REPORT

of

Committee appointed by Common Council
to Investigate the Management of the
CITY WATER WORKS,
August, 1875.
REPORT

OF

COMMITEE APPOINTED BY COMMON COUNCIL TO

INVESTIGATE THE MANAGEMENT

OF THE

CITY WATER WORKS.

CINCINNATI, August 14th, 1875.

To the Honorable the Common Council of the City of Cincinnati, O.

Gentlemen:

The following is a copy of a communication from the City Clerk's office, to-wit:

"CINCINNATI, May 17th, 1875.

W. P. Biddle, Esq.,
Chairman Committee Water Works Management:

At a meeting of the Board of Councilmen, held on the 7th inst., and of the Board of Aldermen held on the 14th inst., the following was adopted.

RICHARD C. ROHNER,
City Clerk."

"Whereas, there have been public charges of rather a specific character made against the management of the City Water Works, and Whereas, it is of the utmost importance, alike to the tax payers of the City and the officials in charge of said Works, that a thorough and complete investigation be had into each and every department of the Works, therefore,
Resolved, that a Committee of five be appointed from this Board to act in connection with a similar Committee from the Board of Aldermen, whose duty it shall be to thoroughly investigate the general management of the City Water Works, and report, what, if any violations of law, or irregularities they may discover, and that for the purpose of making a complete investigation, said Committee are hereby empowered and directed to employ some competent accountant to aid them in their duties, and also the power to send for persons and papers, and subpoena witnesses. 

Approved May 17th, 1875.

(signed.) G. W. O. Johnston, 

Mayor.

Wolf, Koller, Eggleston, 
McCaffery, Smith, 
Committee Board Councilmen. 

Biddle, Brauneis, Dirr, 
Wells, Greenlees, 
Committee Board Aldermen.

We, the Special Committee appointed as aforesaid respectfully represent that under our instructions we employed Mr. J. W. Johnston, an experienced accountant to assist us in our labors, and Messrs. Charles Shinkwin and E. W. Miller, short hand reporters, to take down testimony.

From May 19th, to August 15th, we held 36 sessions, issued 183 subpoenas, of which 165 were served and 18 returned not found; 105 witnesses appeared before Committee and were examined under oath and 28 were recalled for the purpose of further examination.

All of the testimony, as reduced to writing by the short hand reporters, over 2000 pages is herewith submitted, together with the statements from the Books and Accounts of the Water Works Office, as furnished the Committee by accountant.

We have endeavored to give this matter the attention that its importance and the interests of the people demanded, pursuing all intimations in any way given Committee, without fear, favor, or partiality, that could possibly result in throwing any light upon Water Works matters, and in doing this our sittings have necessarily been prolonged in the examining the large number of witnesses called, and in making the necessary examination of the Books and Accounts connected with the Water Works. The Committee feel that they have made a thorough and complete investigation into the various departments of the Works in accordance with their instructions, and that they have discharged fully and fairly the obligations devolving upon them by reason of their appointment, and submit the following report as the result of their labors.

Your Committee in pursuance of the duty thus imposed, first visited the Office of the Water Works, on the 19th of May. An examination of the Cash Book of the Office showed an apparent balance of $4,381.23 on hand, on the evening of the 18th, a further examination disclosed the fact that within about a week previous, to-wit: from May 11th to the 17th, the sum of $6,945.29 had been deposited, all made up from accumulations of office receipts, which for the three months preceding, did not average much over $90.00 per day.

We also find that large balances, varying from $1,000 to $9,000, were carried from one month to another, and the testimony shows that these balances were made in the cash book at the end of each month, but, that the cash itself was never counted and these balances verified from July 1873 until May, 1875.

Presuming that the Secretary would make the claim, which he subsequently did, that a large portion of these balances were absorbed by vouchers and claims which he had paid from his office receipts, his accounts were analyzed by the accountant, and the balance retained after each deposit made with the Treasurer ascertained, at which time he would naturally use all such vouchers and accounts in his department.

The result shows that after making such deposits, he still retained in his possession large amounts, that previous to May 19th, 1875, deposits were made at long intervals, thus leaving large amounts in the possession of the Secretary between one deposit and another, in addition to the sums by him retained after making each of his deposits; it also appears that the average sum deposited from December, 1873, to May, 1875, was
$3,007.21, while the average sum retained by said Secretary, was $5,062.58.

During previous years, as shown by testimony, a balance of $500 to $600 was deemed a sufficient sum to be retained for office purposes, that since May, 1875, we find that an average balance of only $507.31 has been retained for office use.

Article 4 of the By-Laws is as follows: "It shall be the duty of the Secretary to have the care and safe keeping of the books and paper belonging to the Water Works, and keep correct account of all receipts and disbursements and other transactions with the Water Works, make out bills for water rent, prepare duplicate copies for Collectors and settle with the same quarterly."

It is shown by the testimony, that between November 1st, 1873, and January 1874, one of the cash books was lost, containing transactions of branch service, old iron account, and all other cash transactions, except those of water rents, for several years previous to November 1st, 1873.

That by reason of the loss of said cash book, there is no means of ascertaining the condition of much of the business of the Works previous to that date, we therefore find that from July 1873, to February 1875, said Secretary neglected his duties in not making quarterly settlements with collectors of all moneys by them collected, and in not making close deposits of all money by him received as Secretary, and that the $8,336.19 in his hands April 13th, was not made good until May 10th, to 19th, 1875.

That said Secretary was guilty of neglect of his duties in not balancing the cash by him received from Water Works while he was Secretary, a period of nearly two years, which neglect was calculated to lead to errors and omissions in cash account, and also in not making quarterly settlements with the collectors of water rents, before the bills for the succeeding quarter were given out by him.

We find that since July, 1873, the Trustees have failed to exercise proper control over the general management of the office. That they have left the same largely to subordinates, that parties were appointed to important positions through political influence who were totally unfit for the duties thus devolving upon them; that when notice of such unfitness was brought to their knowledge, they still permitted said parties to remain in the employ of said Works to the loss and detriment of the city.

Section 340 of the Municipal Code is as follows: "Said Trustees shall make monthly reports to Council of the receipts and disbursements of money belonging to the Water Works."

We find from the testimony, that since February, 1866, said Trustees have failed to make monthly reports to Council, which said failure we find to be an omission of their duties as Trustees aforesaid.

Section 340 of the Municipal Code, also provides that: "Said Trustees shall make an annual report of the condition of said Water Works."

We find that previous to the report for 1874, the Trustees have failed to make annual reports to Council of the condition of said Works as required by law, that the annual reports show only partially the condition of said Works, and in none of said reports since 1863 is there any statement or inventory of stock on hand or outstanding liabilities, except in report of 1872, in which the estimated value of stock on hand is stated to be $4,247,557.00, to-wit: the report for 1870 shows cash balance in City Treasury at close of that year, of $29,461.27, the unreported liabilities for that year were $79,902.15.

The Report for 1871 shows cash balance in City Treasury at the close of the year to be $38,129.86, the unreported liabilities for the year were $33,957.68.

The Report for 1872, shows cash in Treasury at the end of the year $9,097.76, the unreported liabilities for year were $72,698.

The Report for 1873, shows cash in Treasury at the end of year $9,414.26, the unreported liabilities $114,414.26.

Report for 1874 shows balance in Treasury, January 1st, 1875, $1,898.05, and the liabilities are therein stated as follows:
Unpaid Certificates of Indebtedness, Jan. 1st, 1875, $160,791.68
Accounts unpaid, January 1st, 1875, 40,833.01
Balance due on Markley farm, 9,562.30
Total, $211,186.99

To this amount should be added, Advance Water Rent
Subscriptions about 1,500.00
Making total liabilities, January 1st, 1875, about $212,686.99

The Report for this year as shown by the testimony, is the first that mentions the outstanding liabilities of the Works, and like the former, no inventory of stock on hand is given, a matter that should be considered as of vital importance in the ascertaining the exact condition of the Water Works.

We therefore find that said failure to make full and complete reports annually, of the condition of said Works, was a great irregularity and omission of their duty as Trustees aforesaid, and was calculated to lead to gross irregularities in the running of the Works.

Section 340 of the Municipal Code, also provides as follows: "And all moneys collected for Water Works purposes, they shall cause to be deposited weekly by the Collectors thereof with the Treasurer of the Corporation, and the receipts therefor shall be by such collectors deposited with said Trustees or their authorized agents."

We find that since December, 1873, the Trustees have failed to cause all moneys collected for Water Works purposes to be deposited weekly by the collectors thereof, as required by law, which said failure we find to be a great irregularity, and unwarranted omission of their said duty as Trustees aforesaid.

We further find that by reason of the failure of said Trustees to require weekly deposits of all moneys so collected, the collectors thereof were permitted to carry large balances from quarter to quarter.

In order to ascertain whether this abuse was of recent date or had been of long standing, the years of 1865, 1868, 1871, and 1874 were selected by Committee for testing the same. A tabulated statement of the collections of each of these years was prepared by accountant for Committee, showing the collections of every quarter from which it appears that for the years 1865, 1868, and 1871, as a rule, deposits were made by collectors weekly, and almost uniformly upon the same day, that with but two exceptions every quarter was closed at its proper time. The exceptions were in accounts of collector of District No. 1, in second quarter of 1865, who was two weeks behind, and in first quarter of 1868, when he was one week behind.

In making examination for 1874, it was found necessary to go back to 1873, the first two quarters of which were closed in proper time, in the third quarter collectors of Districts Nos. 1, 2, 5, and 6, carried over into fourth quarter $2,761.07.

Collectors of Districts Nos. 1, 2, 3, 4, 5, and 6 carried from fourth quarter to 1874 $4,724.52, collector for District No. 1 not closing his account of December 31st, 1873, until March 6th 1874.

In first quarter of 1874, collectors of Districts 1, 2, 4, and 6, carried into the second quarter $11,472.80.

In the second quarter of 1874, collectors of Districts 1, 2, 3, 4, 6, 7, and 8, carried into third quarter $13,097.60. The collector of 4th District not settling until August 13th, and collector of 1st District October 8th subsequently. In the third quarter of 1874, collectors of Districts 1, 2, 4, 5, 6, and 8, carried into fourth quarter $13,524.85.

In the fourth quarter of 1874, collectors of Districts 1, 2, 3, 4, 5, 6, and 8, carried from this year to 1875 $27,163.43. This sum has all been paid into the Treasury since, but in District No. 1 the last payments were not made until March and April. No examination was made into collections for 1875, the present Secretary not having settled the accounts of collectors at the time this examination was being made, but all collectors have closed their accounts except in Districts No. 1 and 6.

Had the Trustees enforced the rule strictly requiring all water rents to be paid when due, and the weekly deposits of all money collected by the collectors for same, the receipts would have been:

For 1873...
- $426,837.37 instead of $422,113.02
“ 1874...
- $433,244.33 “ $411,555.16
thus showing, that at a time when said Works were largely indebted and said Trustees were borrowing money and issuing Certificates of Indebtedness at a cost to the City of from 6 to 8 per cent. interest, they were permitting said collectors to carry from 1873 to 1875 a balance of...
unpaid water rent bills and cash collected, ranging from $4,724.52 to $27,163.43, contrary to the Statute on that subject.

We find from the testimony, that previous to 1870, the Trustees were exempt from the payment of water rent.

In March of this year, by a resolution of the Board, as appears from the minutes, it was decided that Trustees thereafter should be exempt from the payment of water rent for domestic purposes only, several of the prospective candidates being consumers in their business of about $3,000.00 worth each per annum.

We further find that Christian Moerlein, who was elected April, 1870, as Trustee for the term of 3 years, failed to pay for the water by him consumed in his business during his said term as Trustee. That from surveys by him given to Committee and the evidence adduced, we find that he should have paid during his said term, for water used by him in his said business $2,939.39, and the total sum by him paid for water was $1,050.00, leaving a balance of $1,889.39 with interest thereon, still due and unpaid by said Christian Moerlein.

That his Co-Trustees, the Superintendent and Secretary of said Works were aware of the non-payment of said water rent by said Moerlein; we therefore find from the testimony that said Moerlein was guilty of violating the Sixth Article of the By-Laws, which requires the payment of "all water rents, half yearly in advance," also of violating Section 4 of an Ordinance passed 13th September, 1854, for the government and protection of said Water Works, which provides as follows: "Upon a return of a bill to the office for non-payment, the water shall be immediately shut off."

We also find the Co-Trustees of said Christian Moerlein, guilty of neglect of their duty in failing to require him to pay his water rent, as required by Article 6 of By-Laws aforesaid, and in not enforcing Section 4th of the Ordinance, which provides for shutting off the supply on non-payment.

From the testimony taken, your Committee find that from defects in the planning or execution of the work upon the sewers in the reservoir at Eden Park, that the 3 feet sewer and two of the 2 feet sewers under the upper portion of said reservoir had to be stopped up in order to prevent leakage through them from reservoir; that in the prices paid for masonry, both before and since the Barger contract, a monument of unwarranted extravagance has been proven; that previous to said contract, the cost of the masonry including the brick work and sewers and all other masonry in and about the reservoir was $10.40 per perch, including the mortar and cement used in laying the same, deducting the cost of cement as shown by testimony, the then average cost of all masonry done previous to Barger contract, was $8.75 per perch.

The average cost of excavating by day labor previous to Barger contract was 62.750 cts. per cubic yard, and by contract previous to that date 54.5 cts. per cubic yard.

In 1873, said Trustees entered into the Barger contract, by the terms of which he was to complete the retaining wall at 87.90 per perch, including all Dayton stone as required by plans and specifications and to do the excavating for same at 50 cts. per cubic yard. The whole work was then estimated to cost about $200,000.00.

June 19th, 1874, said Trustees and said Barger entered into a written agreement by the terms of which Dayton stone was to be substituted for the Ruble work originally intended to have been used in the eight Pilaster, for which said Barger was to receive the sum of $10,282 for the entire work. We find that the estimating Engineer for the Garden of Eden Reservoir, Charles Boeckh, in making the estimates of work done on said retaining wall included all the Dayton stone work in said pilasters done under said special contract, and that upon said estimates so made, said Barger has received $7.90 per perch for all Dayton stone work so done in addition to the contract price, being an over payment of about $1,000 on account of said Dayton stone work in said pilasters.

We therefore find that said Charles Boeckh Engineer aforesaid, is guilty of neglect of his duty and want of fidelity to the trusts imposed upon him as estimating Engineer and protector of the interests of tax payers, in including said Dayton stone work in said pilasters in his estimates, by reason of which said Barger received pay twice for said work.

Article 1 of By-Laws, as amended October 20th, 1859, for management and protection of the Water Works, among other things provides: "that the Trustees of the Water Works shall keep a record of their proceedings."
We find that said Trustees have failed to keep a record of their proceedings as required by said By-Law in this, that they claim to have let contracts to C. W. Barger for 16 “Bulls Eyes” at a cost of $175 each, making in all $2,800.00, and for a projecting course in said eight pilasters at an expense of about $2,300.00, making a total sum of $5,100.00, the larger portion of which sum has been paid said contractor, but from testimony adduced, we find that there is nothing on the minutes of the meetings of said Trustees, showing that said contracts were ever let.

Section 346 of the Municipal Code provides as follows: “Said Trustees before entering into any contract for work to be done, the estimated cost of which shall exceed $500.00, shall cause at least two weeks notice to be given in one or more daily newspapers of daily circulation in the Corporation, that proposals will be received by said Trustees for the performing the work as specified in said notice, and the Trustees shall contract with the lowest bidder, &c.”

In regard to the question as to whether the change in the original contract with Barger in substituting Dayton stone for the Rubble work, as originally specified in Plans and Specifications, was a violation of Section 346, (said substitution having been made without advertising,) the Solicitor, at the time said contract was let, gave it as his opinion, “that this Section referred to original contracts, and not to changes, and that the contractor for the whole job had the sole right to the contract for changes, additions, and substitutions in the work; that advertising for bids to make changes would be a violation of the original contract, and if admissible, no contractor would be safe, since under the pretext of making changes, the whole work might be taken out of his hands,” While this may be true, as to the contract in question, another view of the matter is worthy of consideration, viz: that under pretext of making changes, additions, and substitutions, the original contract might be entirely done away with and a new contract entered into, without advertising; thus avoiding the restraint intended to be placed upon the action of Trustees, by the Section aforesaid.

We find that the Trustees entered into contracts with Barger as additions to, or substitutes for original contracts, as follows:

- Substitution of Dayton stone in pilasters: $10,282.00
- Drop course in retaining wall: $3,500.00
- Bulls eye contract: $2,800.00
- Projecting course in pilasters: $2,300.00

Total paid Barger for same: $18,882.00

That the whole sum paid Barger, for work done on retaining wall previous to June 8, 1875, is 143,636.46, and the total sum paid on account of costs of Eden Reservoir to August 1, 1873, is $1,214,593.34.

We find that the Trustees have kept in Water Works employ at large salaries, parties engaged in business outside, to the loss and detriment of said City.

That in 1873-74, the Trustees knowingly kept in the employ of the Water Works, parties who had been guilty of great irregularities, viz; receipting for money on Pay Rolls, and failing to pay same over to the employees who were entitled to it, and appropriating to their own use, property belonging to said Works.

We further find that Andy Bowman receipted for, and received money due employees of the Works, and failed to pay same to them.

That while in the employ of the City, he took from said Works, without authority and converted to his own use, a large lot of brass.

We therefore find that said Trustees were guilty of neglect of their said duties, in permitting such irregularities to be continued after notice, and in retaining said parties in the employ of said Works.

During 1873 and 1874, the Secretary employed, or caused to be employed as shown by the testimony, parties at an expense of about $1,000 for the purpose of compiling statistics, showing the different uses to which water is put, in this City; that according to the evidence submitted, said statistics were never reported to the Board, and were of little or no value, and no use has ever been made of them.

That said Secretary drew from the Treasury, $985.50 for Returned Water Rent, to cover bill for expenses of Committee east, Aug. 1873.

We find said Secretary guilty of great irregularities, in thus presenting said bill and obtaining the money thereon, and of unnecessarily employing at the expense of the City, parties to make up useless sta-
The testimony shows that the Assistant Secretary in 1873, loaned $1,300.00 of Water Works money, knowing the same to be such; that since this investigation commenced, he did, at the request of parties interested, make alterations in the books of the office. We therefore find said Assistant Secretary, guilty of great irregularities in loaning said Water Works money, and in making the alterations, as aforesaid, in the office books.

The testimony shows that Moses Kramer, while acting as Water Rent Collector, failed to make weekly deposits of all Water Works money by him collected; that he kept no separate account, and carried large balances from quarter to quarter, that he loaned Water Works money knowing the same to be such, by reason of which the City lost the use of said funds, during a long period of time.

We therefore find that said Moses Kramer was guilty of great irregularities, in thus failing to make weekly deposits as required by section 340 of the municipal code, in keeping no separate account of same, and loaning Water Works money as aforesaid.

The testimony shows that J. B. McCormick, Water Rent Collector, Dist. No. 6, also failed to deposit Water Works money, collected by him; that he is still indebted to City, on account of same, for money so collected, and by him appropriated to his own use, while acting as collector of said district, in the sum of $1,595.00, with interest thereon, for the recovery of which, suit has been instituted by City Solicitor.

We find said J. B. McCormick, guilty of great irregularity in not making deposits as required by said section of the code, and in appropriating to his own use, a portion of the money so collected.

Testimony shows that Wm. Merk, Collector Dist. 1, failed to deposit all moneys collected in his district; that he entered into a written contract with Moses Kramer, said contract being drawn by T. E. Snelbaker, then secretary, by the terms of which, said Kramer agreed to collect the larger portion of the bills in said district, for which he was to receive the sum of $100.00 per quarter; that he permitted other collectors and off-and-on men, to do portions of the collecting in his district, when all of said collecting should have been done by him; that a large balance is still due the City, from said district No. 1, to wit: $7,277.88.

From the books and papers in the office relating to same, and the testimony on that subject, the Committee found it impossible to ascertain whether said deficit was collected by said Kramer or Merk. Suit has been instituted for the recovery of said sum, by the City Solicitor.

We find that said Wm. Merk, is guilty of great irregularity, in not making weekly deposits of Water Works money, and in failing to make prompt collections of Water Rents in his district.

Your Committee find that on January 18th, 1872, as shown by testimony, the Trustees of the Water Works, entered into a written contract with the “Cincinnati Stationary Engine and Hydraulic Works,” by which the latter agreed to build, according to certain plans and specifications, 2 Pumping Engines, complete, for the sum of $97,575.50, said work to be completed within 5 months if required.

By the terms of said contract, the City reserved the right to suspend the execution of, or to annul the same, whenever the contractor failed to comply with the conditions of the contract, and such suspension or annulment should not affect the right of the City, to recover damages from the contractors for failure.

The City, at its discretion, was to take possession of the work, and contract with other parties. The decision of the Superintendent and Engineer to be final on all questions of doubt as to the meaning of contract.

Estimates were to be made as the work progressed, and 80 per cent. of same paid to the contractor, the remaining 20 per cent. to be paid on final estimate, after work was entirely completed.

The Committee find according to the estimates made, as shown by testimony, that total work done June 30, 1873, was $89,894.18
Deduct 20 per cent. on contract, 17,978.83
80 per cent. due contractor, 71,915.35
Amount actually paid contractors July 1, 1873, 82,945.04
Overpaid contractors July 1, 1873, $11,029.69
We further find that some of said estimates were made by the ea-
timating engineer, while the metal was yet in the sand; that said estimates as made, were entirely too high, as shown by said figures. The evidence in the case shows that July 1, 1873, on said estimates as made, the 80 per cent. which contractors were entitled to as work progressed, amounted to $71,915.35, when the whole contract price for the Kilgour engines, complete, was but $97,575.50, and at that date the work was only about half completed. Said Trustees paid to said contractors, at their request the sum of $11,029.69 of the 20 per cent. which should have been held until the completion of said contract by contractors.

As appears from the minutes of said Board, the City Solicitor gave said Trustees an opinion to the effect, "that under the contract entered into between the City and said contractors, the City could take the possession of the Kilgour engines, and any question of damages would have to be settled afterwards." That notwithstanding said Solicitor's opinion, said Trustees caused the payment to said contractors, of an additional sum of $11,409.39, making a total paid contractors on account of contract, of $94,354.34; same being the entire contract price less $3,211.16, and an agreement was entered into by said Trustees, by the terms of which, said contractors were released from the further completing of said work, and from all damage sustained by the City, by reason of the failure of said company to complete said engines. That, it cost the City of Cincinnati, to put said engines in the condition called for in said contract, and the plans and specifications relating thereto, $74,137.31, making the total cost of said Kilgour engines, $168,491.65 instead of $97,575.50, the contract price.

We further find that said drawings were incomplete; that an additional expense of $13,578.38 was necessarily incurred in bracing and strengthening said engines to keep them from falling down. That the total cost of said engines, including plans and alterations made since they were started, is $204,150.48; that by reason of the failure of said company, to complete said Kilgour engines, and of the release to them of all damages sustained, the City lost $70,916.15, for which she now has no redress against said contractors.

In report of Investigation Committee dated March 27, 1873, the Accountant reported "that he had examined the books and accounts of the City Water Works, and found them correct in every particular."

The testimony of J. W. Johnston, Accountant, July 2d, 1875, shows an error in Bills Payable Account, of about $18,000.00; $12,155.64 of which occurred before the report of Committee of 1873, and $5,000.00 the June following, to wit: Feb. 28, 1871, omitting to enter Bills Payable issued November 21, 1870, $12,037.64, July 31, 1871, entering proceed of note given for $20,000.00 as $19,880.00, omitting to enter note of $5,000.00 issued April 22d, 1873. These errors in Bills Payable Account, were corrected in 1875, by the present Secretary, by charging the full amount to Water Works, which will make that account that much larger than it otherwise should have been for 1875, and which errors make the showing for the years 1871-72, that much less than the actual expenses were for those years.

The Committee further state that by the terms of the resolution under which their appointment was made, their duties were limited to the "making of an examination into Water Works matters, and reporting what, if any, unlawful acts or irregularities might be discovered;" and they were not called upon or instructed to make suggestions or recommendations.

Therefore, the taking of further action in the matter is left by them to your Boards.

Bills for services rendered are herewith submitted, and Committee recommend the payment on account, of same.

To J. W. Johnston, Accountant, $350.00
" Charles Shinkwin, Short Hand Reporter, 730.00
" E. W. Miller, 54.50
" Thomas Toulser, Sergeant-at-arms, 84.70

Total, $1,219.20
All of which we respectfully submit.

CINCINNATI, August 14th 1875.

Aldermen.

W. P. Biddle,
John Greenlees,
E. J. Brauneis,
Gabriel Dirr,
J. D. Wells,

Councilmen

Daniel Wolf,
L. N. Smith,
John Koller,
B. Eggleston,
A. J. McCaffery.

Committee,