

PROCEEDINGS OF JOINT CONVENTION.

THIRD SESSION—NOVEMBER 18, 1878.

The Common Council and Board of Aldermen of the City of Indianapolis convened in Third Joint Convention, in the Council Chamber, on Monday evening, November 18th, A. D. 1878, at half-past seven o'clock, in compliance with the following call :

Indianapolis, Ind., November 15, 1878.

To the Members of the Board of Aldermen and Common Council of the City of Indianapolis :

Gentlemen :—You are respectfully requested to meet in Joint Convention, at the Council Chamber, on Monday evening, November 18th, 1878, at 7:30 o'clock P. M., for the purpose of electing a Trustee for the "Gregg Bequest."

Respectfully,

J. CAVEN, Prest. Joint Convention.

President Caven ordered Secretary Wright to call the rolls of Aldermen and Councilmen ; which resulted as follows :

PRESENT—Hon. John Caven, Mayor, President of Joint Convention, in the Chair; Benj. C. Wright, City Clerk, Secretary of Joint Convention. Also, Aldermen Chandler, Coburn, Foster, Grubbs, Mussmann, Piel, Snider, and Wiles (8), and Councilmen Anderson, Bermann, Brown, Bruner, Cummings, Dill, Layman, Marsee, Maus, Morris, Morse, McGinty, McKay, O'Brien, Off. Reading, Rodibaugh, Showalter, Sindlinger, Steeg, Walker, Wiese, and Wright—23. Total present—31.

ABSENT—Aldermen Ridenour and Stratford, Councilmen Reasner and Tucker—4.

His Honor, President Caven, stated the object of the Convention, as set forth in the preceding call, but more fully defined and explained in the joint report from the Board of School Commissioners and the Aldermanic and Council Committees on Public Schools [see page 439, *ante*], as well as by the Aldermanic motion which had been duly adopted [see pages 450 and 501, *ante*]; and then announced that nominations for Trustee or Trustees in whom shall be vested the title to the city's portion of the Gregg real estate, would be in order.

On Councilman McKay's motion, it was ordered that only one Trustee be elected.

Councilman Dill nominated Hon. George Merritt, and Councilman Steeg nominated Hon. William H. English.

His Honor, the President, appointed Councilmen Brown and Steeg as tellers; and a ballot was then had, with the following result:

Hon. George Merritt received 16 votes.

Hon. William H. English received 15 votes.

Hon. George Merritt having thus received a majority of all the votes cast, President Caven declared him duly elected to the office of Trustee of the city's portion of the Gregg real estate.

The business of the Third Joint Convention having thus been disposed of, on motion duly made, the Joint Convention was adjourned, to re-assemble upon call of the President.

JOHN CAVEN, Mayor,
President of Joint Convention.

Attest: BENJ. C. WRIGHT, City Clerk.

Secretary of Joint Convention.

PROCEEDINGS OF COMMON COUNCIL.

REGULAR SESSION—NOVEMBER 18, 1878.

The Common Council of the City of Indianapolis met in its Council Chamber, on Monday evening, November 18th, A. D. 1878, at seven o'clock, in regular session.

PRESENT—Hon. John Caven, Mayor, and, *ex officio*, President of the Common Council, in the Chair, and the following members: Councilmen Anderson, Bermann, Brown, Bruner, Cummings, Dill, Layman, Marsee, Maus, Morris, Morse, McGinty, McKay, O'Brien, Off, Reading, Reasner, Rodibaugh, Showalter, Sindlinger, Steeg, Walker, Wiese, and Wright—24.

ABSENT—Councilman Tucker—1.

COMMUNICATIONS, ETC., FROM THE MAYOR.

His Honor, Mayor Caven, submitted the following report; which was duly approved:

To the Common Council and Board of Aldermen of the City of Indianapolis:

Gentlemen:—The amount of fines collected by me during the month of October, 1878, due the City Treasury, is fifty-seven dollars and sixty-five cents; which amount I have paid the City Treasurer, and filed his duplicate receipt therefor with the City Clerk.

Respectfully submitted,

November 18th, 1878.

J. CAVEN, Mayor.

REPORTS, ETC., FROM CITY OFFICERS.

The City Civil Engineer submitted the following report; which was duly approved:

Indianapolis, November 18, 1878.

To the Mayor and Common Council:

Gentlemen:—I herewith report the following estimates:

A first and final estimate in behalf of John Greene, for improving Beech street, from Valley Drive to Lawrence street, by grading and graveling the roadway thereof—

2199½ lineal feet, at 16½ cents.....	\$362 91
15 yards extra gravel, at culvert, at 60 cents.....	9 00
Total amount	\$371 91

Also, a first and final estimate in behalf of R. P. Dunning, for improving McCarty street, from Delaware street to East street, by bowldering the gutters, and paving with brick and curbing with stone the sidewalks thereof—

2797.6 lineal feet bowldering, at 28 cents.....	\$783 33
2740.9 lineal feet curbing, at 33 cents.....	904 49
2380.4 lineal feet paving, at 26½ cents.....	630 80
Extra work on gutter.....	75
Total estimate.....	\$2,319 37

Also, a first and final estimate in behalf of John Schier, for improving Hoyt avenue, from Dillon street to Linden street, by grading, and paving with brick, the sidewalks thereof—

2082 lineal feet, at 24½ cents	\$510 09
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Also, a first and final estimate in behalf of James Mahoney, for improving the first alley south of Elizabeth street, from Blake street to Douglass street, by grading and graveling—

579.75 lineal feet, at 13 cents	\$75 36
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Also, a first and final estimate in behalf of John L. Hanna, for improving the third alley east of the intersection of Clifford avenue and Pendleton Pike, from Pendleton Pike to the first alley south of Pendleton Pike, by grading and graveling—

270 lineal feet, at 8½ cents.....	\$22 50
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Also, a corrected first and final estimate in behalf of James Mahoney, for grading and graveling East street and sidewalks (except where the sidewalks have already been properly improved), from Morris street to Minnesota street—

1164 lineal feet, at 23 cents.....	\$267 72
1164 lineal feet, at 35 cents.....	407 40
2781.5 lineal feet, at 39 cents	1,084 78
17.4 cubic yards ditch excavation, at 15 cents	2 61
63.6 cubic yards extra gravel at street intersection, at 50 cents.....	31 80
Total estimate.....	\$1,794 31
Former estimate.....	1,794 31

This estimate is reported to correct error in assessing wrong property owner.

Also, a first and partial estimate in behalf of Henry C. Roney, for building a fire-cistern at the intersection of Huron and Laurel streets—

2423.43 barrels, at 32 cents.....	\$775 50
2 cistern rings and covers, as per bill.....	16 87
Total.....	\$792 37
Less 15 per cent withheld.....	118 00
Present estimate.....	\$674 37

Respectfully submitted,

R. M. PATTERSON, City Civil Engineer.

The following estimate resolution was then offered :

Resolved by the Common Council and Board of Aldermen, That the foregoing first and final estimate, allowed John Greene, for improving Beech street, from Valley Drive to Lawrence street, by grading and graveling the roadway thereof, be, and the same is hereby, adopted as the estimate of the Common Council and Board of Aldermen, and that the property owners are hereby required to pay the sums set opposite their respective names.

And was adopted by the following vote :

AYES, 22—viz.: Councilmen Anderson, Bermann, Brown, Bruner, Cummings, Dill, Layman, Marsee, Maus, Morris, Morse, McGinty, McKay, Off, Reading, Rodibaugh, Showalter, Sindlinger, Steeg, Walker, Wiese, and Wright.

NAYS—None.

The following estimate resolution was also offered :

Resolved by the Common Council and Board of Aldermen, That the foregoing first and final estimate, allowed R. P. Dunning, for improving McCarty street, from Delaware street to East street, by bowldering the gutters, and paving with brick and curbing with stone the sidewalks thereof, be, and the same is hereby, adopted as the estimate of the Common Council and Board of Aldermen, and that the property owners are hereby required to pay the sums set opposite their respective names.

And was adopted by the following vote :

AYES, 22—viz.: Councilmen Anderson, Bermann, Brown, Bruner, Cummings, Dill, Layman, Marsee, Maus, Morris, Morse, McGinty, McKay, Off, Reading, Rodibaugh, Showalter, Sindlinger, Steeg, Walker, Wiese, and Wright.

NAYS—None.

The following estimate resolution was also offered :

Resolved by the Common Council and Board of Aldermen, That the foregoing first and final estimate, allowed John Schier, for improving Hoyt avenue, from Dillon street to Linden street, by grading, and paving with brick, the sidewalks thereof, be, and the same is hereby, adopted as the estimate of the Common Council and Board of Aldermen, and that the property owners are hereby required to pay the sums set opposite their respective names.

And was adopted by the following vote :

AYES, 22—viz.: Councilmen Anderson, Bermann, Brown, Bruner, Cummings, Dill, Layman, Marsee, Maus, Morris, Morse, McGinty, McKay, Off, Reading, Rodibaugh, Showalter, Sindlinger, Steeg, Walker, Wiese, and Wright.

NAYS—None.

The following estimate resolution was also offered :

Resolved by the Common Council and Board of Aldermen, That the foregoing first and final estimate, allowed James Mahoney, for improving the first alley south of Elizabeth street, from Blake street to Douglass street, by grading and graveling, be, and the same is hereby, adopted as the estimate of the Common Council and

Board of Aldermen, and that the property owners are hereby required to pay the sums set opposite their respective names.

And was adopted by the following vote :

AYES, 22--viz.: Councilmen Anderson, Bermann, Brown, Bruner, Cummings, Dill, Layman, Marsee, Maus, Morris, Morse, McGinty, McKay, Off, Reading, Rodibaugh, Showalter, Sindlinger, Steeg, Walker, Wiese, and Wright.

NAYS—None.

The following estimate resolution was also offered :

Resolved by the Common Council and Board of Aldermen, That the foregoing first and final estimate, allowed John L. Hanna, for improving the third alley east of the intersection of Clifford avenue and Pendleton Pike, from Pendleton Pike to the first alley south of Pendleton Pike, by grading and graveling, be, and the same is hereby, adopted as the estimate of the Common Council and Board of Aldermen, and that the property owners are hereby required to pay the sums set opposite their respective names.

And was adopted by the following vote :

AYES, 22--viz.: Councilmen Anderson, Bermann, Brown, Bruner, Cummings, Dill, Layman, Marsee, Maus, Morris, Morse, McGinty, McKay, Off, Reading, Rodibaugh, Showalter, Sindlinger, Steeg, Walker, Wiese, and Wright.

NAYS—None.

The following estimate resolution was also offered :

Resolved by the Common Council and Board of Aldermen, That the foregoing corrected first and final estimate, allowed James Mahoney, for grading and graveling East street and sidewalks (except where the sidewalks have already been properly improved), from Morris street to Minnesota street, be, and the same is hereby, adopted as the estimate of the Common Council and Board of Aldermen, and that the property owners are hereby required to pay the sums set opposite their respective names.

And was adopted by the following vote :

AYES, 22--viz.: Councilmen Anderson, Bermann, Brown, Bruner, Cummings, Dill, Layman, Marsee, Maus, Morris, Morse, McGinty, McKay, Off, Reading, Rodibaugh, Showalter, Sindlinger, Steeg, Walker, Wiese, and Wright.

NAYS—None.

The City Civil Engineer also presented the following report; which was duly received :

Indianapolis, November 18, 1878.

To the Mayor and Common Council:

Gentlemen:—I was directed to estimate the cost of removing the blocks and filling Tennessee street to the proper grade with good raked river gravel.

Tennessee street, from Market street to First street, being a uniform width of fifty feet, I have based my calculations on that portion of said street; and I estimate the cost to be 88 cents per running foot for removing the blocks and gravel-

ing the street, as indicated in the motion. This may be reduced, however, to 53 cents per running foot, by removing the blocks to a width of thirty feet in the centre of the street, and graveling with good raked river gravel.

Respectfully submitted,

R. M. PATTERSON, City Civil Engineer.

The City Clerk submitted the following report; which was duly received:

Indianapolis, November 18, 1878.

To the Mayor and Common Council:

Gentlemen:—I would respectfully report the following affidavits, now on file in my office, for the collection of street assessments by precept, to-wit:

Fred. Gansberg vs. M. and Otto Caylor, for.....	\$17 20
Fred. Gansberg vs. Wm. H. Morrison, for.....	17 20
Fred. Gansberg vs. Anna M. Winkle, for.....	10 05
John Greene vs. Samuel Hanway, for.....	6 65
John Greene vs. Samuel Hanway, for.....	6 65
John Greene vs. Samuel Hanway, for.....	6 65
John Greene vs. Samuel Hanway, for.....	6 65
John Greene vs. Samuel Hanway, for.....	22 17
John Greene vs. James F. Phillips, for.....	4 03
Robert P. Dunning vs. Louis Kolb, for.....	54 00
Robert P. Dunning vs. Louis Kolb, for.....	54 00
David A. Haywood vs. Talbott Bullard's Heirs, viz.: Katharine Bullard, Wm. H. Bullard, and Harry F. Bullard, for.....	179 33

And would recommend that you order the precepts to issue.

Respectfully,

BENJ. C. WRIGHT, City Clerk.

And the precepts, therein recommended, were ordered to be issued by the following vote:

AYES, 21—viz.: Councilmen Anderson, Bermann, Brown, Bruner, Cummings, Dill, Marsee, Maus, Morris, Morse, McGinty, McKay, Off, Reading, Rodibaugh, Showalter, Sindlinger, Steeg, Walker, Wiese, and Wright.

NAYS—None.

The City Attorney submitted the following report; and the appeal of the Turner case, therein recommended, was duly ordered:

Indianapolis, November 18, 1878.

To the Mayor and Members of the Common Council and Board of Aldermen:

Gentlemen:—I would report that, since the last meeting, the case of Stanton Turner vs. The City has been tried in the Superior Court, and resulted in a verdict of \$5,000 against the city.

This was a case where the plaintiff, a member of the Fire Department, while going to a fire, drove over a large stone lying in what was claimed to be a street of the city, and was injured in such a manner that his right leg had to be amputated.

The principal questions in the case were, Whether the place where the accident happened was a public street? and Whether the city had ever accepted and adopted it as such? And, in this case, these questions were largely questions of law, as there was very little conflict in the evidence. Under these circumstances, I am of the

opinion that the law of the case should be settled by the higher courts; and I would, therefore, recommend that the case be appealed.

Respectfully submitted,

R. O. HAWKINS, City Attorney.

The same officer also submitted the following report; which was duly received:

Indianapolis, October 25, 1878.

To the Mayor and Members of the Common Council and Board of Aldermen:

Gentlemen:—I would report that, since the last meeting of the Council, the case of William C. Thompson and others vs. The City has been tried in the Superior Court by a jury, and resulted in a verdict and judgment in favor of the city.

This was a suit by the plaintiffs, residents and owners of property upon N. Illinois street, instituted for the purpose of avoiding the sewer assessment of about \$14,000, that was made against their property in the building of the sewer upon said street.

Respectfully submitted,

R. O. HAWKINS, City Attorney.

The same officer submitted the following legal opinion; which was duly approved:

Indianapolis, November 18, 1878.

To the Mayor and Members of the Common Council of the City of Indianapolis:

Gentlemen:—I was instructed by your honorable body, at its last meeting, to give an opinion upon section 18 of the Act of the General Assembly in relation to the opening, laying out, and vacating of streets, alleys, etc., with a view of requiring the petitioners in such cases to pay the expenses attending the same. As I understand the motion, the expenses referred to are the expenses of giving the necessary notices, and the expenses of the City Commissioners attending the examination and determination of the question of benefits and damages.

Section 18, referred to, provides the mode of proceeding in vacating a street and alley, and, after stating what steps shall be taken by the persons petitioning for the vacation, it provides that "All the expenses of such proceedings shall be paid by said petitioners, unless the Common Council shall otherwise direct." There can be no doubt, under this provision, that the expenses of vacating a street or alley must be paid by the petitioners asking for the vacation.

This provision only applies to cases of vacation, and not to opening or widening of streets and alleys. There is no provision of the statute requiring the petitioners for an opening or widening of a street to pay the expenses. But section 25 of the Act referred to, provides that the Common Council shall have the power to pass all ordinances necessary to more effectually carry into effect and execution the powers granted, which are not inconsistent with the laws of the State. Under the provisions of the last mentioned section, I am of the opinion that the Council and Board would have the power to pass an ordinance requiring the petitioners to pay the expenses attending the opening or widening of streets or alleys.

Respectfully submitted,

R. O. HAWKINS, City Attorney.

The same officer submitted the following legal opinion; which was duly approved:

Indianapolis, November 18, 1878.

To the Mayor, and Members of the Common Council of the City of Indianapolis:

Gentlemen:—The report of the Committee on Opening, etc., Streets and Alleys upon the petition of R. L. McQuat, asking that certain streets and alleys be vacated,

was referred to me, with instructions to have the necessary steps taken upon it under section 18 of the law relating to the vacating, etc., of streets and alleys.

I would report that the law requires the petition to be signed by at least three freeholders. The petition in this case is not so signed, and, therefore, no legal vacation can be made under it.

Respectfully submitted,

R. O. HAWKINS, City Attorney.

[It being now half-past seven o'clock, the Common Council took a recess, for the purpose of allowing the Third Joint Convention to assemble and dispatch its business. See Proceedings on pages 581 and 582, *ante*.

Having disposed of the matter for which it was convened, the Third Joint Convention was adjourned, and the Common Council proceeded with its business, as follows:]

REPORTS FROM OFFICIAL BOARDS.

The Board of Public Improvements, through President McKay, submitted the following report; which was read and considered by clauses, and said clauses were severally concurred in:

Indianapolis, November 18, 1878.

To the Mayor and Common Council:

Gentlemen:—The following papers were referred to the Board of Public Improvements, who would respectfully report as follows thereon:

1st. Is a motion directing the Street Commissioner to lower the street crossing of Meridian and McCarty streets.

We would recommend that instead of lowering said crossing, cinders or gravel be filled in on each side thereof.

2d. Is a motion directing the Street Commissioner to clean the gutters of Noble street, between Washington street and the P., C. & St. L. Railroad tracks.

We recommend this work be done.

3d. Is a motion directing the Street Commissioner to examine an old well, partly open, in the sidewalk of N. Mississippi street, between Seventh and Eighth streets, and put the same in safe condition.

We have made repeated and careful examinations of the aforesaid locality, but have utterly failed to discover any signs of a well, either open or shut.

4th. Is a motion directing the Street Commissioner to fill the chuck-holes in Kentucky avenue, between Missouri and West streets.

We recommend this work be done.

5th. Is a motion directing the City Civil Engineer to notify the contractor to bowlder the street and alley crossings along the present line of improvement, between Delaware and East streets, on McCarty street, *provided* said contractor will do the work at his present contract price, the entire cost not to exceed \$110.

We would recommend that only the alley-crossings be bowldered, and that the same be done by the Street Commissioner.

6th. Is a motion directing the Street Commissioner to lay a plank crossing at intersection of Illinois and First streets.

We recommend this work be not done.

7th. Is a motion directing the Street Commissioner to clean the gutters of New Jersey street, between Massachusetts and Fort Wayne avenues.

We recommend said work be done.

8th. Is a motion directing the Street Commissioner to fill the mud-hole in front of the City Hospital grounds, with gravel.

This street should be improved; and we herewith present an ordinance providing for the improvement of Margaret street and sidewalks, by grading and graveling, from Locke street to its western terminus.

9th. Is the report of the City Civil Engineer, estimating the cost of bowldering the intersection of Washington and Illinois streets.

This is an important and much-needed improvement, and we would recommend it be done at once, and that, in addition to the bowldering, there be four double-stone crossings laid at said intersection.

We would also recommend that the proper officer notify the Citizens' Street Railway Company of the city's intention to repair said intersection, and that they be ready to repair their portion at the same time.

10th. Is a petition of property owners on Noble and Plum streets, between Virginia and College avenues, asking that the names of said streets be changed to that of College avenue.

We have given this matter due consideration, and are of the opinion that such changes should not be made. Noble street has borne its name for a long time, the other streets are not on a continuous line with it, and, should the change be made, it would certainly create confusion and ultimate regret. We recommend that the prayer of the petitioners be not granted.

Respectfully submitted,

M. H. McKAY,
JOHN L. MARSEE,
Board of Public Improvements.

The following entitled ordinance [referred to in clause 8th of preceding report] was then introduced, and read the first time :

S. O. 54, 1878—An Ordinance to provide for the improving of Margaret street and sidewalks, from Locke street to its western terminus, by grading and graveling.

The Board of Health submitted the following report; which was duly received :

Deaths registered during the two weeks ending November 16th, 1878 :

Under 1 year	0
1 to 2 years	9
2 to 3 "	3
3 to 4 "	0
4 to 5 "	1
5 to 10 "	2
10 to 20 "	2
20 to 30 "	4
30 to 40 "	4
40 to 50 "	5
50 to 60 "	5
60 to 70 "	1
70 to 80 "	5
80 to 90 "	2
90 to 100 "	1
Above 100 "	0
Unknown	4
Total	48

HENRY JAMESON, M. D., President.
JOSEPH W. MARSEE, M. D.
WILLIAM WANDS, M. D., Secretary.

The Report from the Board of City Commissioners [which had been duly received at the regular session, held on 4th instant—see pages 549 to 557, *ante*]; was called up; when Councilman Steeg offered the following resolution :

Be it Resolved by the Common Council and Board of Aldermen, That the report of the City Commissioners, in the matter of the widening of Shelby street, from Prospect street to the south corporation line (which report was presented to the Common Council on the 4th of November, 1878), be in all things approved, and the same be adopted, and that the assessment of benefits and damages, as set forth in said report, be in all things adopted and approved, and the real estate therein described as necessary for the opening and widening of said street is hereby appropriated; and the City Clerk is hereby directed to deliver a certified copy of so much thereof as assesses benefits and damages upon real estate, and in which the real estate so assessed is described, to the City Treasurer.

Which was adopted by the following vote :

AYES, 20—viz.: Councilmen Bermann, Brown, Bruner, Cummings, Layman, Marsee, Maus, Morris, Morse, McGinty, McKay, O'Brien, Off, Reading, Rodibaugh, Showalter, Sindlinger, Steeg, Walker, and Wiese.

NAYS, 2—viz.: Councilmen Anderson and Wright.

Later in the evening, the reading of the petition of John Fike [see pages 557 and 558, *ante*] was called for, and then Councilman McKay moved to reconsider the vote by which preceding resolution had been adopted; but the Common Council refused to reconsider, by the following vote ;

AYES, 11—viz.: Councilmen Anderson, Cummings, Dill, Layman, Morse, McKay, Rodibaugh, Showalter, Walker, Wiese, and Wright.

NAYS, 13—viz.: Councilman Bermann, Brown, Bruner, Marsee, Maus, Morris, McGinty, O'Brien, Off, Reading, Reasner, Sindlinger, and Steeg.

REPORTS, ETC., FROM COMMITTEES.

The Committee on Accounts and Claims, through Councilman Layman, submitted the following report; and the reference, therein recommended, was duly ordered :

Indianapolis, November 18, 1878.

To the Mayor and Members of the Common Council of the City of Indianapolis :

Gentlemen:—Your Committee on Accounts and Claims, to whom was referred the claim of H. H. Sheets against the city, for sand, would report that we are of the opinion that the same should be investigated; and we would, therefore, recommend that the same be referred to the Board of Public Improvements, for investigation.

Respectfully,

JAMES T. LAYMEN,
S. MORRIS,
CHRISTIAN OFF,
Committee on Accounts and Claims.

The Council and Aldermanic Committees on Finance, through Councilman Wright, submitted the following joint report; which was considered and concurred in by clauses:

To the Common Council and Board of Aldermen of the City of Indianapolis:

Gentlemen:—Your Committees on Finance have examined sundry papers referred to them, and submit the following report:

First. We have examined the reports of the City Clerk and City Treasurer, showing receipts and payments for month of October, 1878, and find said reports to be correct.

Second. Is a motion by Councilman Rodibaugh, asking that the Market Committees be allowed to expend \$100 in fixing up East Market House.

Some improvements and repairs are badly needed, and we recommend that the motion be passed.

Third. Is Chief Fire Engineer Jno. G. Pendergast's report, for quarter ending September 1st, 1878.

This report shows a detailed and itemized account of receipts, payments, and expenses of the Fire Department for supplies for said quarter. It shows that the expenses are carefully guarded, and the money received is accurately accounted for.

Fourth. Are reports of ex-Chief Fire Engineer Sherwood, for years ending May 15th, 1877, and May 15th, 1878.

These reports are not satisfactory to your committees. They do not state from whom the money was received, or to whom a large portion of it was paid.

These reports also show a balance of \$295 to be due the city for condemned horses and old material, sold and not paid for.

We recommend that the City Attorney be directed to investigate the matter, and ascertain who are liable for this amount due the city, and that he take such action as will best secure to the city the amount due.

Respectfully submitted,

A. L. WRIGHT,
S. MORRIS,
JAMES T. LAYMAN,
S. SHOWALTER,
G. SINDLINGER,
J. M. RIDENOUR,
T. E. CHANDLER,
D. MUSSMANN.

The Judiciary Committee and City Attorney submitted the following legal opinion; which was duly approved:

Indianapolis, November 18, 1878.

To the Mayor and Members of the Common Council of the City of Indianapolis:

Gentlemen:—Your Committee on Judiciary and City Attorney, to whom was referred the motion of Councilman Morris, instructing an examination of the charter of Citizens' Street Railway Company, with reference to their right to lay the rails the reverse way from that in which they were intended, and also to lay T-rails, would report that we have examined the matter, and find that the charter of said company provides that their tracks shall be made of the "most approved rail."

We are of the opinion that the T-rail is not the best or most approved rail for street railway purposes, and that in laying such rails they do not comply with the terms of the charter.

The charter also provides that the tracks shall be so built as to be of no unnecessary impediment to the ordinary use of the streets, and the passage of wagons, carriages, etc., upon, along, and across said tracks, at any point and in any and all directions. If the reversing of the rails, as mentioned in the motion, is an impediment to the use of the street, or endangers or discommodes the passage of vehicles along the same, then we are of the opinion that such reversal of the rails is a violation of the charter.

The remedy provided by the charter is a notice to the company to make the change, and, upon refusal, to remove the tracks.

Respectfully submitted,

M. H. MCKAY,
JOHN L. MARSEE,
JOHN L. F. STEEG,
Judiciary Committee.

R. O. HAWKINS, City Attorney.

The Council and Aldermanic Committees on Markets, through Councilman Rodibaugh, submitted the following report; and the recommendation, therein contained, was duly concurred in:

Indianapolis, November 18, 1878.

To the Mayor and Members of the Common Council and Board of Aldermen:

Gentlemen:—Your Committees on Markets would report that one H. Roemer, who has been occupying a stand upon the West Market for some fourteen weeks, has failed and refused to pay the market charges as fixed by your committees and adopted by the Council and Board; that he still refuses to pay any of such charges; and he has also induced other persons to refuse to pay their fees, fixed as aforesaid, and has thereby caused a great deal of trouble, and prevented the Market-Master from collecting the dues, of which a part belongs to the city.

We are of the opinion that said Roemer should be expelled from said market, and prohibited from occupying any stand at said market. We would, therefore, recommend that said stand, so occupied by him, be declared vacant, and that he be expelled from the market; and that the Market-Master be instructed to remove his stand from the market, and prohibit and prevent him from occupying any place in said market until he shall have paid all amounts now due for the stand heretofore occupied by him.

Respectfully submitted,

OMER RODIBAUGH,
GEORGE ANDERSON,
J. M. BRUNER,
H. COBURN,
D. W. GRUBBS,
W. F. PIEL,
Committees on Markets.

The Select Committee on Obituary submitted the following report and resolutions; and the report was received, and the resolutions were duly adopted by an unanimous rising vote:

To the Mayor and Common Council of the City of Indianapolis:

Gentlemen:—Your special committee, to whom was referred the following resolution, adopted at your last session—to-wit:

“WHEREAS, We, the members of the Common Council of the City of Indianapolis, have learned, with sincere regret, of the sudden and untimely death of J. J. Duffley, late a member of this body;

"AND WHEREAS, We regard it as eminently just and proper that this body should take such action as will appropriately express its regret for the sudden death of our deceased friend, and to extend to his bereaved family and friends its sympathy and condolence: Be it, therefore,

"Resolved, That a committee of three, of which His Honor, the Mayor, shall be chairman, be directed to draft such resolutions as shall appropriately express the intent of this resolution"—

Would respectfully report the following:

Resolved, That it has pleased an All-Wise Providence to take from us our esteemed fellow-citizen, Hon. J. J. Duffley, a former member of this Council, in the prime of his young manhood, and when a long life of happiness and usefulness seemed to lie before him.

Resolved, That the deceased was a young man of the highest type of industry, integrity, and honor; and while a member of this Council manifested a wisdom and prudence beyond his years, and a character for liberality and fairness deserving of the highest commendation. In his profession, he had arrived to eminence, standing among the highest and the first. When a mere boy he was left fatherless, with a widowed mother and a young sister, he being their sole support; and the care and tenderness which he bestowed upon his mother was most devoted, and is to his memory a sweet savor and the noblest of epitaphs—"A good and loving son."

Resolved, That this Council are filled with the deepest sorrow at his death, and tender to his bereaved mother such sympathy and consolation as the world can give.

Resolved, That these resolutions be entered upon the records of this Council, and the City Clerk is directed to transmit a sealed copy of the same to the mother of our departed friend.

J. CAVEN,
C. H. O'BRIEN,
A. L. WRIGHT,
Committee.

MESSAGES FROM BOARD OF ALDERMEN.

The following message from the Board of Aldermen was received; and the Aldermanic action, therein set forth, was duly concurred in:

To the Common Council:

Gentlemen:—At the regular session of the Board of Aldermen, held on October 22d, 1878, said body refused to concurrently adopt the motion which had been favorably acted upon by your honorable body on the preceding evening, through and by which you authorized William McKay to put in coal scales at the intersection of Louisiana and West streets.

At the regular session of same body, held on November 5th, 1878, Councilman McKay's motion, instructing the Fire Board "to have No. 7 Fire Engine and one hose-reel discontinued from service," was amended by striking out the words "one hose-reel," and then said motion was adopted, as amended.

I hereby submit the above proceedings for your consideration and action.

For the Board of Aldermen:

GEO. T. BREUNIG, Clerk.

[Later in the evening, the Common Council reconsidered the vote by which the second clause of preceding message had been concurred in, and determined to retain Steamer No. 7 in service.—See page 598, *post*.]

The following message from the Board of Aldermen was received ; and the Aldermanic action, therein set forth, was duly concurred in :

To the Common Council :

Gentlemen :—At the regular session of the Board of Aldermen, held on November 5th, 1878, the following motion, offered by Alderman Grubbs, was referred to the Board of Public Improvements, with power to act :

“That the Street Commissioner be instructed to fill the chuck-holes in N. Illinois street, between Vermont and Michigan streets, at a cost not to exceed \$15.”

And the following motion was duly adopted :

“That the City Marshal be ordered to notify the Street Railway Company to repair its tracks on Russell avenue in five days. If the said company shall fail to do so within the specified time, the Street Commissioner is hereby instructed to repair said tracks at the expense of said company.”

I hereby transmit the foregoing motions for your consideration and action.

For the Board of Aldermen :

GEO. T. BREUNIG, Clerk.

NEW ORDINANCES.

Upon roll-call had, the following entitled ordinances were severally introduced, and were each read the first time :

Councilman Sindlinger introduced—

S. O. 55, 1878—An Ordinance to provide for improving Garden street and sidewalks, from Eddy street to Tennessee street, by grading and graveling.

Councilman Wright introduced—

S. O. 56, 1878—An Ordinance to provide for improving the alley between Liberty and Noble streets, from New York street to Lockerbie street, by grading and graveling.

MISCELLANEOUS BUSINESS.

Councilman Brown offered the following motion ; which was referred to the Board of Public Improvements :

That the Street Commissioner be instructed to place a cinder crossing on Prospect street, opposite the east side of Olive street.

Councilman Bruner offered the following motions ; which were severally adopted :

That Anthony Prange be granted permission to lay a brick sidewalk in front of his new store, Nos. 308 and 310 Massachusetts avenue—the work to be done at his own expense, and under the direction of the City Civil Engineer.

That Theodore Dietz and Anthony Prange be granted permission to lay a stone crossing over Massachusetts avenue, at Oak street—the work to be done at their own expense, and under the direction of the City Civil Engineer.

Councilman Cummings offered the following motion; which was duly adopted:

That thirty days' additional time be granted John Low, in which to complete his contract on the first alley west of Blake street, from New York to Michigan street.

Also, offered the following motion; which, on Councilman Morse's motion, was laid on the table:

That the Committee on Markets be empowered to act in regard to the building of sheds that were referred to them at this time.

Councilman Dill offered the following motion; which was referred to the Board of Public Improvements and the City Civil Engineer:

That R. H. Rees be granted permission to lay a stone crossing over Indiana avenue, from his corner to the corner opposite (owned by Wm. Geizendanner)—said crossing to be laid at his own expense, and under the direction of the City Civil Engineer.

Councilman Layman offered the following motion; which was duly adopted:

That the Board of Public Improvements give some attention to old "Romeo," and report his condition for work.

Councilman Maus offered the following motion; which was referred to the Board of Public Improvements:

That the Street Commissioner be directed to examine, and to make the necessary repairs to, the plank floor of the iron bridge over White River, on Washington street.

Councilman Morse offered the following motion; which was duly adopted:

That John Matz be granted permission to fill a dead well in front of No. 286 W. Washington street, at his own expense.

Also, offered the following motion; which was referred to the Board of Public Improvements:

That the Street Commissioner be directed to lower the alley-crossing on east side of West street, between New York and Vermont streets, to correspond with grade of alley.

Councilman McGinty offered the following motion; which was referred to the Board of Public Improvements:

That the Street Commissioner be directed to put down a cinder-crossing on McCarty street, at the intersection of West and McCarty streets. Also, to put down a single cinder-crossing at the intersection of Chadwick and McCarty streets.

Councilman O'Brien offered the following motion; which was duly adopted:

That the attention of the proper authorities be called to the continued violation of the [huckster] licensing section of the market ordinance. But few of those coming properly within the provisions of said ordinance have complied therewith.

Councilman Reading offered the following motion:

That the vote by which the action of the Board of Aldermen, upon the discontinuance of Engine No. 7 was concurred in, be reconsidered.

Which was adopted by the following vote:

AYES, 15—viz.: Councilmen Anderson, Bermann, Brown, Bruner, Cummings, Dill, Morse, McGinty, McKay, O'Brien, Reading, Reasner, Sindlinger, Steeg, and Wiese.

NAYS, 9—viz.: Councilmen Layman, Marsee, Maus, Morris, Off, Rodibaugh, Shwalter, Walker, and Wright.

In connection with preceding subject, Councilman Wiese, by consent, presented the following petition:

To the Council and Board of Aldermen:

We, citizens, respectfully request that the action of the Council and Board of Aldermen, regarding the removal of the Engine No. 7, be reconsidered. In our judgment, we believe that its removal will leave our business and property without proper protection.

Black & Backus, A. G. Jackson, T. S. Todhunter, A. Burdsal, paint store, No. 34 Meridian; Eli Lilly, chemical works; Geo. K. Share & Co., C. S. Phillips, agent U. S. Ex.; Louis Ludorff, Hermann Martens, 32 S. Meridian; Wheeler Bros., 30 S. Meridian; J. M. Huffer, 23 S. Meridian; Hildebrand & Fugate, 35 S. Meridian; Morris, Gorrell & Jones, 37 S. Meridian; Wm. L. Adams, S. Meridian; W. H. Morrison, J. C. McCutcheon, Ed. Stuart, A. B. Gates & Co., John F. Johnston, James A. Tarlton, Jno. & J. A. Tarlton, Coffin, Greenstreet & Fletcher, D. W. Coffin, of Wiles, Coffin & Smith; W. J. Holliday & Co., George Webb, Thos. H. Webb, Hanson, Van Camp & Co., Camplin & Co., Robertson & Perry, A. Kiefer, L. M. Fitzhugh & Co., E. H. Stark & Co., Over & Anderson, Saml. Beck & Son, M. O'Conner & Co., Fortner, Floyd & Co., Jno. Reed, V. K. Hendricks & Co., S. B. Carey, C. H. Talbott & Co., Jones, Armstrong & Co., Mullaney & Hayes, Fahnley & McCrea, Payne & Solomon, Shaw Carriage Co., by Irwin Robbins, Treas.; Messrs. Warner & Smiley, H. J. Soliday & Co., Indiana Transfer Company, Samuel Delzell, Coulter & Clark, P. M. Gapen, Wesley Davis, J. C. Brinkmeyer & Co., H. G. Stiles, agent C. H. & I.; Oran Perry, agent P. C. & St. L.; Wm. Spotts, Deppen & Lefevre, Pfau, Ward & Wehrle, J. K. Sharpe, E. Theodore Holler, 37 S. Delaware; A. Oehler, J. S. Seburn, Adams Packing Co., per J. D. Sherman, Sec'y and

Treas.; A. M. Fletcher, W. Benton, Haugh & Co., Fred. W. Faut, Louis Siersdorfer, J. & P. Gramling, Pettis, Ivers & Co., W. F. Rupp, Gœpper & Mannfeld, Browning & Sloan, E. H. Shaw, Albert Gall, Wm. B. Burford, Amos Sellers, J. M. Myers, G. A. Reisner, Geo. F. Pfingst, prop. Grand Hotel, per T. J. Cullen; J. H. Olds, Hollweg & Reese, Schwabacher & Selig, Daggett & Co., Hibben, Pattison & Co., 97 and 99 S. Meridian; Conduitt, McKnight & Co., 123 S. Meridian; Williams, Pee & Stoneman, Syfers, McBride & Cook, Mooney, Taylor & Smith, Chas. Aldag, I. S. Gordon & Co., Charles Annan, Wm. Dell, Tousey & Wiggins, John Ryder, Russell & Lee, Cornelius Kelly.

Councilman Marsee moved to refer the preceding petition to the Fire Board; which proposition, on Councilman Steeg's motion, was laid on the table.

On Councilman Brown's motion, the Common Council receded from the action had on this subject, both at this and its session of 4th instant, and determined to retain Steam Fire-Engine No. 7 in the service.

Councilman Reasner moved to reconsider the vote of last session [see page 543, *ante*], by which all the bids for improving Highland street were rejected; which motion to reconsider was adopted by the following vote:

AYES, 23—viz.: Councilmen Anderson, Bermann, Brown, Bruner, Dill, Layman, Marsee, Maus, Morris, Morse, McGinty, McKay, O'Brien, Off, Reading, Reasner, Rodibaugh, Showalter, Sindlinger, Steeg, Walker, Wiese, and Wright.

NAYS—None.

On Councilman Wright's motion, aforesaid improvement was then referred to the Board of Public Improvements and the City Civil Engineer.

Councilman Reasner also offered the following motion; which failed of adoption:

That the Street Commissioner be instructed to take charge of all the stone and material left on Washington street, between Noble and State streets, as soon as the laying of the street railway track is completed, and store such material at some convenient place, for the purpose of keeping that street in repair.

Councilman Rodibaugh presented the following petition; which, on Councilman Marsee's motion, was referred to the (joint) Committees on Markets:

Indianapolis, November 7, 1878.

To the Common Council and Board of Aldermen of the City of Indianapolis:

Gentlemen:—Your petitioners respectfully ask your honorable bodies to erect continuous shingle-roof sheds over the stands and sidewalks on Alabama, Market, Delaware, and Wabash streets, around the East Market Space.

The regular market-gardeners whose names are attached to this petition ask that you contract with the lowest bidder for such sheds, and assess our stands the amount per foot of cost for the inner half of such sheds, payable when the work is done, and allowing us to re-rent them, at the annual appraisement, until such time as your bodies may determine to build a new market-house. And we, the occupants of the curbstone-stands below subscribed, ask that the daily charge for curbstone-stands under said sheds be made twenty cents, instead of ten, until the *pro rata* cost of the outer half of structure has been fully paid.

And your petitioners will ever pray, etc.

George Rickenbach, Christian F. Lentz, Frederick Tapp, J. A. Woerner, J. C. Groff, J. Braster, H. Schroerlucke, Emil Drotz, Dietrich Weaning, Louis Lang, H. W. Morris, H. Suenker, Andrew Dents, H. Schoeneman, H. Steinecker, Johan Brinkman, Paul Rost, John J. Traub, George W. Blue, John G. Lentz, jr., J. Suenker, Jacob Stilz, Robert Freund, Johan Lindner, Jacob Off, G. W. McLeland, Karl Kroshler, Henry Bohm, L. Pottlitzer, Geo. Youngerman, John Baumer, Wilhelm Weghorst, F. M. Tomlinson, Jacob F. Bauer, John C. Storz, Andy Steinecker, T. Eck, Geo. W. Butcher, Johan Berman, W. J. Hartley, John F. Kroft, August Albrecht, Samuel Vansant, I. Frey, and 15 other market-gardeners.

Sarah Jackal, G. W. Russell, Fred. Asmus, Samuel Penn, Leon Dufresne, H. Pyburn, Joseph Neiman, Frank Ross, Ed. Bowers, Fred. Pyburn, F. Ulrich, H. B. Meyer, Peter Schaub, Thomas Garrett, Chas. A. Worland, Geo. F. Berg, H. Beam, L. Martin, Eugene Morton, Thomas H. Adams, Spencer Socwell, Wm. P. Socwell, Joseph Helm, B. F. Abbott, R. B. Braden, Charles Pott, jr., J. F. Smith, C. Lindley, C. Vincent, John M. Scantlin, W. Smith, Wm. H. Rhoads, Charles Jones, Peter Little, C. D. Hoyl, A. Phipps, Wm. Haugh, P. G. Jordan, J. W. Allen, Wm. Clark, Aug. Seifert, A. Glick, and 60 other curbstone marketers.

Councilman Showalter offered the following motion; which was duly adopted:

That Christian Karle and Daniel Kiley be granted permission to bridge twelve feet of the gutter and plank twelve feet of the sidewalk, at No. 187 Indiana avenue, so as to make a driveway to their wagon and blacksmith shop; also to bridge and plank the same amount on North street, to enter same shop—work to be substantially done, under the supervision of the City Civil Engineer, and at their own expense.

Also, offered the following motion; which was referred to the Board of Public Improvements:

That the Street Commissioner be instructed to discharge men and teams that are now in his employ, if necessary, to make room for delinquent laboring taxpayers to work out their city tax.

Councilman Steeg presented the following petition; which, on Councilman Wright's motion, was referred to the Judiciary Committee, the City Attorney, and the City Assessor:

To the Honorable, the Mayor, the Common Council,
and Board of Aldermen of the City of Indianapolis:

Your petitioner, Anna Maria Koss, respectfully represents that she is the widow of Louis Koss, late of the City of Indianapolis, who died in the year 1873, seized of the following real estate, to-wit: In lot 205 in out-lot 45 in Noble's Sub. of said city, and leaving personal property consisting of household goods not exceeding in value \$25.

She further says, that said decedent left as heirs, besides herself as widow, the following named minor children, of whom she is guardian, to-wit: Louis, aged 15 years; Willie, aged 14 years; and Mary, aged 11 years. She further shows, that her interest in said real estate is an undivided one-third, and the interest of said children is an undivided two-thirds part thereof.

She further shows, that she paid, on the 24th day of February, 1875, into the City Treasurer's office, the sum of \$15.40—the same being taxes assessed for the year 1874 on said real estate; and that, afterwards, to-wit, on the 7th day of March, 1876, she paid into said city treasury the further sum of \$19.50—the same being taxes assessed for the year 1875 on said real estate; as per receipts therefor, copies whereof are herewith filed, and made part hereof. And she further shows that the total valuation of said property, as assessed for taxation, was, in the year 1874, \$1,400, and in the year 1875, \$1,300, as appears from the tax duplicate of said city. That her interest in said property, as assessed in 1874, was \$450, and that of her said children \$950, or \$316.66 each; that her interest in said property as assessed for taxation in 1875, was \$433.33, and that of her said minor children \$866.66, or \$288.88 each.

She further says, that all the property, of every kind and description left her and her said children, consisted of said lot, and household goods to the amount of \$25. She says they have no other means, and that no moneys came to her from her husband's estate, and that she paid said taxes out of her own moneys, earned by hard work at the wash tub.

She further shows that the entire estate of herself and said children does not exceed in value the sum of \$1,000—that, in fact, it is much below that sum. She claims that she and said minor children are entitled to an exemption from said taxes, under section 7 of the Act of December 21st, 1872, regulating the assessment of taxes and collection thereof; and she therefore prays your honorable body to order the refunding of said taxes, so paid by her as aforesaid—namely, the sum of \$34.90.

ANNA MARIA KOSS.

STATE OF INDIANA, *Marion County, sct.:*

Before me, the undersigned, a notary public in and for said county, this 14th day of November, 1878, personally appeared the above named Anna Maria Koss, and subscribed and made oath to the foregoing petition.

Witness my hand and notarial seal.

[SEAL.]

JOHN F. JULIAN, Notary Public.

Councilman Walker offered the following motions; which were severally adopted:

That the Board of Public Improvements be directed to put a new gate and post at the main entrance to Greenlawn Cemetery.

That the Board of Police and Hospital Board be authorized to contract with the Indiana District Telephone Company for putting up and maintaining telephonic connection between Central Police Station, City Court Room, Sixth street Station, and City Hospital, at an expense not exceeding \$5 per month; and that said company be allowed the use of the Fire-Alarm Telegraph poles for the use of their wires for said purpose.

Councilman Wiese offered the following motion; which was duly adopted:

That C. H. Smith be permitted to move a house from the corner of Morris and Meridian streets, about a half square north on Meridian street—said work to be done within one week.

Also, offered the following motion; which was referred to the Board of Public Improvements:

That the Street Commissioner be directed to clean the gutters of Madison avenue, between Merrill street and the J., M. & I. Railroad tracks.

Also, presented the following petition; and, on his motion, the prayer of the petitioners was duly granted:

To Your Honor, the Mayor, the Body of City Councilmen, and the Board of Aldermen:

Gentlemen:—We, the undersigned citizens of Russell avenue, pray that you may take cognizance of the fact that many strenuous efforts have been made to induce Mr. Austin H. Brown to clean off the sidewalks of those vacant lots, just south of Engine House No. 4, Russell avenue; that there is a high elevation of ground from the sidewalk; that every time, during rainy weather, the dirt washes from it, and covers the said sidewalk with the ground, making it utterly impassable for the pedestrians on that thoroughfare, so much so that it resembles a country road in California.

We hope that your honorable bodies will instruct the City Street Commissioner to clean, and add such improvement necessary to keep the said sidewalk in a clean condition, upon the said property belonging to Austin H. Brown.

Respectfully yours, etc.

C. Bockstahler, John Bussey, Henry Paul (policeman),
Emil Martin, Albert J. Schoettlin, J. H. Lewis.

Councilman Wright offered the following motion; which was duly adopted:

That Isaac M. Levy be granted a license as auctioneer, at 96 E. Washington street, for the term of one year, subject to the ordinances of the city in such cases made and provided.

Also, offered the following motion; which, at Councilman Brown's suggestion, was referred to the Fire Board:

That the Fire Board be instructed to report such an amendment to the fire ordinance as to permit *one* engine company to be organized as follows: One engineer, with salary of \$65 per month; one engine driver, with salary of \$40 per month; one fireman, and two hosemen, each of whom shall receive \$50 per month; and two hosemen, who shall receive \$20 per month each, be designated as "minute men," who shall be required to remain at the engine-house from 7:30 P. M. to 6 A. M.

On motion, the Common Council then adjourned.

JOHN CAVEN, Mayor,

President of Common Council.

Attest: BENJ. C. WRIGHT, City Clerk.