

PRESENTED TO
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JANUARY, 1921, BY
WILLIAM WATSON WOOLLEN

PROCEEDINGS OF COMMON COUNCIL.

REGULAR SESSION—OCTOBER 17, 1881.

The Common Council of the City of Indianapolis met in the Council Chamber, on Monday evening, October 17th, A. D. 1881, at half-past seven o'clock, in regular session.

PRESENT—Hon. Daniel W. Grubbs, Mayor, and *ex officio* President of the Common Council, in the Chair, and 23 members, viz: Councilmen Bedford, Brundage, Caylor, Cole, Coy, Dean, Dowling, Egger, Fultz, Harrold, Hartmann, Knodel, Koller, Mauer, Morrison, Pearson, Pritchard, Reichwein, Stout, Thalman, Ward, Weaver, and Yoke.

ABSENT—Councilmen Bryce, and Cowie—2.

The Proceedings of the Common Council for the regular session held October 3d, 1881, and for the special session, held October 7th, 1881, having been printed, and placed on the desks of the Councilmen, said Journals were approved as published.

OPENING AND REFERRING SEALED PROPOSALS FOR PUBLIC IMPROVEMENTS.

Sealed proposals for making the below described street improvements, and for building the below described sewer, were opened, read, and referred to the Committee on Contracts; and, on further motion, it was ordered that the said committee report to-night on building the sewer in, and along, the first alley east of Meridian street, for paving the north sidewalk of St. Marys street, and for improving Maryland street, from West street to Helen street:

(S. O. 134, 1880)—For grading and graveling the alley between Pleasant and Lexington avenues, from Linden street to Spruce street.

(S. O. 27, 1881)—For grading, paving with brick, and curbing with stone, (where not already properly paved or curbed) the north sidewalk of Maryland street, from West street to Helen street.

(S. O. 52, 1881)—For grading and paving with brick (where not already paved), the south sidewalk of First street, from Illinois street to the Canal.

(S. O. 81, 1881)—For grading and graveling the first alley east of Benton street, from Meek street to Georgia street.

- (S. O. 90, 1881)—For grading and graveling the first alley north of McCarty street, from the first alley east of Alabama street to the first alley west of New Jersey street
- (S. O. 94, 1881)—For grading, bowldering and curbing the gutters of South street, from Pennsylvania street to Delaware street (where not already properly bowldered or curbed.)
- (S. O. 97, 1881)—For grading, and paving with brick, the sidewalks of Madison avenue, from McCarty street to Ray street.
- (S. O. 101, 1881)—For grading and bowldering the first alley east of Meridian street, from the south line of lot No. 6, square 97, south to Pogue's Run.
- (S. O. 102, 1881)—For grading and bowldering Georgia street, and curbing with stone the outer edges of the sidewalks, from Pennsylvania street to Delaware street.
- (S. O. 103, 1881)—For grading and bowldering South street, and curbing with stone the outer edges of the sidewalks, from Meridian street to Illinois street.
- (S. O. 122, 1881)—For grading, bowldering and curbing, the gutters of New York street, from Missouri street to Bright street (where not already properly bowldered or curbed.)
- (S. O. 141, 1881)—For building a brick sewer in, and along, the first alley east of Meridian street, from Maryland street to, and connecting with, the Georgia street sewer.
- (S. O. 142, 1881)—For grading and paving with brick (where not already properly paved), the north sidewalk of St. Marys street, from Delaware street to Alabama street.

REPORT FROM COMMITTEE ON CONTRACTS.

The Committee on Contracts, through Councilman Thalman, submitted the following report; which, on motion by Councilman Cole, was referred to the Committee on Public Property:

To the Mayor, City Council and Board of Aldermen:

Gentlemen:—Your Committee on Contracts, to whom was referred a communication from sundry architects remonstrating against the small sum offered by the city for a plan for the proposed new Market House and City Hall, respectfully report that full and complete plans and specifications of the structure was not expected for the sum proposed; and, to make it more clear what the Council desires, we would recommend that the City Clerk advertise in the Daily Journal for one week for a sketch, or drawing, showing style of building and plan that would be suitable to be erected on the East Market space for a City Hall and Market House; sketch or drawing to be made for a building to cost from \$150,000 to \$225,000; for the sketch or drawing the most complete and satisfactory to the Council and Board of Aldermen the sum of \$200 be paid. Such sketch or plan would give your honorable bodies a basis for future action, and, when ready to build, would be a guide to architects to make full and complete specifications and bids for its erection from. In our opinion, no sketch or plan of a cheap affair should be entertained, as a building that would be a credit to the city in future years should be erected on said grounds, which a very light special tax for ten years and the Tomlinson estate would accomplish. We would further recommend that the right to reject all sketches or plans be reserved, if nothing worthy be presented.

Respectfully submitted,

Isaac Thalman,
E. H. Koller,
Edward H. Dean,
Committee on Contracts.

COMMUNICATIONS, ETC., FROM THE MAYOR.

His Honor, the Mayor, at the request of the Board of Aldermen, presented the following entitled ordinances, which were severally read the first time :

- S. O. 151, 1881—An Ordinance providing for the construction of a brick sewer in, and along, Washington street, from the east line of New Jersey street to the center of Pine street, and providing for the assessment and collection of the cost thereof.
- S. O. 152, 1881—An Ordinance to provide for the construction of a brick sewer over and along the following described route, viz: Commencing at the corner of Washington and Pine streets, thence north on Pine street to Market street; thence east on Market street to Arsenal avenue; thence north on Arsenal avenue to Ohio street; thence east on Ohio street to State street; and providing for the assessment and collection of the cost thereof.
- S. O. 153, 1881—An Ordinance to provide for the construction of a brick sewer in, and along, the following described route, to-wit: Commencing at the corner of State and Ohio streets, thence north along State street to Sturm street; thence east along Sturm street to the center of Randolph street; and providing for the assessment and collection of the cost thereof.

REPORTS, ETC., FROM CITY OFFICERS.

The City Civil Engineer submitted the following report; which was received, and the estimate (presented therewith) approved:

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

Gentlemen:—I herewith report the following first and final estimate in behalf of J. D. Hoss, for curbing the sidewalks, and bowldering the gutters, of Lockerbie street, from East street to Liberty street.

908 $\frac{0.5}{100}$	lineal feet bowldering, at 48 cents.....	\$435 86
810 $\frac{3.6}{100}$	lineal feet curbing, at 45 cents.....	364 66
Total.....		\$800 52

Respectfully submitted,

S. H. Shearer,
City Civil Engineer.

The following estimate resolution was read:

Resolved by the Common Council and Board of Aldermen of the City of Indianapolis, That the accompanying first and final estimate in behalf of J. D. Hoss, for grading, bowldering and curbing the gutters of Lockerbie street, from East street to Liberty street, be, and the same is hereby, adopted as the estimate of the Common Council and Board of Aldermen of said city; and that the property owners are hereby required to pay the sums set opposite their respective names.

And it was adopted by the following vote:

AYES, 21—viz. Councilmen Bedford, Brundage, Caylor, Cole, Coy, Dowling, Egger, Harrold, Hartmann, Knodel, Koller, Mauer, Morrison, Pearson, Pritchard, Reichwein, Stout, Thalman, Ward, Weaver, and Yoke.

NAYS—None.

The following report from the City Civil Engineer was read; which was received, the contracts concurred in, and bonds approved:

To the Mayor, Common Council and Board of Aldermen:

Gentlemen:—I herewith report the following contracts and bonds:

Contract and bond of Henry C. Roney, for grading and paving with brick the sidewalks of Bates street, from Noble street to Grant street. Bond, \$2,000; surety, A. Haywood.

Contract and bond of W. J. Freaney, for erecting lamp-posts, lamps and fixtures, complete to burn gas, except service pipes, on Greer street, between Stevens and Buchanan streets. Bond, \$200; surety, Henry Wetzel.

Respectfully submitted,

S. H. SHEARER, City Civil Engineer.

The following report from the City Civil Engineer, was read and received:

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

Gentlemen:—I herewith make the following report for your consideration and action thereon:

At the last session of your honorable bodies the contract for painting the city bridges was awarded to H. S. Lathrop. Said contractor has failed to file the necessary bond for said work, claiming that he misunderstood the true meaning of the specifications for said work; therefore he can not do the work for the prices bid.

Respectfully submitted,

S. H. SHEARER, City Civil Engineer.

The following report from the City Clerk was read:

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

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

Richard Carr vs. Rachael Boehme, for.....	\$82 96
Fred. Gansberg vs. Martha L. Hetzelgesser, for.....	44 55
Fred. Gansberg vs. Regina Stein, for.....	22 07

And recommend you order the precepts to issue.

Respectfully submitted,

JOS. T. MAGNER, City Clerk.

On motion, the above report was concurred in, and the precepts ordered to issue by the following vote:

AYES, 21—viz. Councilmen Bedford, Brundage, Caylor, Cole, Coy, Dowling, Egger, Fultz, Harrold, Hartmann, Knodel, Koller, Mauer, Morrison, Pearson, Pritchard, Reichwein, Stout, Ward, Weaver, and Yoke.

NAYS, 1—viz. Councilman Thalman.

The following communication, from Wm. C. Anderson, Recorder of Raper Commandery No. 1, K. T., was read and received:

Indianapolis, October 13, 1881—A. O. 763.

JOS. T. MAGNER, Esq., City Clerk :

DEAR SIR:—In reply to your letter, transmitting copy of motion passed by the Common Council, on the 3rd inst., requesting this Commandery to give an exhibition drill at Garfield Park during this month, I have the pleasure to inform you that this commandery cheerfully accedes to your request, and names 3 o'clock P. M., on Tuesday, October 25th, as the time.

Yours courteously,

WM. C. ANDERSON,
Recorder Raper Commandery No. 1, K. T.

The Chief Fire Engineer submitted the following report; which was concurred in :

Indianapolis, Oct. 17, 1881.

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

Gentlemen:—I have been officially notified by the Water Works Company that the following hydrants have been placed in position :

- No. 602—Southwest corner Meridian and Fourth streets.
- No. 603—Northwest corner Meridian and Fifth streets.
- No. 604—Northwest corner Meridian and Seventh streets.
- No. 605—Northwest corner Meridian and Ninth streets.
- No. 606—Southeast corner Illinois and Eleventh streets.
- No. 607—Southeast corner Illinois and Ninth streets.

These hydrants have been tested, and are in good order. The pressure, however, at the time was not sufficient to throw a stream that would be effective in case of fire. Each of these hydrants has but one opening. Date of service commences October 1, 1881.

Respectfully submitted,

J. G. PENDERGAST, Chief Fire Engineer.

The City Attorney submitted the following report; which was concurred in :

Indianapolis, Oct. 17th, 1881.

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

Gentlemen:—In obedience to your instruction, I have examined and herewith submit an opinion as to the construction to be given to the late law so far as it affects the right of the members of the Board of Aldermen to introduce ordinances motions or resolutions for the government or regulation of the city.

Section 5 of the act of March 8th, 1881, relating to the powers and duties of the Council and Board of Aldermen, contains the following provision: "All ordinances, orders, resolutions or motions for the appropriation of moneys, or for the government or regulation of such city, shall originate in the Common Council."

This language is so plain as to leave no doubt that it was the intention of the Legislature to require that all matters properly embraced within the true intent and meaning of the words used should first originate in and be passed by the Common Council before the Board of Aldermen could take action thereon; and such being the case, I am of the opinion that the clause quoted should be construed as excluding the members of the Board of Aldermen from originating or introducing for the first time in that body any ordinance, motion or resolution for the government or regulation of the city.

Respectfully submitted,

JOHN A. HENRY, City Attorney.

The City Attorney submitted the following report; which was received:

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

Gentlemen:—I have prepared and herewith submit for your adoption a proper petition for the annexation of certain territory lying along the west side of North West street. I also submit the accompanying resolution, pertaining to the same matter, for your adoption.

Respectfully submitted,

JOHN A. HENRY, City Attorney.

The City Attorney presented the following petition:

To the Honorable Board of Commissioners of Marion County, Indiana:

The Mayor, Common Council and Board of Aldermen of the city of Indianapolis, Marion county, Indiana, respectfully represent and show that they are desirous of having annexed to the city of Indianapolis the following unplatted lands and territory which is now contiguous to the present corporate limits, to-wit: A certain tract of land containing 2 and $\frac{38}{100}$ acres of land, more or less, situated in the north half of the south-west quarter of section thirty-five (35), township sixteen (16), north range three (3) east, in Marion county, Indiana, and described as follows, to-wit: Commencing at a point in the center of the Michigan road where a line running east and west through the center of Mill street, as shown upon the plat of Brett, Braden & Co.'s subdivision, if extended would intersect the center line of the Michigan road, thence west along the center of said Mill street six hundred (600) feet, more or less, to the east line of lot 37 of Brett, Braden & Co.'s subdivision of a part of said section; thence north one hundred and sixty-six (166) feet, more or less, to the north line of said lot 37; thence east six hundred (600) feet, more or less, to the center of the Michigan road; thence south along the center of said road to the place of beginning; and also the fifteen foot alley lying along the north side of said tract, and the whole of Mill street on the south side of said tract; and also the whole of the Michigan road, or West street, lying on the east side of said tract. A plat of the said lands and streets and alleys so desired to be annexed is herewith filed and made a part hereof, and marked exhibit "A." The said land is owned by the following named parties, to-wit: Maria Goas, Mary S. Drew, Emanuel O. Albert, J. H. Myers, R. F. Kennedy, James and Edward Storms, T. B. O'Connell and Charles E. & Hannah W. Harris. The said Maria Goas being the owner of 220 feet of the east end thereof, and marked tract No. 1; the said Mary S. Drew being the owner of 60 feet east and west, by 166 feet north and south, and lying immediately west of said tract No. 1, and is marked on said plat as tract No. 2; the said J. H. Myers being the owner of tract 3, as marked on said plat, and being 30 by 166 feet; the said Emanuel O. Albert being the owner of tract No. 4, as shown upon said plat; the said R. F. Kennedy being the owner of tract No. 5, as shown by said plat; the said James and Edward Storms being the owners of tract No. 6, as shown upon said plat; the said T. B. O'Connell being the owner of tract No. 7, as shown upon said plat; and the said Charles E. & Hannah W. Harris being the owners of tract No. 8, as shown upon said plat.

Your petitioners would further show that said described tract of land should be annexed to said city for the following reasons, to-wit:

1st. Because it is essential that the police powers of said city should be extended over said territory.

2d. Because it is essential to the proper laying out and improvement of streets and alleys.

3d. Because said annexation is for the benefit of the public generally.

Your petitioners therefore pray that your honorable body order the annexation of the above and foregoing described territory and tracts of land to the said city of Indianapolis, and extend the corporate limits so as to include the same.

The Mayor, Common Council, and Board of Aldermen of the city of Indianapolis,
By JOHN A. HENRY, City Attorney.

The City Attorney offered the following resolution :

Resolved, That the above and foregoing petition, prepared by the City Attorney, for the annexation of certain territory therein described, be and the same is hereby adopted as the petition of the Common Council and Board of Aldermen of the city of Indianapolis to the Board of Commissioners of Marion County, Indiana, and the City Clerk is hereby directed to file the same with a certified copy of this resolution and the motion heretofore adopted on this subject, together with the vote of the Common Council and Board of Aldermen thereon, in the office of the Auditor of Marion county, Indiana.

Resolved, That the City Clerk be and he is hereby directed to cause the proper notice of the pendency of said petition to be at once published as required by law.

And it was adopted by the following vote :

AYES, 22—viz. Councilmen Bedford, Brundage, Caylor, Cole, Coy, Dowling, Egger, Fultz, Harrold, Hartmann, Knodel, Koller, Mauer, Morrison, Pearson, Pritchard, Reichwein, Stout, Thalman, Ward, Weaver, and Yoke.

NAYS—None.

REPORTS, ETC., FROM OFFICIAL BOARDS.

The Fire Board, through Councilman Thalman, submitted the following report ; which was concurred in, and the City Civil Engineer directed to advertise for proposals to increase the depth of the well :

Indianapolis, Oct. 17th, 1881.

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

Gentlemen:—Your order directing us to examine the cistern at the crossing of Ash and Tenth streets, we would respectfully report that we have attended to that duty, and find located there a large well which would be perfectly useless in case of fire, and we would recommend that the crown be taken off of said well and that the walls be sunk to an additional five (5) feet, and that the crown be put on again, which we think will afford a sufficient supply of water for that locality in case of fire.

Respectfully submitted,

Isaac Thalman,
Phil. Reichwein,
N. Yoke,

Fire Board.

JOHN G. PENDERGAST, Chief Fire Engineer.

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

Report of Deaths in the City of Indianapolis, from the 30th day of September, to the 15th day of October, 1881—inclusive.

Under 1 year.....	28
1 to 2 years.....	8
2 to 5 ".....	4
5 to 10 ".....	0
10 to 15 ".....	1
15 to 20 ".....	2
20 to 25 ".....	5
25 to 30 ".....	5

30 to 40 "	3
40 to 50 "	3
50 to 60 "	5
60 to 70 "	1
70 to 80 "	3
80 to 90 "	1
90 to 100 "	0
100 and upwards.....	0
Unknown.....	0
Total.....	69

Respectfully, E. S. ELDER, M. D., President.
W. E. JEFFRIES, M. D., Secretary.

The Board of Health submitted the following report :

Indianapolis, Ind., Oct. 10th, 1881.

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

Gentlemen:—The Board of Health, to whom was referred the question of repealing the ordinance granting M. H. Wright the privilege of erecting and maintaining a slaughtering and grease rendering establishment on the stockyard grounds, would respectfully report that on February 23d, 1881, this Board unanimously adopted the following resolution: "That the Board recommend that an ordinance be passed authorizing said establishment, and prohibiting the rendering of putrid flesh by the same; and prohibiting all tendencies toward a nuisance." This Board see no reason to change their opinion or ruling, and we still think that an establishment situated in that locality, and conducted in accordance with the above resolution would not become a nuisance, or deleterious to the public health.

Respectfully submitted,

E. S. Elder, M. D., Pres.,
W. E. Jeffries, M. D., Sec.,
W. J. Elstun, M. D.,
Board of Health.

Councilman Thalman presented the following petition; which was received, and the prayer of the petition granted:

Indianapolis, Oct. 17th, 1881.

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

Gentlemen:—The undersigned would respectfully show that some months since they submitted to the city a bid, or proposal, to remove and care for the dead animals of the city for the term of one year; that such bid was received by the Common Council and the contract awarded by them upon it, but that when the matter came before the Board of Aldermen it was referred by them to a committee, and has never been acted upon. We would further show that at the time of making such bid and proposal, we supposed that it was understood by all the parties that we should in part render such dead animals at our establishment near the stockyards; that since submitting the same we have been informed that there was objection to having any of such dead animals rendered at our establishment, and that a number of the Councilmen and Aldermen object to the same. We therefore respectfully ask to decline to comply with our said bid, and that you will consent to the withdrawal of the said proposal and release us from any further obligations in the matter.

Respectfully,

INDIANAPOLIS PACKING AND RENDERING CO.,
By M. H. Wright, Manager.

Councilman Dowling offered the following resolution:

Resolved, By the Common Council, the Board of Aldermen concurring. That the establishment of M. H. Wright has and does render putrid dead animal flesh, and said establishment has violated other requirements of the resolution set out in the report of the Board of Health.

And it was adopted by the following vote :

AYES, 13—viz. Councilmen Caylor, Coy, Dowling, Egger, Fultz, Harrold, Hartmann, Knodel, Koller, Mauer, Reichwein, Weaver, and Yoke.

NAYS, 9—viz. Councilmen Bedford, Brundage, Cole, Dean, Morrison, Pritchard, Stout, Thalman, and Ward.

REPORTS, ETC., FROM STANDING COMMITTEES.

The Committee on Judiciary, through Councilman Pritchard, submitted the following report; which was concurred in:

Indianapolis, Oct. 17th, 1881.

To the Mayor and Common Council:

Gentlemen:—Your Judiciary Committee, to whom was referred a resolution providing that any street or alley repairs costing less than ten dollars may be done by the Street Commissioner on the written order of the Alderman of the district, and the Councilman of the ward in which such repairs are to be made. Your Committee are of the opinion that this resolution if passed, will simply make confusion in the Street Commissioner's department, with no good results. He will be subject to such orders, and, at the same time, subject to the orders of the Board of Public Improvements. These will be sure to conflict. Your Committee recommend that the resolution be not passed.

Respectfully submitted,

James A. Pritchard,
N. Yoke,
James T. Dowling.
Judiciary Committee.

The Committee on Judiciary, through Councilman Pritchard, submitted the following report:

Indianapolis, Oct. 17th, 1881.

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

Gentlemen:—Your Committee on Judiciary and City Attorney, to whom was referred the report of the Committee on Water proposing to cut off and discontinue the use of a certain number of fire hydrants, would report that they have carefully examined the question and herewith submit the following report thereon, to-wit:

On the 3d day of January, 1870, an ordinance was passed by the Common Council authorizing the old Water Works Company "to construct, maintain and operate water works in the city of Indianapolis, with proper structures, machinery, reservoirs, embankments, aqueducts, pipes and conduits to supply said city and its citizens with pure, filtered and wholesome water." (Ordinances of City, Rev., 1875, p. 417.) Under and pursuant to the terms and provisions of said ordinance the works were constructed and water mains laid in and upon the streets of the city. Since the passage of said ordinance and the construction of said works, the Common Council, pursuant to said ordinance have by resolution ordered the erection of fire hydrants to be supplied by said Water Company with water for public use, and said hydrants have been erected, used and paid for by the city at the rate of \$50.00 per annum for each hydrant.

A large number of these hydrants were erected and attached to the mains of

said company pursuant to the terms of a certain resolution of June 15th, 1874, by the terms of which, in consideration that the Water Works Company would increase the capacity of their works and lay twenty miles of additional mains and erect and attach 365 additional hydrants at such points as the Common Council should designate, the city agreed to take and pay for said hydrants at the rate of \$50.00 per annum for each hydrant, "under the same rules and on the same conditions as is provided in the original ordinance."

At the time of the passage of the above resolution there were 185 hydrants erected and then in use, which, with 365 provided for in said resolution; increased the total number to 550. Since 1874, additional mains have been ordered in and additional hydrants attached, until the total number now erected numbers 602.

In locating the 365 hydrants provided for in the resolution of 1874, it appears that, owing to the amount of mains laid, in order to locate all of said hydrants it became necessary to place hydrants on the mains at many points where the interests of the public did not require they should be located, either for fire protection or any other purposes. In other words, there was a surplus of hydrants, and in order to provide a place for them a part were located by the Water Works Company and part by the Council, at points where they were not needed.

In 1877, the Council and Board of Aldermen in the exercise of their legislative power to determine the amount of water the city should take and pay for, decided to discontinue the use of a certain number of hydrants, and notified the company of their action. The company disputed the right of the city to discontinue the use of these hydrants without terminating the whole matter and relieving the company from furnishing any water to the city at all. The matter was finally adjusted by a temporary agreement for one year from the 15th day of August, 1877, during which time the use of 80 hydrants was dispensed with, the city paying for the balance at the rate of \$50.00 per hydrant. At the expiration of the year by a verbal agreement with the company, all of the plugs were again brought into use, the city, however, only paying for the same number of hydrants she had the year previous. In other words, all the hydrants were brought into use, but the city by agreement was not to pay, and did not pay, for the 80 surplus hydrants; and settlement was made from time to time accordingly. In the year following, 1879, the company notified the city that on and after September 1st, 1879, they would demand pay for all the hydrants in use and the matter was referred to the Water Committee for adjustment, but no arrangement could be made until the year had about half expired, and it was agreed by the committee and the company, and subsequently approved by the Council and Board, that as the year had then about half elapsed, the city should have the use of all the hydrants, but only pay for 40 less than the whole number in use, and this arrangement was to continue until September 1st, 1880. And afterwards, by agreement with Mr. Henderson, as trustee, this arrangement was continued until September 1st, 1881, when the new company notified the city that from September 1st, they would claim payment for all the hydrants. It is apparent that for years it has been the opinion of the Council and Board of Aldermen that many of the fire hydrants already erected are practically useless, or at least unnecessary for fire protection or any other purpose, and an effort has been made from time to time to relieve the city from paying for these surplus hydrants.

And the city is now forced to the position in which she is compelled to pay for that she does not need or assume, and assert the powers and prerogatives conferred upon her of determining what she does need, and pay for the same accordingly.

And the question presented is, can the city cut off any number of the hydrants now in use and require the Water Works Company to furnish water for the balance?

A proper solution of this question must depend upon the construction to be given to the law under which the Water Works Company was organized, and the ordinance of the city authorizing said company to erect their works in connection with the powers delegated by the charter of the city to the Common Council and Board of Aldermen to be exercised for the public good.

It will be seen by reference to the law under which the Water Works Company is organized that the plain object and intention of the legislature was to authorize

the formation of companies to furnish the cities in which they are organized and their citizens with water. In other words, the very object of the corporation and without which it could not be formed or exist, is to furnish to the city and its citizens good and wholesome water, not, however, any particular amount, but such amount and only such amount as they or either of them may desire. Such then being the object of the corporation, it comes to the Common Council, in whom is vested the control and management of the affairs of the municipality and asks for the privilege of erecting and maintaining their works pursuant to the objects of the corporation. The privilege is granted by the city and the works erected by the company. And concluding for the present that the ordinance granting this privilege constitutes a contract between the city and the company, what effect is to be given to it and how far is it valid and binding upon the parties? We are of the opinion that the ordinance in question does not constitute a contract to take and pay for all hydrants that may be erected under the provisions of the ordinance; but that the city is only required to take such an amount of water or number of hydrants as the Common Council may from time to time deem necessary for the use of the city. Section 3 of said ordinance amongst other provisions contains the following clause: "The company shall supply to the city upon the several streets and avenues in which pipes and conduits may be laid, and in such cisterns and localities off the same as the city may conduct the same to, such quantity of water as may be required by the City Council for public use or drainage and fire purposes, and to that end the said company shall erect and attach as many hydrants or fire-plugs as the City Council may direct," etc. This section further provides that "The company shall furnish water to the city upon such terms and conditions as may be agreed upon between the City Council and the company." Again, by the provisions of section 8 of said ordinance it is expressly provided that the privilege granted is not an exclusive privilege, but the Council expressly reserves the right to charter other companies or erect works of her own. And construing these provisions together, we maintain that the ordinance at most can only be construed into an agreement to take and pay for such an amount of water as the Council may deem proper, and for such length of time as it may be for the interest of the city to do so. If, on the other hand, it be contended that the ordinance and several resolutions passed pursuant thereto constitute a contract to take and pay for a certain definite number of hydrants, then it is either a perpetual contract or it is one the duration of which is not fixed, and therefore one that may be determined at the will of either party. If it be a perpetual contract it must be held void upon the ground that it is an absolute surrender of the legislative powers of the Council to determine from time to time what amount of water is necessary for public purposes, and this under well-settled rules of law can not be done. Dillon on Municipal Corp., vol. i, secs. 61-64; Cooley on Cons. Lim. 206. Again, if the contract be perpetual it should be held void on the grounds of public policy; otherwise the city would be compelled to take and pay for said hydrants for all time, even though owing to the growth of the city, or other changing circumstances, the hydrants might prove wholly inadequate for the purpose for which they were erected, and if the contract, so far as it attempts to bind the city to take and pay for any definite number of hydrants is void for either of the reasons stated, then it is invalid, and the city is left free to act as she may deem proper.

If, however, as some insist, it be a contract, the duration of which is not fixed, then it may be determined at the will of either party, and when once determined, the city may provide for the furnishing of such an amount of water as the public interests may require. The only question that could arise is as to whether, if the city should discontinue the use of a portion of the hydrants, the Water-works Company could be required to supply the balance. We are of the opinion that they can be required to do so; for, as we have already stated, the company is organized and chartered for the purpose of supplying the city and its citizens with water, and for that purpose a valuable franchise is given to them, and so long as they continue to enjoy the franchise, they can not refuse, upon the payment of the stipulated price, to furnish water to the city without forfeiting the rights given them under their charter.

We are of the opinion that the city may, if the Council and Board of Aldermen deem proper, dispense with the use of the seventy-six hydrants, and therefore recommend that the report of the Water Committee be concurred in.

Respectfully submitted,

JOHN A. HENRY, City Attorney.

N. YOKE,
Judiciary Committee.

Councilman Pritchard, in behalf of the same committee, submitted the following further report:

Indianapolis, October 17th, 1881.

To the Mayor and Common Council:

Gentlemen.—Your Judiciary Committee, together with the City Attorney, to whom was referred the report of the Council Committee on Water, recommending that seventy-six hydrants be cut off, report thereon as follows:

1st. Section 3 of the ordinance known as the Charter of the Water Works Company provides that the company shall, at its own cost, "Erect and attach as many hydrants or fire plugs as the City Council may direct."

The Council of 1871-2, under the authority conferred by this section, located and required the company to erect one hundred and eighty-five hydrants. These were located on the first twenty miles of mains laid, after the completion of the works; one hydrant to every five hundred and seventy feet of mains.

This order by the Council, and acceptance and compliance by the company, becomes an executed contract for one hundred and eighty-five hydrants. When the hydrants were ordered by the city and delivered by the company the contract was completed.

2d. On the 15th day of June, 1874, Councilman Austin H. Brown introduced and passed a resolution which provides that, in consideration of the Water Works Company increasing the capacity of their works; laying twenty miles more of mains, and attaching, at their own expense, three hundred and sixty-five additional hydrants to those already in use, the city obligated herself to accept the three hundred and sixty-five additional plugs under the same conditions provided in the original charter of the company.

This resolution makes an express contract for three hundred and sixty-five hydrants, in consideration that the company would increase the capacity of their works, lay twenty miles more mains, and build the hydrants. The company accepted the proposition and performed the work, and the city accepted the hydrants.

The company then had forty miles of mains, and the city had ordered and accepted five hundred and fifty hydrants, or one hydrant to every three hundred and eighty-four feet of mains.

3d. Since June, 1874, by a series of resolutions, the city has ordered a fraction less than ten miles of mains, and ordered in said resolutions fifty-two hydrants, or one to every one thousand feet of mains. So, to-day we have a fraction less than fifty miles of mains, or two hundred and sixty-four thousand feet. There are eight thousand feet of one- and two-inch mains, leaving two hundred and fifty-six thousand feet of mains upon which are located six hundred and two hydrants, or one to every four hundred and twenty-five and one-sixth feet of mains.

This third class of mains are in by contract, like all the rest. The Council and Board of Aldermen, for example, pass a special resolution ordering a line of mains on north Delaware street, from Washington street to North street, and in the same resolution order one hydrant to every thousand feet of mains. The company lay the mains and erect the hydrants where directed by the Chief Fire Engineer, and the city accepts them. Here is a contract for this particular line. It is in this manner that hydrants have been built since June 15th, 1874.

Here we find three classes of hydrants, erected under three different plans, but all by contract. For the purposes of this report we may now consider them as

built under one contract. This contract may be stated in the following plain and simple language. The city said to the company: You build your works and lay fifty miles of mains, and purchase six hundred and two hydrants, and we will accept them. The company accepts the proposition and performs the work, and the city accepts the hydrants. The contract is then completed. Now comes the proposition to cut off seventy-six hydrants provided for in this contract. Can it be done?

There is nothing in the contract to show how long they should continue; hence the position advanced that it is to last forever, and therefore the contract is void for perpetuity. From this reasoning, the conclusion is reached that the city has no valid contract for these hydrants, and therefore the city has the right to cut off any number of hydrants she pleases.

The argument admits that there was a contract made between the city and the Water Company for all these hydrants. The first thing to be disposed of is the contract itself. From the mere circumstance that no time is mentioned in the resolutions under which the hydrants were built, when it should end, the conclusion is assumed that the contract is perpetual and therefore void. Of course, if we have no contract for these hydrants they may be cut off, and a void contract is no contract.

But the argument proves too much. Is the contract of the Water Company to continue the mains in our street perpetual? No time is mentioned in the resolution as to how long they shall continue; their contract for these mains is, then, perpetual, and therefore void; and the company may take up the mains and the city can not complain, for she has no valid contract with the company.

There is but one contract on this subject. The resolution that orders the mains orders the hydrants. If the contract for the hydrants is void, so is the one for the mains, and the water through them, void. If the city takes down the hydrants, the company may take up the mains. They stand together, or they fall together. It is one contract, and the city can not refuse to perform her part of this contract, and at the same time insist that the Water Company shall perform its obligation thereunder.

We take it that this contract between the city and the company is one at the pleasure of the parties. We have the right to end the contract when we please, and in ending it we release the company from any obligation whatever to furnish any water. But it is not honest to cut off hydrants, and at the same time insist that the Water Company shall live up to the letter of the contract. If the position be taken that the city may cut off these seventy-six hydrants and the Water Company yet be compelled to continue the mains and furnish the water, then it follows that the contract between us is a valid one, for all time.

If it be true that there is a valid contract between us which neither party can end at pleasure, then clearly to cut off any hydrants would be to impair the obligation of contract. This can not be done. No legislative body in the United States can pass an act having such an effect, for the Constitution of the United States provides that no act "impairing the obligation of contract shall be passed." Under this view of the subject, the hydrants can not be cut off.

The correct position we believe to be this: That the contract is one at the pleasure of the parties. We may end the contract in toto, upon reasonable notice, thereby ending the Water Works Company. But we have not the moral right to cut them off, and at the same time insist that the company shall on its part live up to the contract. In fact, we can not do so. No principle of law is better established than the following one, to-wit: That a party to a contract can not rescind in part; he must rescind in toto, or not at all. The proposition to cut off seventy-six hydrants is but an attempt on our part to rescind in part. Should the resolution pass it would amount to nothing, for the Water Company could continue its operations and collect by suit the rent for the seventy-six hydrants.

It is urged that the adoption of Water Committees report ends the old contract; and this being so, the city can say how many hydrants she wants in the future, and the Water Company, using the streets as they do, may be compelled by writ of mandate to supply water in the number of hydrants called for by the city.

As to the first proposition, it is plain that a complete rescission is not contem-

plated. A cutting off of seventy-six hydrants is not a recision as to six hundred and two. If it was, the second proposition certainly can not be correct. The common adage, that "it takes two to make a contract," is most excellent law. The number of hydrants has been considered a matter of contract. To say that the city can require the Water Company to purchase and erect one hundred hydrants to-day and take them out to-morrow, and re-erect fifty of them next day; and in all this the company have nothing to do but obey the orders of the Council—to be consulted about nothing, and to give their consent to nothing—is, to say the least, a very strange position.

If this position is correct, the city may order the company to supply water through one hydrant; and if the company refuse, we may compel them to do so by writ of mandate. Who believes we can do a thing of this kind? The charter given this company by the city forbids such a thing. Section 8 of the act of March 6th, 1865, forbids it, by providing that "no restriction shall be imposed by the Common Council which will prevent such company realizing upon its capital stocks an annual income or dividend of ten per cent., after paying the costs of all necessary repairs and expenses." *Davis*, vol. 1, p. 331.

To sum up, we think the report of the committee should not be adopted, for following reasons:

- 1st. It is an attempt at a partial recision of our contract, which can not be done. It must be in toto, or not at all.
- 2d. It impairs the obligation of contract, and is therefore void.
- 3d. It is an attempt to rid ourselves of a part of our contract obligation, by a flat refusal to live up to our contract.

The gentlemen of the Water Committee are honorable men, and their report is the result of a very worthy desire to reduce expenses. They were informed by the Chief Fire Engineer that to cut off these hydrants would not impair our protection against fire.

This end may be reached by new contract on prices. In 1871, a schedule of prices to be paid by the city, and its citizens, was agreed upon for one year. The price then fixed was fifty dollars per year for each hydrant. On motion of Mr. Batty, made October 26th, 1871, this contract was to continue for one year.

This contract has been renewed from year to year.

Section three of the Water Works Company's charter provides that "the company shall have the right to charge the city and its citizens thereof, for such water as may be supplied, as much as the average price paid by other cities of the United States and citizens thereof, of like population, that are supplied with an efficient water works; unless a less price may be agreed upon." But the company shall not demand or charge a greater price than fifty dollars per hydrant.

There is a further provision that in case of disagreement the rates may be arbitrated, and that rates may be adjusted as often as once a year. The arbitrators shall be five disinterested non-residents of city, two be selected by city, two by the company, and these four to select a fifth man. The price fixed by them shall stand for one year, or longer if parties consent, but after a year the prices may be again changed.

At present we have no contract with the Water Company on the subject of prices. They have notified the Council that they would charge fifty dollars per year each for hydrants, if a contract was not made by September 1st, 1881.

It is plain from the foregoing provisions of the charter of the company that a new contract may be made on the matter of prices every year, fixing not only what the city shall pay for hydrants, but also what rates the company shall charge the citizens for the use of water.

We recommend that the report of the Council Water Committee to cut off seventy-six hydrants be not adopted, and suggest they secure, if possible, some proposition to reduce the price.

Respectfully submitted,

James A. Pritchard,
Jas. T. Dowling,
Judiciary Committee.

Councilman Pearson moved that the above reports be referred to a special committee of three, and that such committee report at the next regular meeting.

Which motion was adopted by the following vote :

AYES, 18—viz. Councilmen Bedford, Brundage, Caylor, Cole, Coy, Dowling, Fultz, Harrold, Hartmann, Knodel, Koller, Mauer, Pearson, Pritchard, Reichwein, Stout, Thalman, and Weaver.

NAYS, 4—viz. Councilmen Dean, Morrison, Ward, and Yoke.

Councilmen Pearson, Bedford and Dowling, were then appointed to act as members of such special committee.

On motion by Councilman Dean, the above reports were ordered printed.

Councilman Thalman offered the following motion :

That the Committee on Water and City Attorney be directed to propose a continuance of last year's contract with the Water Works Company, cutting off forty fire plugs for which the city shall not pay ; such contract to extend for two years.

Councilman Yoke's motion to lay the above on the table, failed of adoption.

Councilman Thalman's motion was then referred to the above special committee.

The Committee on Markets, through Councilman Mauer, submitted the following report ; which was concurred in :

To the Mayor and Common Council :

Gentlemen :—Your Committee on Markets, to whom was referred the resolution introduced in Council, October 3d, 1881, relative to governing and conducting the retail markets at the city market houses, would report : We have investigated the matter and instructed the Market Masters to strictly enforce all ordinances governing the same.

Respectfully submitted,

Henry J. Mauer,
Allen Caylor,
Pat Harrold,
Committee on Markets.

The Committee on Contracts, through Councilman Thalman, submitted the following report ; which was concurred in :

To the Mayor and Common Council :

Gentlemen :—The Committee on Contracts, to whom was referred the following proposals presented to the Council this 17th day of October, 1881, have examined the same and find them to be as follows, viz.:

For building a brick sewer in and along the first alley east of Meridian street, from Maryland street to and connecting with the Georgia street sewer :

Augustus Bruner, for sewer \$1.40 per lineal foot each side; for timber left in excavation, 30 cents per lineal foot front on each side; man-holes, \$40 each; catch-basins, \$75 each.

J. S. Whitsit, for sewer, \$2.25 per lineal foot; for timber left in excavation, 60 cents per lineal foot; man-holes, \$30 each; catch-basins, \$70 each.

J. S. Whitsit being the lowest and best bidder, recommend he be awarded the contract.

For grading and paving with brick the north sidewalk of St. Mary street, from Delaware street to Alabama street:

R. H. Patterson, 47 cents per lineal foot front.

J. L. Spaulding, 44 cents per lineal foot front.

H. C. Roney, 45 cents per lineal foot front.

J. D. Hoss & Co., 39½ cents per lineal foot front.

J. D. Hoss & Co. being the lowest and best bidder, recommend he be awarded the contract.

For grading and paving with brick and curbing with stone, where not already properly paved or curbed, the north sidewalk of Maryland street, from West street to Hellen street.

H. C. Roney, paving, 58 cents per lineal foot front; curbing, 48 cents per lineal foot front.

John Schier, paving, 53 cents per lineal foot front; curbing, 47 cents per lineal foot front.

R. H. Patterson, paving, 52 cents per lineal foot front; curbing, 45 cents per lineal foot front.

J. D. Hoss & Co., paving, 46 cents per lineal foot front; curbing, 45 cents per lineal foot front.

J. L. Spaulding, paving, 47 cents per lineal foot front; curbing, 42 cents per lineal foot front.

J. L. Spaulding being the lowest and best bidder, recommend he be awarded the contract.

Respectfully submitted,

Isaac Thalman,
E. H. Koller,
Edward H. Dean,
Committee on Contracts.

Councilman Cole submitted the contract and bond of J. D. Hoss & Co., for grading and paving with brick (where not already paved), the north sidewalk of St. Marys street, from Delaware street to Alabama street, for thirty-nine and one-half cents per lineal foot front, in the penal sum of \$300.00, with J. L. Spaulding as surety, which was received, the contract concurred in, and the bond approved.

The Committee on Public Light, through Councilman Stout, submitted the following report; which was concurred in:

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

Gentlemen:—Your Committee on Public Light, who for several months have had under consideration the various propositions of the Brush Electric Light and Power Company, desire to report.

The first proposition coming from the said company asked from the city the entering into a contract to use the light of the company in and upon our streets for the lighting of our streets. It involved the immediate contracting with the Electric Light Company by the city. Your Committee positively and absolutely refused for a moment to entertain any proposition of that kind, at that time giving

the Electric Light Company to understand that we would not entertain any proposition for lighting our streets until the said Electric Light Company demonstrated to the Council, and our citizens generally, that the proposed light was practicable and of public utility.

The Electric Light Company then withdrew all former propositions, and submitted to the city one which, in effect, was only asking for the privilege of showing to the Council and our citizens their light. As the last proposition involved the entering into of no contract on the part of the city, your committee recommended the acceptance of the proposition, and you, gentlemen of the Council, passed an ordinance in accordance therewith.

The ordinance, as passed the Council, was presented to the Board of Aldermen, and by them amended in several important particulars, chief of which is the compelling the Electric Light and Power Company to pay into the city treasury a certain percentage, "amount not stated," of their profits.

On this clause of the amended ordinance, as presented to us from the Board of Aldermen, your committee and the committee from the Board could not agree. We believe, as there is no contract on the part of the city asked or required, that this is not the time to discuss such a proposition. As we understand the offer of the Electric Light Company, they are only asking for the use of our streets and alleys for the purpose of showing their light, and we believe the proper time to discuss any question of percentage of profits is when the city is about to contract with the Electric Light Company.

We would therefore recommend that the ordinance coming from the Board be amended:

1st. By striking out all between the words "similar privileges," and "and whenever the light shall not be deemed satisfactory."

2d. As it might be said that the Electric Light and Power Company desired simply to obtain from this Council an ordinance for lighting our streets, the ordinance to extend some years, and in the meantime no effort would be made by the said company to light our streets, and still at the same time enjoy any benefits that might be derived from this ordinance, in order that the said company be compelled to immediately show to our citizens their light, we recommend the clause giving the Brush Electric Light and Power Company the privilege of the streets and alleys for "five" years be amended so as to read for "one" year.

With these two recommendations and amendments, we, your committee, would report in favor of the passage of the ordinance coming from the Board of Aldermen.

Respectfully,

James T. Dowling,
H. B. Stout,
Committee on Public Light.

The Committee on Streets and Alleys, through Councilman Weaver, submitted the following report; which was concurred in:

To the Mayor and Common Council:

Gentlemen.—Your Committee on Streets and Alleys, to whom sundry papers were referred, would report thereon as follows:

1st. Is a motion to grant John Rother permission to sink a driven well in front of property, corner of Virginia avenue and Pine street.

Recommend said permit be granted, providing he complies with all ordinances governing the same.

2d. Is the petition of J. M. Ridenour et al., asking that the name of Smock and Williams street be changed to Eighth street.

Recommend said change be made, and herewith present a resolution relative thereto.

3d. Is a petition of F. M. Churchman, S. A. Fletcher and J. F. Holt, asking for the vacation of a part of Madison street and part of first alley north of Madison street, in Hanna heirs' addition.

We have examined the locality of said vacation, and believe such vacation should be made. Therefore recommend the accompanying resolution relative thereto be adopted.

4th. Is S. O. 137, 1881, "An ordinance to provide for grading, bowldering and curbing the east gutter of Pennsylvania street, from South street to Garden street," together with a remonstrance against said improvement.

We have examined said proposed line, and believe said improvement should be made. Therefore recommend said ordinance be passed.

We recommend the name of Bellefontaine street be changed to Garfield place.

Respectfully submitted,

George Weaver,

Simeon Coy,

B. W. Cole,

Committee on Streets and Alleys.

Councilman Weaver presented the following resolution :

Resolved, That the name of Smock street, east to Delaware street, and Williams street, from Pennsylvania street to a point half square west of Mississippi street, and the first street north of Seventh street, from the west line of Allen & Root's addition to Central avenue, the whole line designated to be recorded and known as Eighth street.

And it was adopted by the following vote :

AYES, 22—viz. Councilmen Bedford, Brundage, Caylor, Cole, Coy, Dean, Dowling, Fultz, Harrold, Hartmann, Knodel, Koller, Mauer, Morrison, Pearson, Pritchard, Reichwein, Stout, Thalman, Ward, Weaver, and Yoke.

NAYS—None.

Councilman Weaver presented the following resolution :

Resolved, That the matter of vacating so much of that portion of Madison street adjoining lots 28 and 31 inclusive, and so much of the first alley north of Madison street as adjoins lots 1, 2, 3, 28, 29 and 30, all in Hanna heirs' addition to the city of Indianapolis, together with the petition and plat presented in such case, be referred to the City Commissioners for their action thereon, as soon as a sufficient number of the persons who have signed aforesaid petition, shall file in the office of the City Clerk, a bond or agreement to hold the city of Indianapolis free and harmless of the payment of any and all damages that may be appraised on account of said vacations.

And it was adopted by the following vote :

AYES, 21—viz. Councilmen Bedford, Brundage, Caylor, Cole, Coy, Dean, Fultz, Harrold, Hartmann, Knodel, Koller, Mauer, Morrison, Pearson, Pritchard, Reichwein, Stout, Thalman, Ward, Weaver, and Yoke.

NAYS—None.

The Committee on Finance, through Councilman Pearson, submitted the following report; which was concurred in :

To the Mayor and Common Council :

Gentlemen:—Your Committee on Finance, to whom was referred the reports of City Treasurer and City Clerk for the month of September, would report, we have examined the books of said officers, and find the reports made to your honorable body to be in form and correct. We recommend the approval of the same.

Respectfully submitted,

John R. Pearson,
Isaac Thalman,
E. H. Koller,
B. Ward,
F. Hartmann,
Committee on Finance.

The same committee submitted the following report; which was concurred in :

To His Honor, the Mayor, Members of the Common Council and Board of Aldermen :

Gentlemen:—Your Committee on Finance report on the following petition:

"Your petitioners would respectfully represent that on the 13th day of February, 1879, they purchased at public sale held on that day a tax sale certificate on lot 32, in square 20, Johnson's subdivision, in Johnson heirs' addition, sold for the tax of 1877 and 1878, in the name of M. H. & J. C. Smith, for which they paid the sum of \$76.70.

"The sale was erroneous, from the fact that the property was also listed, and the taxes kept paid up in the name of J. C. Smith.

"Your petitioners would therefore ask and demand that the above sum (\$76.70), with interest from February 13th, 1879, be refunded them, and as in duty bound your petitioners will ever pray.
S. A. Fletcher & Co."

Your Committee on Finance have examined the above statement, and find them true and correct as stated, and ask the prayer of the petitioners be granted.

John R. Pearson,
Isaac Thalman,
B. Ward,
Frederick Hartmann,
Committee on Finance.

MESSAGES AND PAPERS FROM THE BOARD OF ALDERMEN.

The following message was read; and, on motion, the matter as set forth therein, was referred to the Fire Board :

To the Mayor and Common Council :

Gentlemen:—The Board of Aldermen, in regular session, held in the Aldermanic Chamber, Monday evening, October 10th, 1881, concurred in the following recommendations of their Committee on Fire Department :

"That the Skinner Truck be thrown out of service, and that a light hook and ladder truck be purchased and put in its place, and that the Skinner Truck be repaired and stored, ready for service in case of an emergency. We earnestly request that the Fire Board take immediate action on the above, as regards the Skinner Truck."

I submit the same for your consideration.

For the Board of Aldermen :

GEO. T. BREUNIG, Clerk.

The following message was read:

To the Mayor and Members of the Common Council:

Gentlemen:—The Board of Aldermen, in regular session held in the Aldermanic Chamber, Monday evening, October 10th, 1881, non-concurred in your action in recommending that the following work be done; the same having been referred to a committee, and therefore final:

“That the gutters of Madison avenue, between Merrill and McCarty streets, be cleaned.”

“That the sidewalks around East Market be repaired. Recommend that the Market Committee do this work.”

“That a double stone crossing be placed across McCarty street, on east side of Illinois street. We recommend that a single stone crossing be made.”

“That a culvert be placed at the first alley east of Virginia avenue, on South street.”

“That the gutters on Noble street, between Vermont and New York streets, be cleaned, and the bridge at Lockerbie street be repaired.”

“That a double stone crossing be placed across Meridian street, on north side of South street.”

“That the gutters of Noble street, between Washington and New York streets, be cleaned.”

I submit the same for your consideration.

For the Board of Aldermen:

GEO. T. BREUNIG, Clerk.

Councilman Thalman moved that the Common Council recede from their former action on so much of the above message as is non-concurred in by the Board of Aldermen, and concur in their amendatory action, except so much as relates to laying the stone crossings on McCarty street, and that the Common Council adhere to their former action on laying double stone crossings on said street.

Which motion was adopted.

The following message was read; and, on motion, the Common Council receded from their former action, and the ordinance was stricken from the files:

To the Mayor, and Common Council:

Gentlemen:—The Board of Aldermen in regular session, hold in the Aldermanic Chamber Monday evening, October 10th, 1881, non-concurred in your action in passing the following entitled ordinance:

S.O. 115, 1881. An ordinance to provide for the paving with brick the north side of the National Road or Washington street, between Blackford street and the first alley west, (where not already properly paved.)

I submit the same for your consideration.

For the Board of Aldermen:

GEO. T. BREUNIG, Clerk.

The following message was read:

To the Mayor and Common Council:

Gentlemen:—The Board of Aldermen, in adjourned session, held in the Aldermanic Chamber, Wednesday evening, September 28th, 1881, non-concurred in your action in awarding the contract for improving the first alley north of Fifth street, from Tennessee street to the first alley west of Tennessee street, and referred the same back to your honorable body, there being an error in the description.

I submit the same for your consideration.

For the Board of Aldermen:

GEO. T. BREUNIG, Clerk.

On motion, the Common Council reconsidered their action in awarding the contract for the above street improvement, and reconsidered their action in the passage of the ordinance, by the following vote:

AYES, 21—viz. Councilmen Bedford, Brundage, Caylor, Cole, Dean, Dowling, Egger, Fultz, Harrold, Hartmann, Knodel, Mauer, Morrison, Pearson, Pritchard, Reichwein, Stout, Thalman, Ward, Weaver, and Yoke.

NAYS—None.

The ordinance was then stricken from the files.

The following message was read; and, on motion, the amendment of the Board of Aldermen to S. O. 110, 1881, was concurred in:

To the Mayor and Members of the Common Council:

Gentlemen:—The Board of Aldermen, in adjourned session, held in the Aldermanic Chamber, Wednesday evening, September 28th, 1881, amended the following entitled ordinance so as to provide for the erection of two lamps on the line proposed to be lighted.

S. O. 110, 1881—An Ordinance to provide for the erection of lamp-posts, lamps and fixtures (complete to burn gas, except the service pipes) on Merrill street, from Delaware street to Pennsylvania street.

I submit the same for your consideration. •

For the Board of Aldermen:

GEO. T. BREUNIG, Clerk.

The following message was read; and, on motion, the Common Council receded from their former action in the passage of the ordinances, and ordered the same stricken from the files:

To the Mayor and Members of the Common Council:

Gentlemen:—The Board of Aldermen in adjourned session, held in the Aldermanic Chamber, Wednesday evening, September 28th, 1881, non-concurred in your action in passing the following entitled ordinances: S. O. 75, 1879; S. O. 12, 13, 96 and 135, 1880; S. O. 4, 105 and 109, 1881.

I submit the same for your consideration.

For the Board of Aldermen:

GEO. T. BREUNIG, Clerk.

APPROPRIATION ORDINANCES.

Councilman Morrison presented the following entitled ordinance, which was read the first time:

Ap. O. 64, 1881—An Ordinance appropriating the sum of Dollars on account of the Street-Repairs Department of the city of Indianapolis.

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

That the money appropriated for Street Repairs Department be appropriated to each ward in pro rata to the amount of taxes paid by each ward, and expended by the Street Commissioner under the direction of the Councilmen and Alderman of each Aldermanic District; and that the Street Commissioner report the amount so expended the first meeting of Council of each month.

Councilman Morrison moved to suspend the rules for the purpose of placing the above appropriation ordinance, Ap. O. 64, 1881, on its final passage.

Which motion was adopted, and the rules suspended by the following vote:

AYES, 20—viz. Councilmen Bedford, Brundage, Caylor, Cole, Coy, Dean, Dowling, Fultz, Harrold, Hartmann, Knodel, Koller, Mauer, Morrison, Pearson, Reichwein, Stout, Thalman, Ward, and Weaver.

NAYS—None.

Ap. O. 64, 1881, was then read the second time, and amended by inserting five thousand (\$5,000) dollars.

The following ordinance was then ordered engrossed, and read the third time:

Ap. O. 64, 1881—An Ordinance appropriating the sum of Five Thousand (\$5,000) Dollars on account of the Street Repairs Department, of the city of Indianapolis.

And it was passed by the following vote:

AYES, 23—viz. Councilmen Bedford, Brundage, Caylor, Cole, Coy, Dean, Dowling, Egger, Fultz, Harrold, Hartmann, Knodel, Koller, Mauer, Morrison, Pearson, Pritchard, Reichwein, Stout, Thalman, Ward, Weaver, and Yoke.

NAYS—None.

Councilman Dean moved that this Council do now adjourn.

Which motion to adjourn failed of adoption by the following vote:

AYES, 10—viz. Councilmen Caylor, Dean, Harrold, Knodel, Mauer, Pearson, Reichwein, Thalman, Ward, and Yoke.

NAYS, 12—viz. Councilmen Brundage, Cole, Coy, Dowling, Egger, Fultz, Hartmann, Koller, Morrison, Pritchard, Stout, and Weaver.

INTRODUCTION OF GENERAL AND SPECIAL ORDINANCES.

Under this order of business, the following entitled ordinances were introduced, and severally read the first time.

By Councilman Harrold:

G. O. 57, 1881—An Ordinance requiring the Indianapolis, Decatur and Springfield Railway Company to employ and station a flagman at the point where the track of said company crosses West street.

By Councilman Mauer:

S. O. 154, 1881—An Ordinance to provide for grading and bowldering the south gutter of New York street, from Bright street to Blake street.

By Councilman Mauer:

S. O. 155, 1881—An Ordinance to provide for grading and bowldering the north gutter of New York street, from Bright street to Blake street.

By Councilman Pritchard:

S. O. 156, 1881—An Ordinance to provide for grading and graveling the first alley north of Fifth street, from Tennessee street to the first alley east of Mississippi street.

By Councilman Pritchard:

S. O. 157, 1881—An Ordinance to provide for grading and graveling the first alley south of Third street, from Illinois street to Tennessee street.

The above entitled ordinance was accompanied by the following petition:

Indianapolis, October 17th, 1881.

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

Gentlemen:—The undersigned, owners of real estate fronting on the alley between Second and Third streets, running from Illinois street to Tennessee street, respectfully petition for the passage of an ordinance providing for grading and graveling said alley.

WELLER B. SMITH.

By Councilman Pritchard:

G. O. 58, 1881—An Ordinance authorizing the issuance of a daily license to Henry Bishop, to exhibit his Ornithological Museum, and fixing the amount of license money to be paid by said Bishop.

The above entitled ordinance was accompanied by the following petition:

To His Honor, the Mayor, Common Council, and Board of Aldermen:

Gentlemen:—The undersigned owner of collection of birds "Ornithological Museum," desires to give an exhibition of said museum in your city for sixteen days, and he respectfully asks your honorable bodies to give him a free permit to do so, as the receipts for such exhibition will not justify him in paying the regular charges; in consideration of such privilege, I will open my museum free of all charges, on the first two days, to the attendants of your public schools, and also all of the charitable institutions of your city. I can give the very best of city references if desired.

Respectfully submitted,

HENRY BISHOP.

Councilman Pritchard moved that the rules be suspended for the purpose of placing the above ordinance, G. O. 58, 1881, on its final passage.

Which motion was adopted, and the rules suspended by the following vote:

AYES, 21—viz. Councilmen Brundage, Caylor, Cole, Coy, Dean, Dowling, Egger, Fultz, Hartmann, Knodel, Koller, Mauer, Morrison, Pearson, Pritchard, Reichwein, Stout, Thalman, Ward, Weaver, and Yoke.

NAYS—None.

G. O. 58, 1881, was then read the second time, ordered engrossed, read the third time, and passed by the following vote:

AYES, 21—viz. Councilmen Brundage, Cole, Coy, Dean, Dowling, Egger, Fultz, Harrold, Hartmann, Knodel, Koller, Mauer, Morrison, Pearson, Pritchard, Reichwein, Stout, Thalman, Ward, Weaver and Yoke.

NAYS—None.

By Councilman Stout:

S. O. 158, 1881—An Ordinance to provide for grading and paving with brick (where not already properly paved), the west sidewalk of Pennsylvania street, from Seventh street to Eighth, or Williams street.

The above entitled ordinance was accompanied by the following petition:

Indianapolis, October 10th, 1881.

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

Gentlemen:—The undersigned, owners of real estate fronting on the west side of Pennsylvania street, between Seventh street and Eighth (or Williams) street, respectfully petition for the passage of an ordinance providing for grading and paving with brick (to a width of seven (7) feet) the west sidewalk of Pennsylvania street (where not already paved), from Seventh street to Eighth (or Williams) street.

Chas. E. Coffin, 62 feet; C. E. Holloway, 60 feet; Chas. H. Sherman, 80 feet; M. B. Williams, Chas. B. Coe, 120 feet; J. M. Ridenour, 40 feet.

By Councilman Thalman :

S. O. 159, 1881—An Ordinance to provide for grading and paving with brick, the north sidewalk of Washington street, or National Road (where not already paved), from Blackford street to the first alley west of Blackford street.

By Councilman Thalman :

S. O. 160, 1881—An Ordinance to provide for the erection of four lamp-posts, lamps and fixtures (complete to burn gas, except the service pipes), on Circle street.

By Councilman Bedford :

S. O. 161, 1881—An Ordinance to provide for grading and bowldering the first alley south of Massachusetts avenue (between Lots 2 and 3, Out lot 46), from its intersection with Massachusetts avenue to Noble street.

Councilman Dean moved that this Council do now stand adjourned.

Which motion to adjourn failed of adoption by the following vote :

AYES, 8—viz. Councilmen Bedford, Dean, Harrold Pearson, Thalman, Ward, Weaver, and Yoke.

NAYS, 15—viz. Councilmen Brundage, Caylor, Cole, Coy, Dowling, Egger, Fultz, Hartmann, Knodel, Koller, Mauer, Morrison, Pritchard, Reichwein, and Stout.

Councilman Pearson was excused for the remainder of this session.

Councilman Weaver moved that when this Council adjourns, it adjourn to meet next Thursday evening.

Which motion failed of adoption.

INTRODUCTION OF MISCELLANEOUS BUSINESS.

Councilman Bedford presented the following petition; which was referred to the Judiciary Committee:

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

Gentlemen:—The City Engineer in making his estimate or assessment for paying for the improvement of Plum street—that is, in making brick sidewalks—assessed the sum of thirty-seven dollars (\$37 00) to me for one hundred (100) feet of pavement, when my lot is only forty (40) feet deep and one hundred (100) feet front.

Now your petitioner asks your honorable body to cause the estimate or assessment to be made in accordance with the law as passed by the last Legislature, so that only four-fifths of the estimate will be assessed to me.

And your petitioner, as in duty bound, will ever pray.

I forgot to mention that my lots are numbered 21 and 23.

F. A. McCLUNG.

Councilman Brundage offered the following motions; which were referred to the Board of Public Improvements:

That the Street Commissioner be, and is hereby, directed to fill the chuck-holes on Dillon street, from English avenue to Prospect street.

SIG. 67.

That the Street Commissioner be, and is hereby, directed to clean the gutter on Fletcher avenue, at the first alley east of Dillon street.

Councilman Brundage offered the following motion; which was referred to the Committee on Finance:

That the City expend \$10,000 during the year 1882, in improving the Garfield Park; that the said amount be expended under the direction of the Board of Public Improvements and the Aldermanic Committee on Streets and Alleys, and that the City Clerk be directed to include in each general appropriation ordinance the amount so expended each month.

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

That the Street Commissioner fill the chuck-holes on Indiana avenue with good river gravel, from West street to Fall Creek.

Councilman Cole offered the following motions; which were referred to the Board of Public Improvements:

That the Street Commissioner be directed to raise the stone crossings on east side of north Illinois street, at the crossing of Fifth street, so as to be out of mud.

That the Street Commissioner be directed to cover with gravel the wooden blocks, from Ohio street south to Market street, on Tennessee street.

Councilman Cole offered the following resolution; which was referred to the Committee on Finance:

WHEREAS, The City of Indianapolis is a great railroad city, and should be made a place of interest to excursionists and travelers in general, and being deficient in the way of improved parks, it is the opinion of many citizens that the park now known as Garfield Park should be improved in such a manner as to be a credit to our city;

Resolved, That the City Clerk be, and is hereby, authorized to draw his warrant for any sum not exceeding ten thousand dollars for the improvement of Garfield Park; said money to be expended under the direction of the Board of Public Improvements, Committee on Streets and Alleys of the Board of Aldermen, and the Street Commissioner, according to the plans for said improvement as made by the City Civil Engineer, and that not less than five thousand dollars of said sum be expended during the year 1882; and, when said amount is expensed, if, in the opinion of the Council and Board of Aldermen, any further sum should be expended during the year 1882, said Council and Board of Aldermen shall first order said improvements continued; and if not ordered continued during the year 1882, said amount not expended shall be expended during the year 1883.

Councilman Dowling moved a suspension of the rules, and that the time be extended until half-past eleven o'clock.

Which motion to suspend the rules failed of adoption by the following vote:

AYES, 16—viz. Councilmen Bedford, Brundage, Caylor, Cole, Coy, Dowling, Egger, Fultz, Harrold, Hartmann, Knodel, Koller, Mauer, Morrison, Pritchard, and Stout.

NAYS 6—viz. Councilmen Dean, Reichwein, Thalman, Ward, Weaver, and Yoke.

Councilman Cole offered the following motion; which was adopted, and Councilmen Morrison, Dowling, Bedford, Yoke, Dean, Egger and Fultz, were appointed by the Chair to act as members of such special committee.

That the Mayor appoint a committee of seven members of the Council to make all necessary arrangements for the drill to be given by Rapier Commandery at Garfield Park, October 25, 1881.

Councilman Cole offered the following motions; which were adopted:

That the Street Commissioner be, and is hereby, fully authorized to offer a reward for information and conviction of any person or persons destroying or stealing any portion of the fence on West Michigan street, built by the city for the protection of travel on said street. Said reward to be placed at the sum of \$25.00.

That the City Civil Engineer be, and is hereby, ordered to so arrange the culverts at the corner of Indiana avenue and Mississippi street in such a manner that the property in this vicinity may not be damaged by water.

Councilman Cole offered the following motions; which were referred to the Board of Public Improvements:

That the City Civil Engineer be, and is hereby, ordered to have the contractor place in double stone crossings in and along the crossings on West street, from Washington street to Indiana avenue, while the same is being improved, where not already properly made.

That the Street Commissioner be, and is hereby, ordered to at once fill the chuck holes on Mississippi street, from North street to Washington street, as a portion of said street is in a dangerous condition for public travel.

That the Street Commissioner be, and is hereby, ordered to clean and repair the first alley west of the Bates House, running north and south from Washington street to Ohio street.

Councilman Cole presented the following petition; which was referred to the Judiciary Committee and City Attorney, to report at the next meeting:

Indianapolis, Ind., Oct. 17th, 1881.

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

Gentlemen: The undersigned resident owners of property fronting on Meridian street, between St. Clair and Seventh streets, would respectfully ask that the contract and specifications for the improvement of said street be changed so as to authorize the laying of Red Cedar blocks instead of White Cedar blocks, as now required, as per sample of second growth Red Cedar from Tennessee, furnished by Johnson & Sons, of this city, and offered at an advance of ten per cent on cost of the White Cedar mentioned in contract.

R. Browning, 180 ft.; Geo. H. Chapman, 120 ft.; M. J. Osgood, 61½ ft.; W. W. Johnston, 80 ft.; S. R. Herod, 60 ft.; W. Henderson, 97 ft.; R. L. McQuat, 95 ft.; Alex. Riemand, by J. H. Holliday, 82 ft.; L. F. Atkins, 222 ft.; A. Kiefer, 82 ft.; Louis Hollweg, 62 ft.; Wm. B. Burford, 62½ ft.; E. B. and Emma Martindale, 105 ft.; D. A. Richardson, 92½ ft.; J. H. Stuart, 43½ ft.; Oscar B. Hord, 100 ft.

Councilman Cole presented the following petition; which was referred to the Judiciary Committee and City Attorney:

To the Common Council of the City of Indianapolis:

Gentlemen: The undersigned, your petitioner, in February, 1876, bought, at the sale for State and county taxes, lot 86, Noble's subdivisian out-lot 50. Subsequently he paid the tax for city purposes on said lot, as shown by receipt herewith filed. The sale aforesaid was afterwards declared illegal and void, and the purchase money, with all the subsequent taxes paid into the county treasury, was refunded him; with interest, by the Board of County Commissioners. He respectfully asks that you refund him the amount of city taxes so paid, to-wit, \$36.10, with 6 per cent interest to date, making in all \$41.50.

October 12, 1881.

WM. H. MORRISON.

Councilman Cole presented the following remonstrance; which was referred to the Board of Public Improvements, with the ordinance S. O. 149, 1881:

Indianapolis, Ind., Oct. 11th, 1881

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

Gentlemen:—The undersigned, who are the owners of real estate adjoining the first alley east of Alabama street, between McCarty and Merrill streets, the number of feet of such real estate so owned being designated by the numbers attached to their signatures, would respectfully beg leave to remonstrate against the passage of an ordinance providing for the grading and graveling of said alley, as contemplated in Special Ordinance No. 149, of 1881, and would pray that said ordinance be stricken from the files, for the following reasons, to-wit:

1st. No property owner adjacent to said alley has petitioned for such improvement.

2d. We believe that such improvement is not desired by any portion of such property holders.

3d. There is no public interest to be subserved by such improvement.

4th. The expense of such improvement, if made, will bear heavily upon some property owners who are illy able to afford it. And your petitioners will ever pray, etc.

E. P. Gallup, 132½ ft.; Alice E. Snider, 33½ ft.; Bettie E. Cox, 50 ft.; A. Oehler, 55.5 ft.; Kate Wilson, N. Gosney, 51 ft.; Mary M. Laird, 66½ ft.; Sarah Duval, 33 ft.; Elizabeth Unsam, 33 ft.; Wm. M. French, 137 ft.; S. B. Morris, 33½ ft.; Mrs. Josephine Tieber, 66 ft.; D. W. Robinson, 33 ft.; Michael Grady, 112 ft.; Mrs. Jane M. Ketcham, 552½ ft.;
Total, 1345 ft.

On motion, the Common Council then adjourned.

DANIEL W. GRUBBS, Mayor,

President of the Common Council.

Attest: JOS. T. MAGNER, City Clerk.