt & Co., and other San Francisco companies investigated the plans, but refrained from making bids, owing to legal irregularities.

In the absence of bids, members of the Council interested Robert Effey, the builder of the Santa Cruz water works, in the Santa Rosa proposition, and he and the Councilmen came to a tacit

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understanding that Effey should construct the works virtually for the bonds, for which no buyer could be found. A contract was drawn in October, 1895, by which Effey agreed to build the works for \$161,000, though the contract was not signed at once. Effey's was the only bid, a blind one of \$164,900 having been made by Garratt & Co., with no accompanying plans. The evidence showed that Garratt & Co. and Effey had an agreement whereby the former were to construct the works for Effey for \$120,000 if he secured the contract. A suit was brought by a Mr. Jones to prevent the signing of the contract, and Judge Buckles decided in February that it would be illegal if signed.

Meanwhile an attempt had been made to get the bond issue changed to an issue payable in gold, with interest payable in New York, but it was carried to the Supreme Court and an adverse decision was rendered in July, 1895. During this time, the financial backers of Effey - Coffin & Stanton of Chicago - had failed, and Effey was forced to hunt aid elsewhere. J. W. Goodwin was interested in the enterprise, and in September, 1895, he and Mayor E. F. Woodward of Santa Rosa took the bonds to New York and disposed of them to Seligman & Co. for two pieces of paper, the exact nature of which the evidence did not show, of a face value of \$145,000. Immediately upon their return, on September 28th, the contract was let to Effey, who assigned it to Paul H. Perkins. Effey was not required to file any bond, and to forestall any attempt that might be made to prevent the transaction he was paid in full at once for the works he had just contracted to construct. The Seligman paper and a warrant for the balance of the \$161,000 were delivered to Effey by Mayor Woodward and Treasurer Vanderhoof. This paper changed hands several times in the course of the evening, being received by President J. H. Brush of the First National Bank that same night, who credited Perkins, Effey's assignee, with an account or \$120,000.

On October 22, 1895, Wesley Mock began his suit for injunction, which has dragged along in the courts until the present decision was reached. The parties to the contract, who had received the \$120,000, succeeded in getting changes made in the plans, leaving out three miles of pipe and making other changes which involved a saving of probably \$12,000 to the contractors, with no mention made of change in the amount to be received by them.

In March, 1896, an attempt was made to accept the unfinished works in order to forestall litigation, but the Council was enjoined from this and the exposure that Mock's attorney, Edward Lynch, made of the methods employed in these transactions caused the defeat of Mayor Woodward and all the Councilmen shown to have been implicated in the election two weeks later.

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The suit was followed by Mock and set for trial December 10, 1896. Judge Daingerfield, in the decision rendered Thursday, sustained the plaintiff in his allegations of fraud, and ordered that the present Common Council take possession of the water works as a receiver, that their actual value be ascertained and that judgment be entered against the defendants for whatever discrepancy there may be found between this figure and the amount expended upon the plant.

- San Francisco Examiner, 20 June 1897

Erecting a Dam

Considerable changes are being made by the Fountain Water Company on Spring creek, near Peter's springs. A dam is being thrown up across the creek.

- Press Democrat, 3 August 1898

It was stated that the Fountain Water company had succeeded in stopping the flow of the water of Spring creek, upon which the city of Santa Rosa has water rights.

City Attorney Webber reported that he and Judge Rutledge had inspected the course of the creek, and had found that the course had been diverted, and the city could at any time, he said, enjoin the water company from using the whole of the water. The opinion was expressed that the matter should be thoroughly investigated at once.

In this connection it could be stated there has been an opinion pretty freely expressed in this city that the action of the Fountain Water company at this time was done so as to diminish the city's water supply...

- Press Democrat, 17 August 1898

The Nuisance is Unabated

The nuisance created by the Fountain Water company in diverting the water of Spring creek from its natural course, thus cutting off the supply from many persons along the creek and also diminishing the city's supply of water, was pretty thoroughly discussed on the streets again yesterday. and the general opinion was that steps should be taken at once to have the waters

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turned again into their course. A property owner yesterday said that if no step was taken in the next forty-eight hours to enjoin the Fountain Water company, he would begin suit in his own name against them.

- Press Democrat, Volume XLI, Number 97, 20 August 1898

Big Flow of Water

Wednesday morning Councilmen M. J. Rower and Harrison White spent several hours at the city pumping station, and were much pleased with what they saw...After inspecting the work the two councilmen took a ramble along the banks of Spring creek to the pumping station recently erected by the Fountain Water company.

It will be remembered some time ago the alleged action of this company in diverting the water of Spring creek for apparently no other reason than to prevent the city of Santa Rosa getting any water from the creek upon which the city has filed water rights, was referred to. Wednesday Messrs. Rower and White saw something which rather astonished them, and seemed to strengthen the opinion frequently expressed that an attempt was being made to prevent the city from getting any of the water.

The councilmen found the Fountain Water company had, by means of numerous dams and a long ditch by a circuitous route through the land of several persons, diverted the water back into the creek again just below the city pumping station, and consequently the city is deprived of the Spring creek water, which happily, at the present time, is not needed by the city.

- Press Democrat, 17 September 1898

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CITY TO BRING SUIT

Important Action by The Council

OFFER REJECTED

City Wants to Acquire Capt. McDonald's Spring

City Attorney Instructed to Bring a Condemnation Suit Against The Fountain Spring Water Company

With the view of meeting the demands of a growing city the council at the meeting held last night took important action regarding the increase of the present water supply in passing by a unanimous vote the following resolution offered by Councilman J. M. Carter:

Be it resolved by the common council of the city of Santa Rosa that the city attorney be and he is hereby authorized to commence a condemnation suit to condemn for municipal purposes the spring known as the McDonald spring together with ten acres of land surrounding same, the land now owned by the Fountain Spring Water company and right of way twenty-five feet wide through the land of J. McDonald to the same.

While the above announcement may come as a surprise to many citizens, it is by no means a new idea with the members of the city council who for weeks past have contemplated the step taken last night.

At a meeting of the council held on August 1, the matter was discussed in detail and Mayor Sweet and City Attorney George Pearce were appointed a committee to go to San Francisco and interview the Fountain Spring Water company in regard to the purchase of the property above described. The company was asked what the purchase price would be and the reply was \$100,000.

The report of the committee was made at the meeting last night by City Attorney Pearce who stated that among other things he had sent a written proposition to the company on behalf of the city, offering the sum of \$6000 for the property, but had received no reply. He registered the letter and had received the customary card that it had reached the proper destination. The city council saw no reason for further delaying the matter and the above resolution was passed. Attorney Emmett Seawell was employed to assist City Attorney Pearce in bringing the suit. His fee was fixed at \$250 and should the matter be appealed to the supreme court he will be paid an additional fee of \$100. The action will be commenced at once.

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The unanimous vote of the council upon the subject on the face of it showed how strongly they endorsed the proposition. When interviewed upon the subject after the meeting the individual members said that the growth of the city needed an increase in the water supply of the future and that they regarded this step one in the right direction. The spring is located on the Jesse Peter place and the supply of water it affords will largely augment the supply at present obtained from municipal pumping system. A similar suit recently brought by the city of Los Angeles regarding certain water rights in that vicinity was decided in favor of the city.

- Press Democrat, 6 September 1899

AN INJUNCTION SUIT

City of Santa Rosa Is Defendant

IS AFTER DAMAGES

Allegations Made By Santa Rosa Water Company

Seek a Decree of United States Court Preventing the Operation of Municipal Water Works With Free Water or Otherwise

The Santa Rosa Water Works has brought suit against the city of Santa Rosa in the United States circuit court asking the court to grant a perpetual injunction restraining the defendant from maintaining a water system for the purpose of supplying itself or its inhabitants with free water or otherwise until the unexpired term of the Santa Rosa Water Works contract shall end. This will be in about twenty-five years. Plaintiff also asks for damages. Jefferson Chandler is attorney for plaintiff. Tuesday a deputy United States marshal served Mayor Sweet with a subpoena citing the city to appear in court on November 6. The principal allegations of the complaint are given below.

After explaining the purposes for which the Santa Rosa water works was incorporated and the power of the defendant corporation to enter into a contract with the plaintiff, the complaint states that on the fourth day of February, 1874, the parties did enter into a contract to supply the defendant and its inhabitants with water.

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In behalf of the plaintiff company it is also alleged that after the execution of the contract it constructed and supplied suitable and adequate works to carry the contract into execution and thereby incurred the expense and cost therefor of \$175,000; that it is ready and willing and has at all times been ready and willing and able to carry out its contract and to supply the water contemplated by the contract that should be supplied, up to the full measure of its requirements, and that its plant and means of supply are, and all times have been and will be adequate therefor.

That the defendant in violation of the contract and of plaintiff's rights thereunder and in violation of plaintiff's immunity to have its property used for said water works, etc., defendant has instituted, set up and put into partial operation, and threatens to complete and operate the same throughout the entire territory covered by plaintiff's contract, a system of free water supply, etc., impairing the contract and will confiscate plaintiff's investment in said water works, and will make it, impossible for plaintiff to charge or collect the compensation which it is entitled to, from consumers of water: that the defendant has at present no adequate water supply for the entire year, but distributes free of charge to consumers what it has.

That in order to supply itself with water for all seasons of the year and for the purpose of further injuring plaintiff defendant has threatened to and will unless restrained by this court, at a great expense to defendant and to plaintiff as a taxpayer, acquire by condemnation or purchase a certain large and bounteously supplied spring of water, and the waters thereof, to compete with and against the rights of plaintiff's contract and that the acquisition of said spring by purchase or condemnation will destroy...

- Press Democrat, 4 October 1899

SANTA ROSA HAPPY OVER THE VERDICT.

Decision in Favor of the Defendants in the Municipal Water Works Case Received With Cheers.

SANTA ROSA, February 9. - The citizens of this city almost to a man are jubilant tonight over the verdict returned late this afternoon by the advisory jury in the Mock case accounting ordered by the Supreme Court and which has been in progress more than a month before Judge William R. Daingerfield of San Francisco sitting as chancellor. Former Mayor E. F. Woodward and the former members of the Common Council were the defendants. The accounting was ordered for the purpose of ascertaining the value of the municipal system of water works constructed

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during the term of office of the defendants. They expended \$161,000 in the construction of the system. The plaintiff Wesley Mock charged fraud, misappropriation of funds and an inadequate system.

The Jury retired at 4 o'clock and in twenty minutes agreed upon a verdict that the value of the system as accepted by the city was \$190,000 and that the actual value of the work and the materials done and furnished by Contractor Perkins was \$161,000, the amount of the bonds. When the verdict was read the courtroom was crowded and the crowd applauded vociferously. The local papers issued extras and the streets were crowded until a late hour by citizens who discussed the verdict and congratulated the defendants upon the outcome of a legal battle that has lasted over four years.

- San Francisco Chronicle, 10 February 1900

Are Raising the Funds

The committee collecting subscriptions to help pay the costs of the individual defendants in the water works suit are going the rounds with the petition and are doing very well.

- Press Democrat, 17 February 1900

To Secure the Peter Spring

In the Superior Court on Wednesday afternoon an action was brought by the City of Santa Rosa against the Fountain Water Company, a corporation, and J. M. McDonald, for the condemnation of a ten-acre tract of land owned by the defendant company in which defendant McDonald claims to have an interest, upon which the well known as Peter spring is located.

The complaint sets forth that the public interest and necessity of the City of Santa Rosa demand the acquisition of the land sought to be condemned and the waters therein and thereon, and the right to take said waters, and that in order to properly maintain the established system of municipal water works, it is necessary that the whole of the said ten acre tract of land be condemned in fee simple for the uses aforesaid. It is further alleged that the water is needed to add to the present supply for public use...

- Press Democrat, 17 March 1900

SANTA ROSA SUING FOR POSSESSION OF A SPRING

Commences Condemnation Proceedings Against the Fountain Water Company.

SANTA ROSA, Dec 12.— Condemnation proceedings brought by the city of Santa Rosa against the Fountain Water Company for possession of Peters Spring were commenced in Judge Dougherty's department of the Superior Court to-day. The purpose of the action is to get possession of a spring held by the Fountain Water Company, which is a corporation composed of the same stockholders as the Santa Rosa Water Company. The city's water supply is not satisfactory at present, so the municipality brought this suit when the water company refused to sell the spring

It is alleged by the city that the water of the spring has never been dedicated to any public purpose and that it is necessary to have the spring as an addition to the water supply, there being no other available supply to be obtained near by at a reasonable expense. The day was consumed in the swearing in of a jury.

- San Francisco Call, 13 December 1900

The Condemnation Suit

Judge Dougherty handed down an opinion on Monday in the action of the City of Santa Rosa against the Fountain Water Company and J. M. McDonald, directing that the order finally submitting the motion for a new trial be vacated and set aside...The most important feature of this testimony was that regarding the value of Peter's spring. At the trial witnesses for the defendant placed the value of the property as high as \$100,000, but the Court struck out all estimates above \$4,000. It was upon this basis that the jury formed its verdict. And it is from this verdict that the defendants are appealing.

- Press Democrat, 11 March 1902

THE DIRTY WATER WARS OF MARK McDONALD

CITY GIVEN JUDGMENT IN LAST WATER WORKS SUIT

CASE IS DISMISSED OF JUDGE MORROW

SWEEPING VICTORY IN FAVOR OF CITY'S MUNICIPAL WATER SYSTEM

Court Rendered Decision on Thursday Deciding That Private Corporation Had Not Exclusive Control

...United States Circuit Judge W. W. Morrow had thrown the last suit brought by the Santa Rosa Water Works against the city of Santa Rosa out of court. The court dismissed the suit and awarded the city a judgment for its costs, as the above message indicates.

The above suit was the last and most important suit growing out of the construction and operation of a municipal water system in Santa Rosa and was commenced some four years ago....The plaintiff in its complaint asked the court to grant an injunction against the city restraining it from operating a municipal water system. The plaintiff also asked that the city pay the Santa Rosa Water Works one hundred thousand dollars damages for the alleged infringing of plaintiff's franchise and contract to furnish the residents of the city with water for a term of fifty years, until the term of the franchise, twenty years hence, had expired. Plaintiff urged that it had the exclusive contract to furnish water here by the terms of its franchise.

- Press Democrat, 3 June 1904

On Wednesday morning in accordance with the instructions given by the city council Acting City Attorney J. T. Campbell dismissed the suit brought by the city against the Fountain Water Company and received from County Clerk Fred Wright the sum of \$4,515.55, which had been on deposit in the Superior Court since January 22, 1901. The order directing the payment of the money to the city and the dismissal of the suit was signed by Judge Burnett.

- Press Democrat, 15 September 1904

THE DIRTY WATER WARS OF MARK McDONALD

WATER WORKS IMPROVEMENTS

McDonald System to Install Rotary Pump and Develop Spring Formerly Owned by Fountain Company

The Santa Rosa Water Works has commenced work at the spring, formerly owned by the Fountain Water Company, but acquired it a short time ago, for the purpose of developing the water supply. The plans of the company have not been fully matured, but it is their present intention to proceed with the work of installing a rotary pump with direct connection with an electric motor, which will be used to pump water from the spring to an elevated point between it and the present reservoir of the company. This is done for the purpose of improving the service, and for guarding against a shortage of water in any contingency...

- Press Democrat, 22 July 1911