

PROCEEDINGS OF COMMON COUNCIL.

ADJOURNED SESSION—JANUARY 23, 1882.

The Common Council of the City of Indianapolis, met in the Council Chamber, Monday evening, January 23d, A. D. 1882, at half-past seven o'clock, in adjourned session.

PRESENT—Hon. Daniel W. Grubbs, Mayor, and *ex officio*, President of the Common Council, in the Chair, and Councilmen Bedford, Brundage, Bryce, Caylor, Cole, Cowie, Coy, Dean, Dowling, Egger, Fultz, Harrold, Hartmann, Knodel, Koller, Mauer, Morrison, Pritchard, Reichwein, Stout, Thalman, Ward, Weaver, and Yoke—24.

ABSENT—Councilman Pearson—1.

COMMUNICATIONS, ETC., FROM THE MAYOR.

His Honor, the Mayor, presented the following communication; which was received:

Indianapolis, January 23d, 1882.

To the Common Council and Board of Aldermen:

Gentlemen:—At a meeting of citizens of Indianapolis, called this day for the purpose of protesting against the recent increase of charges for switching privileges on the railroads of this city, the accompanying resolution was adopted.

The question involved, is one of great importance to a large number of our people, and should receive prompt and earnest attention.

Very respectfully,

D. W. GRUBBS, Mayor.

His Honor, the Mayor, presented the following resolution, which was approved; and Councilmen Ward, Bryce and Hartmann were appointed by the Chair to act as the Council members of such committee:

Resolved, That the Common Council and Board of Aldermen, at their meeting to-night, be, and are hereby, requested to appoint a special committee, of which His Honor, the Mayor, and the President of the Board of Aldermen shall be members, to act with such committees as may be appointed by this meeting, to protect the citizens of this city against the recent action of the several railroad companies doing business at this point.

The City Clerk submitted the following report:

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 precept, to-wit:

John Greene vs. Unknown Owner, for.....	\$43 50
John Greene vs. The Indianapolis, Cincinnati & Lafayette Railroad Co., for.....	144 00

John Greene vs. The Indianapolis, Cincinnati & Lafayette Railroad Co., for.....	118 13
Samuel W. Patterson vs. James A. and Emma B. Buchanan, for.....	8 88
Samuel W. Patterson vs. Jacob Horning, for.....	11 84

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, 13—viz. Councilmen Bedford, Bryce, Caylor, Cowie, Fultz, Harrold, Hartmann, Knodel, Koller, Mauer, Pritchard, Reichwein, and Ward.

NAYS, 1—viz. Councilman Thalman.

ORDINANCES ON SECOND READING.

The following entitled ordinances were stricken from the files:

G. O. 15, 1881—An Ordinance providing that all streets constructed within the city of Indianapolis, etc., shall be maintained and kept in good repair at the expense of said city of Indianapolis.

G. O. 36, 1881—An Ordinance to prohibit agents of railway companies soliciting on the streets.

The following entitled ordinances were taken up:

G. O. 60, 1881—An Ordinance creating Police Commissioners, prescribing their powers and duties, and regulating the organization of the Police Force of the city of Indianapolis.

G. O. 61, 1881—An Ordinance providing for the management of the City Hospital, and providing for the selection of Supervisors of said Hospital.

G. O. 62, 1881—An Ordinance to establish a Dispensary in the city of Indianapolis to be known as the City Dispensary, and to provide for the government and management thereof.

G. O. 63, 1881—An Ordinance creating Commissioners of Public Works and Improvements, and prescribing their powers and duties, and the manner of their election and appointment.

G. O. 64, 1881—An Ordinance creating Fire Commissioners, and providing for the organization of the Fire Department of the city of Indianapolis, and prescribing rules and regulations governing the same.

And failed to be stricken from the files by the following vote:

AYES, 6—viz. Councilmen Bedford, Bryce, Cowie, Knodel, Pritchard, and Ward.

NAYS, 9—viz. Councilmen Caylor, Egger, Fultz, Harrold, Hartmann, Koller, Mauer, Reichwein, and Thalman.

The following entitled ordinance was read the second time:

G. O. 1, 1882—An Ordinance to restrain cows, heifers, bulls and steers, from running at large from seven o'clock, P. M., to six o'clock, A. M., and preventing such animals, when breachy, from running at large at any time; providing penalties, establishing pounds and rules for the government thereof; appropriating money in aid thereof, and repealing conflicting ordinances.

Councilman Pritchard moved that the above ordinance be referred to the City Attorney.

Which motion to refer was adopted by the following vote:

AYES, 14—viz. Councilmen Bedford, Brundage, Bryce, Caylor, Cole, Cowie, Dean, Knodel, Morrison, Pritchard, Stout, Thalman, Ward, and Yoke.

NAYS, 10—viz. Councilmen Coy, Dowling, Egger, Fultz, Harrold, Hartmann, Koller, Mauer, Reichwein, and Weaver.

Councilman Ward offered the following motion; which, on motion by Councilman Dean, was laid on the table:

That the City Attorney be instructed to insert a clause in the cow ordinance referred to him at this meeting, requiring the owners to take out a license for each cow. The price of said license to be two dollars.

The following message was read, and the action of the Board of Aldermen, as set forth therein, was not concurred in:

To the Mayor and Common Council:

Gentlemen:—The Board of Aldermen, at its regular session held this evening, January 23d, 1882, adopted the following motion, viz:

"That the Police Board and Police Committee of the Board of Aldermen employ fifty extra Policemen for the next ten days, and place them on duty at once."

I submit the foregoing for your consideration and action.

For the Board of Aldermen:

GEO. T. BREUNIG, Clerk.

Councilman Morrison offered the following motion:

That the Mayor and Police Board be, and are hereby, fully authorized by the Council and Board of Aldermen to employ at once, at least twenty (20) additional Patrolmen for night duty, at the same rate per day as now paid the regular force, and that they be instructed to include said amounts in the next appropriation ordinance. Said Patrolmen to be employed for a term of two weeks; and the Police Board and Mayor, together with the Chief of Police, be requested to notify the Council and Board of Aldermen how many men will be necessary for the proper protection of life and property, after said two weeks expire.

Councilman Pritchard moved to lay the above motion on the table.

Councilman Yoke moved that action on Councilman Morrison's motion be postponed for one week.

Which motion failed of adoption.

Councilman Morrison's motion was then adopted.

The following entitled ordinance was taken up:

G. O. 6, 1882—An Ordinance to prohibit idling, loitering, or sleeping in public places, in the city of Indianapolis.

On motion, the rules were suspended for the purpose of placing the above ordinance on its final passage, by the following vote:

AYES, 24—viz. Councilmen Bedford, Brundage, Bryce, Caylor, Cole, Cowie, Coy, Dean, Dowling, Egger, Fultz, Harrold, Hartmann, Knodel, Koller, Mauer, Morrison, Pritchard, Reichwein, Stout, Thalman, Ward, Weaver and Yoke.

NAYS—None.

The ordinance (G. O. 6, 1882), was then read the second time, ordered engrossed, read the third time, and passed by the following vote:

AYES, 24—viz. Councilmen Bedford, Brundage, Bryce, Caylor, Cole, Cowie, Coy, Dean, Dowling, Egger, Fultz, Harrold, Hartmann, Knodel, Koller, Mauer, Morrison, Pritchard, Reichwein, Stout, Thalman, Ward, Weaver, and Yoke.

NAYS—None.

By request, Hon. W. H. Craft, in behalf of the Mercantile Association of Indianapolis, addressed the Common Council relative to building a City Hall and Market House, on East Market Space, and presented a petition for the erection of said buildings, signed by six thousand citizens; which was referred to the City Commissioners, having the erection of said buildings under consideration.

The following entitled ordinance was read the second time:

G. O. 5, 1882—An Ordinance requiring flagmen to be stationed at the intersection of the Jeffersonville, Madison & Indianapolis Railroad Company's tracks with Madison avenue north, Ray street, Morris street, and Madison avenue, near the Hominy Mills.

On motion, that part of the above ordinance that requires flagmen on "Madison avenue, near the Hominy Mills," was stricken out.

The ordinance was then ordered engrossed as amended, read the third time, and passed by the following vote:

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

NAYS—None.

Councilman Pritchard, in behalf of the Judiciary Committee, submitted the following report; which was concurred in:

Indianapolis, Jan. 23d, 1882.

To the Mayor and Common Council:

Gentlemen:—Your Judiciary Committee, together with the City Attorney, to whom was referred the petition of Wm. Rowe, for the refunding of \$1,007.26, with interest, money paid for part of Lot 14, Square 45, at city tax sale on 10th of February, 1880. The sale was void, for the reason that the real estate was sold for the personal tax of The Journal Company, who was not the owner of the real estate at the time the taxes accrued on the personal property.

The sale was for taxes on realty for 1879.....	\$ 632 40
And taxes on personal property for 1878.....	374 86
Total	\$1,007 26

An action was brought in the Superior Court, cause No. 26,691, to quiet title on tax deed, and therein the following facts were proven:

1st. The taxes on the real estate for 1878, were paid.

2d. The real estate was sold on foreclosure of a second mortgage to L. W. Hasselman and Wm. P. Fishback, October 20th, 1877, and the certificate assigned to Ott. Hasselman, in October, 1878.

3d. The United States Mortgage Company foreclosed first mortgage on real estate, and sold the same in 1879.

4th. Mr. Ridenour, as Receiver of The Journal Company, sold the personal property to Ott. Hasselman, on November 20th, 1878, and he still holds it, in the Journal Building.

5th. The duplicate upon which the sale was made in this case, was delivered to the Treasurer on December 15th, 1879.

Upon these facts, the judgment of the Court was, that the personal tax never became a lien on the real estate, because the property was sold before the duplicate was delivered to the City Treasurer, and that the real estate could not be sold, because it was never delinquent.

Wm. Henderson, as attorney for the U. S. Mortgage Company, has \$632.40—the tax on the realty—which he has ready to pay into the city treasury as soon as duplicate is in shape for City Treasurer to receive it. At present the duplicate is satisfied by the void sale.

Your committee recommend that the sum of \$1,007.26 be refunded to petitioner with six per cent interest from February 10th, 1880, and that the sum of \$632.40, and its interest, be carried on duplicate against said real estate, to-wit: Six feet, and three inches off west side Lot 14, Square 45, city, and advertise the same as delinquent. And further, that the balance of said \$1,007.26, the personal tax, amounting to \$374.86, and interest, be collected by City Treasurer immediately, from the personal property now in hands of Ott. Hasselman, by purchase from the Receiver of The Journal Company, November 20th, 1878, it being the same property upon which the tax was assessed.

Respectfully submitted,

James A. Pritchard,
N. Yoke,
John W. Fultz,
Committee.

C. S. DENNY, City Attorney.

Councilman Reichwein was excused for the remainder of this session.

The following message from the Board of Aldermen was read:

To the Mayor and Common Council:

Gentlemen:—The Board of Aldermen, at its session held this evening, January 23d, 1882, amended your motion (of even date herewith), providing for the appointment of twenty additional Patrolmen for the term of two weeks, by adding "The Police Committee of the Board of Aldermen." The motion as amended, was then concurrently adopted.

For the Board of Aldermen:

GEO. T. BREUNIG, Clerk.

Councilman Pritchard moved that the Common Council adhere to their former action.

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

AYES, 6—viz. Councilmen Caylor, Dean, Egger, Pritchard, Stout, and Yoke.

NAYS, 16—viz. Councilmen Bedford, Brundage, Bryce, Cowie, Coy, Dowling, Fultz, Harrold, Hartmann, Knodel, Koller, Mauer, Morrison, Thalman, Ward, and Weaver,

The action of the Board of Aldermen was then concurred in.

Councilman Yoke offered the following motion; which failed of adoption:

That the City Marshal be, and is hereby, authorized to prepare proper pounds for the confinement and care of cattle and other animals impounded under G. O. 48, 1881.

Councilmen Hartmann and Egger were excused for the remainder of this session.

Councilman Cowie presented the following communication; which was referred to the Committee on Public Property:

Indianapolis, Ind., Jan. 23d, 1882.

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

Gentlemen:—On behalf of the "Indianapolis Floral Association," we offer you the following list of bedding plants, with prices annexed, for use in the public parks of the city the coming season, viz:

1,000 Geraniums, 4 inches, at 12½ cents.....	\$ 125 00
1,500 Geraniums, 3 inches, at 8½ cents.....	125 00
1,000 Centaurias, at 10 cents.....	100 00
2,000 Colens, at 6 cents.....	120 00
1,000 Verbenas, at 5 cents.....	50 00
500 Cannas, at 20 cents.....	100 00
200 Collacliiums, at 50 cents.....	100 00
1,000 Tourenias, at 5 cents.....	50 00
200 Feverfew, at 10 cents.....	20 00
2,000 Alternantheras, at 6 cents.....	120 00
500 Phlox, at 5 cents.....	10 00
200 Vincas, at 10 cents.....	20 00
200 Lantannas, at 15 cents.....	30 00
200 Hacharanthus, at 6 cents.....	12 00
50 Ricenas, at 10 cents.....	5 00
50 Panacum, at 15 cents.....	7 50
200 Ageratum, at 6 cents.....	12 00
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11,800.....	\$1,006 50

Very respectfully,

THOS. LEWIS.
WM. BERTERMAN.

His Honor, the Mayor, presented the following entitled ordinances; which were severally read the first time:

G. O. 7, 1882—An Ordinance requiring the various railroad companies crossing east Market street, east Washington street, south East street, south New Jersey street, south Alabama street and Virginia avenue, south Delaware street, south Pennsylvania street, south Illinois street, south Tennessee street, and west Washington street, west of White River, in the city of Indianapolis, to erect and maintain safety gates, for the protection of the public, at each of said crossings.

G. O. 8, 1882—An Ordinance punishing the reckless use and handling of fire arms.

G. O. 9, 1882—An Ordinance requiring proper fire escapes to be provided for all large buildings.

Councilman Thalman offered the following motion; which was adopted:

That the City Attorney examine and report to this Council at next meeting whether the Council and Board of Aldermen have any jurisdiction in regard to regulating the excessive charges proposed by railroad companies against our business men for switching purposes; and if so, what are they?

Councilman Morrison moved to suspend the rules for the purpose of placing the foregoing entitled ordinance (G. O. 7, 1882), on its final passage.

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

AYES, 20—viz. Councilmen Bedford, Brundage, Bryce, Caylor, Cowie, Coy, Dean, Dowling, Fultz, Harrold, Knodel, Koller, Mauer, Morrison, Pritchard, Stout, Thalman, Ward, Weaver, and Yoke.

NAYS—None.

The ordinance was then read the second time, ordered engrossed, read the third time, and passed by the following vote:

AYES, 20—viz. Councilmen Bedford, Brundage, Bryce, Caylor, Cowie, Coy, Dean, Dowling, Fultz, Harrold, Knodel, Koller, Mauer, Morrison, Pritchard, Stout, Thalman, Ward, Weaver, and Yoke.

NAYS—None.

Councilman Pritchard moved that the action of the Common Council be reconsidered in the passage and engrossment of the above ordinance.

Which motion was adopted, and the action of the Common Council reconsidered by the following vote:

AYES, 18—viz. Councilmen Brundage, Bryce, Caylor, Coy, Dean, Dowling, Fultz, Harrold, Knodel, Koller, Mauer, Morrison, Pritchard, Stout, Thalman, Ward, Weaver, and Yoke.

NAYS—None.

The ordinance was then re-read the second time.

Councilman Pritchard moved that so much of sections one to nine, inclusive, as was left blank, be filled up, and that thirty days be inserted.

Which motion was adopted, and the ordinance so amended.

Councilman Dean moved to insert in section twelve of the ordinance, from "6 A. M., to 9 P. M."

Which motion was adopted, and the ordinance so amended.

Councilman Pritchard moved to so amend section thirteen, as to fix the penalty at ten dollars.

Which motion was adopted, and the ordinance so amended.

Councilman Morrison offered the following as an amendment to the ordinance; and moved that it be inserted as section ten:

SECTION 10. That the Cincinnati, Indianapolis, St. Louis & Chicago Railway Company be, and it is hereby, required to erect and maintain safety gates on each side of its tracks where the same cross Indiana avenue, in the city of Indianapolis, within thirty days from the taking effect of this ordinance.

Which motion was adopted, and the ordinance so amended.

On further motion, it was ordered that Sections 10, 11, 12, 13, and 14, be numbered respectively 11, 12, 13, 14 and 15.

The ordinance was then ordered engrossed as amended, read the third time, and passed by the following vote:

AYES, 16—viz. Councilmen Brundage, Bryce, Caylor, Coy, Dean, Dowling, Fultz, Harrold, Koller, Mauer, Morrison, Pritchard, Stout, Thalman, Weaver, and Yoke.

NAYS—None.

Councilman Bryce introduced the following entitled ordinance; which was read the first time:

G. O. 10, 1882—An Ordinance to amend Section two of an ordinance entitled "An ordinance to regulate the running of locomotives and cars in the city of Indianapolis, and requiring flagmen to be stationed at certain railroad crossings; defining the duties of such flagmen, and prohibiting locomotives and cars from running across certain streets, unless a flagman is stationed at such crossing;" ordained March 5, 1866.

The following entitled ordinance was read the second time:

G. O. 72, 1881—An Ordinance to amend Section thirteen (13) of the Market ordinance; ordained July 2d, 1878.

On motion, the above ordinance was referred to the Committee on Markets.

On motion, the Common Council then adjourned.

DANIEL W. GRUBBS, Mayor,
President of the Common Council.

Attest: JOS. T. MAGNER, City Clerk.

PROCEEDINGS OF BOARD OF ALDERMEN.

REGULAR SESSION—JANUARY 23, 1882.

The Board of Aldermen of the City of Indianapolis, met in the Aldermanic Chamber, Monday evening, January 23d, A. D. 1882, at seven o'clock, in regular session.

PRESENT—Hon. James T. Layman, President of the Board of Aldermen, in the Chair, and Aldermen DeRuiter, Hamilton, Mussmann, Newman, Seibert, Tucker, and Wood—8.

ABSENT—Aldermen Drew, and Rorison—2.

The Proceedings of the Board of Aldermen for the regular session, held January 9th, 1882, having been printed and placed on the desks of the Aldermen, said Journals were approved as published.

By consent, Alderman Hamilton offered the following motion :

That the Police Board employ fifty extra Policemen for the next ten days, and place them on duty at once.

On motion by Alderman Tucker, the above motion was amended by adding "and Police Committee of the Board of Aldermen," after the words "Police Board."

The motion as amended was then adopted by the following vote :

AYES, 7—viz. Aldermen DeRuiter, Hamilton, Mussmann, Newman, Tucker, Wood, and President Layman.

NAYS, 1—viz. Alderman Seibert.

The following special message was read; and on motion by Alderman Tucker, the Board of Aldermen adhered to their former action: and, on further motion, the matter was ordered laid on the table :

To the President and Members of the Board of Aldermen :

Gentlemen:—The Common Council, in regular session, held in the Council Chamber, Monday evening, January 16th, 1882, adhered to their former action in adopting the following motions :

WHEREAS, The gas post on the east side of Tennessee street, between Ohio and Market streets, is about sixty feet south of the alley; therefore,

Moved, That the City Civil Engineer be, and is hereby, instructed to at once have said lamp post removed to the northeast corner of the first alley north of said post.

That the gas post on the north side of New York street, and east of Ellsworth street, be, and is hereby, ordered to be removed to the corner of Ellsworth and New York streets.

I submit the same for your consideration.

For the Common Council :

SIG. 96.

[1113]

Jos. T. MAGNER, City Clerk.

The following message was read and received :

To the President and Members of the Board of Aldermen :

Gentlemen:—I herewith transmit to your honorable body certain papers, which were favorably passed upon by the Common Council, at its regular session, held on Monday evening, January 16th, 1882, for your action upon the same.

For the Common Council.

JOS. T. MAGNER, City Clerk.

The following report (see page 1074, *ante*) was read and received :

Indianapolis, Ind., Jan. 16, 1882.

To the Common Council and Board of Aldermen :

Gentlemen:—I report collections for the month of December, 1881, as follows :

Policemens' witness fees.....	\$182 07
Mayor's fees.....	142 98
Fines due the city.....	6 50
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Total.....	\$331 55

Which amount I have paid to the City Treasurer, and filed his receipt with the City Clerk. Very respectfully, D. W. GRUBBS, Mayor.

The following report from the City Civil Engineer was read, and the favorable action of the Common Council thereon (see page 1075, *ante*), was concurred in :

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

Gentlemen:—I herewith report the following estimate of work done according to contract :

A first and final estimate in behalf of James Mahoney, for grading and graveling the alley between Pleasant and Lexington avenues, from Linden street to Spruce street.

1,030.50 lineal feet, at 20 cents.....	\$206 10
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Respectfully submitted,

S. H. SHEARER, City Civil Engineer.

The following estimate resolution (adopted by the Common Council—see page 1075, *ante*) 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 James Mahoney, for grading and graveling the alley between Pleasant and Lexington avenues, from Linden street to Spruce 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 concurrently adopted by the following vote :

AYES, 8—viz. Aldermen DeRuiter, Hamilton, Mussmann, Newman, Seibert, Tucker, Wood, and President Layman.

NAYS—None.

The following report from the City Clerk was read :

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

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

Charles S. Roney vs. William T. Smith, for	\$12 00
Henry C. Roney vs Sarah J. Watson, for.....	51 73
Henry C. Roney vs. William Watts, for.....	13 50
Henry C. Roney vs. William Watts, for.....	13 50

And recommend that you order the precepts to issue.

Respectfully submitted,

JOS. T. MAGNER, City Clerk.

On motion, the favorable action of the Common Council (see page 1076, *ante*) on the above report, was concurred in, and the precepts ordered to issue by the following vote:

A YES, 8—viz. Aldermen DeRuiter, Hamilton, Mussmann, Newman, Seibert, Tucker, Wood, and President Layman.

NAYS—None.

The following report of the Committee on Contracts was read; and the favorable action of the Common Council thereon (see page 1073, *ante*), was concurred in:

To the Mayor, Common Council and Board of Aldermen :

Gentlemen:—The Committee on Contracts, to whom was referred sundry proposals presented to Council January 2d, 1882, have examined the same, and find them to be as follows, viz:

1st. For erecting lamp-posts, lamps and fixtures (complete to burn gas except the service pipes, on Morris street, between Meridian and Dakota streets.

- R. P. Dunning, \$23.00 per post, complete.
- Aneshaensel & Strong, \$19.00 per post, complete.

Aneshaensel & Strong being the lowest and best bidders, we recommend they be awarded the contract.

2d. For erecting lamp-posts, lamps and fixtures (complete to burn gas except the service pipes), on California street, between Indiana avenue and First street.

- R. P. Dunning, \$22.75 per post, complete.
- Aneshaensel & Strong, \$19.00 per post, complete.

Aneshaensel & Strong being the lowest and best bidders, we recommend they be awarded the contract.

3d. For constructing a 1,200-barrel cistern at or near the intersection of Church and Morris streets.

- John Stumph, 74 cents per barrel.
- R. P. Dunning, 73 cents per barrel.
- John A. Whitsit, 62 cents per barrel.
- C. S. Roney, 62 cents per barrel.
- Henry Clay, 46 cents per barrel.

Henry Clay having satisfied your committee that he made an error in his bid, we recommend he be relieved from doing the work, he paying the city the cost of advertising; and we further recommend that the City Civil Engineer be directed to re-advertise for proposals for doing the work.

Respectfully submitted,

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

The report of the Board of Public Improvements and Street Commissioner, showing expenses in the Street Repair Department for the month of December, 1881, and the total expenses to January 1st, 1882, (see page 1084, *ante*) was read and received.

The mortality report of the Board of Health (see page 1084, *ante*) was read and received.

‡ The following clauses from the report of the Board of Public Improvements (see pages 1078, 1079, 1080, 1081, 1082 and 1083, *ante*) were read; and, on motion, were referred to the Committee on Streets & Alleys and Sewers & Drainage:

2d. That the Street Commissioner be, and is hereby, directed to clean the gutters and repair the sidewalks on Merrill street, between Tennessee street and Missouri street, in such manner that the street may be properly drained, and that he have power to act.

Recommend the work be done.

5th. That the Street Commissioner be directed to clean west gutter of north Mississippi street, from Seventh street to a point one hundred feet north of Williams street, the water now being one foot deep in places.

Recommend the work be done.

7th. That the Board of Public Improvements be directed to examine Central avenue, and report at the next meeting of Council whether the street should be rebuilt or repaired.

Recommend the street be improved by ordinance.

8th. That the Street Commissioner be, and is hereby, directed to replace the loose bowlders at the crossing of Butler and Broadway streets.

Recommend the work be done.

9th. That the Street Commissioner be, and is hereby, ordered to repair culvert at the crossing of Bellefontaine and Lincoln avenues.

Recommend the work be done.

11th. That the Street Commissioner be, and is hereby, directed to take up and re-lay the northeast gutter of Virginia avenue, from Elk street to Prospect street, and that the City Civil Engineer is hereby directed to set the necessary grade stakes.

Recommend the City Civil Engineer be directed to have the work done under contract.

12th. That the Street Commissioner be, and is hereby, directed to fill the chuck-holes on Dillon street, from English avenue to Prospect street.

Recommend the work be done.

13th. That the Street Commissioner be, and is hereby, directed to clean the gutter on Fletcher avenue, at the first alley east of Dillon street.

Recommend the work be done.

14th. That the Street Commissioner fill the chuck-holes on Indiana avenue with good river gravel, from West street to Fall Creek.

Recommend the work be done.

15th. 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.

Recommend the culvert at said crossing be removed.

17th. 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.

Recommend the work be done.

18th. 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.

Recommend the work be done.

19th. That the Street Commissioner be instructed to put a coat of gravel on Linden street, from Prospect street to Fletcher avenue.

Recommend the work be done.

20th. That the Street Commissioner be instructed to clean the east gutter of Dillon street, between Spann and Fletcher avenues.

Recommend the work be done.

21st. That the city furnish A. Caylor fifty loads gravel, to be hauled at his own expense, and used in the fourth ward.

Recommend the work be done under the direction of the Street Commissioner.

22d. That the Street Commissioner be directed to repair, with gravel, east Georgia street, between New Jersey and East streets.

Recommend the work be done.

23d. That the Street Commissioner be instructed to clean the gutters on Curn, Dougherty, and Buchanan streets, between Virginia avenue and East street.

Recommend the work be done.

25th. That the Street Commissioner be, and is hereby, instructed to repair west Washington street, from White River to L., B. & W. Railroad crossing, by filling chuck-holes and other bad places with gravel.

Recommend the work be done.

26th. That the Street Commissioner be directed to place gravel or cinders on the sidewalks crossing Bates street, from Noble street to Leota street, as the sidewalks of said Bates street have been paved with brick and the crossings are in a bad and muddy condition.

Recommend the work be done.

27th. That the Street Commissioner be directed to repair Georgia street, between East street and Noble street.

Recommend the work be done.

28th. That the Street Commissioner be, and is hereby, directed to repair the culvert and drain along the P., C. & St. L. Railroad tracks, from Summit street to Oriental street, so the water may run off.

Recommend that this matter be referred to the City Civil Engineer for examination.

29th. That the Street Commissioner be directed to lay a coat of gravel on Pine street, between Washington street and Bates street, and open the gutters of said Pine street, so as to allow the water to run off; for said street is now almost impassable.

Recommend the chuck-holes be filled.

31st. That the Street Commissioner be, and is hereby, instructed to fill the chuck-holes on Market street, between Highland street and Arsenal avenue.

Recommend the work be done.

32d. That the Street Commissioner clean the bowldered gutters on north Mississippi street, from North street to Second street.

Recommend the work be done.

35th. That the Street Commissioner be, and is hereby, directed to repair stone-crossing on north side of Washington street, at the crossing of Alabama street.

Recommend the work be done.

36th. That the Street Commissioner be, and is hereby, directed to lay a stone-crossing across Washington street, on east side of alley between Alabama and New Jersey streets.

Recommend the work be done.

37th. That the Street Commissioner be, and is hereby, instructed to clean the gutter (bowldered) of Park avenue, from Christian avenue to Lincoln avenue.

Recommend the work be done.

39th. That the Street Commissioner be directed to clean the gutters of the alley between Circle and Illinois streets, from Market street to Ohio street.

Recommend the work be done.

40th. That the Street Commissioner be directed to put the alley crossing on the north side of New York street, between Meridian and Illinois streets, in good passable condition.

Recommend the work be done.

42d. That the Street Commissioner be instructed to clean the gutters and fill the chuck-holes on Fort Wayne avenue, the entire length of the street.

Recommend the chuck-holes be filled.

48th. That the Street Commissioner be directed to fill the chuck-holes in Park avenue, between St. Clair street and Christian avenue.

Recommend the work be done.

49th. *Resolved*, That the Board of Public Improvements be authorized to have a double row of stone crossings be placed on each side of Delaware street at the intersections of all the streets and alleys between Walnut and Market streets, where not already laid.

Recommend the work be done when the street is re-improved.

50th. That the Street Commissioner be, and is hereby, directed to place a durable crossing across Washington street at State avenue; also, across Arsenal avenue and Highland street, north side of Washington street.

Recommend the crossings be put in on Arsenal avenue and Highland street.

52d. That the Street Commissioner be, and is hereby, directed to clear the drift wood and such rubbish as may obstruct the flow of water from the channel of Pogues Run between Washington street and the United States Arsenal grounds.

Recommend this matter be referred to the City Civil Engineer for examination.

53d. That the Street Commissioner be instructed to fill the chuck-holes on New York street, west of Blake street.

Recommend the work be done.

54th. That the Street Commissioner be instructed to clean the gutters and fill the chuck-holes on Pine street, from North street to Peru avenue. Also, clean the gutters of Vine street from Park avenue to Ash street. Also, clean the gutters on Arch from Park avenue to Plum street. Also, clean the gutters and fill chuck-holes on North street, from East street to Noble street.

Recommend the chuck-holes be filled.

55th. That the Street Commissioner be directed to clean gutter on west side of north Mississippi street, from Seventh street to Tenth street.

Recommend the work be done.

56th. That the Street Commissioner be, and is hereby, directed to fill chuck hole at the corner of Central and Christian avenues, which is now in a dangerous condition.

Recommend the work be done.

57th. That the Street Commissioner be directed to repair Ohio street between Meridian and Illinois streets.

Recommend the work be done.

58th. *Resolved*, That the City Civil Engineer be instructed to place a double row of stone crossings across New York street, at the intersection of Alabama street.

Recommend the work be done under contract.

59th. That the Street Commissioner be directed to clean the gutters of Tennessee street, between Washington street and South street.

Recommend the work be done.

64th. That the Street Commissioner be, and is hereby, instructed to fill chuck-holes on Washington street, between California street and White River bridge.

Recommend the work be done.

65th. That the Street Commissioner be, and is hereby, instructed to clean the mud and dirt off of West street, between Washington and Georgia streets.

Recommend that the work be done.

66th. That the Street Commissioner be, and is hereby, directed to clean the gutters and fill the chuck-holes on North street, between Noble and Pine streets; also, to place a railing on north end of the culvert over Pogue's Run, on east Washington street, as a protection to the public.

Recommend the chuck-holes be filled and the City Civil Engineer report estimate cost of said railing.

67th. That the Street Commissioner be instructed to place a single stone-crossing on Illinois street, at the crossing of St. Jo. street.

Recommend the work be done.

68th. That the Street Commissioner be, and is hereby, directed to fill mouths of alleys with gravel, on line of sidewalk on east side of West street, between South and Merrill streets.

Recommend the work be done.

69th. That the Street Commissioner be directed to protect with suitable railing the bridge across Pogue's Run on East street.

Recommend the work be done.

The following report of the Judiciary Committee (see favorable action of the Common Council thereon—page 1085, *ante*), was read :

Indianapolis, Ind., Jan. 16th. 1882.

To the Mayor and Common Council:

Gentlemen:—Your Judiciary Committee, together with the City Attorney, to whom was referred sundry papers, report thereon as follows:

The first is the petition of C. C. Koerner, asking pay for horse and buggy damaged by No. 5 Hose Reel, on 9th of November last. He asks for \$65.00 on buggy and \$60.00 on horse, total \$125.00. The accident occurred on Tennessee street, in

front of third house south of the residence of Governor Porter. At this point it is between eight and nine feet from curbstone to the edge of the beaten track. The Reel was coming south about 9 o'clock at night, going to a fire, on track above mentioned, the petitioner was going north on same track with sister in his buggy. The following accounts were given to your committee by the parties: The men upon the Reel, three in number, say they saw an object in front of them when forty feet away, and they turned to the right, going two feet to the right of the beaten track, into the soft ground. The object seen was the petitioner, and when within fifteen or twenty feet of them, the petitioner pulled his horse squarely to the left, with his horse's head nearly directly west, and immediately in front of the Reel horse. The distance was so short the Reel could not be stopped, and he struck the petitioner's horse about the shoulder, knocking it down, the Reel horse falling over him upon its knees. The distances at the point of the accident were as follows, by actual measurement made the next morning. The east wheel of the Reel was seventeen feet from the curbstone, and two feet west of the beaten track. Here was room for three buggies to have passed to the right of the Reel abreast, without harm, and petitioner's buggy was given the entire track, and could have passed upon it missing the reel two feet.

The petitioner's statement was as follows: Tennessee street has been lately graded, and two tracks have been made, one on west side and other on east side of street, with some twenty feet of soft ground in center of street. The petitioner had been on the west side of the street, when he saw the Engine coming he says he drove to the east side of the street, to a point within two or three feet of the curbstone, and stopped. That he did not see the Reel until it was but a few feet away, and that he called out "ho." That the Reel horse struck his horse on the right shoulder, perhaps with the shaft of the Reel, and turned him around with his head to the west and towards the center of the street, where his horse fell. At the time he says his horse's head was facing north. Petitioner's sister makes the same statement as to the facts.

By reference to the measurements made, it will be seen that a buggy standing within two or three feet of the curbstone, is east of the beaten track on each side of the street, and another vehicle may pass upon the track and miss from one to two feet.

Again, a horse standing hitched to a buggy that stands within two or three feet of the curbstone, to be struck on the right shoulder (which would be the shoulder next the curb in this case) by a Reel horse, would indicate that the wheel of the Reel was running against or upon the curbstone. From all the facts, your committee are of the opinion that the city is not legally liable for damage done in this case.

But in view of the fact that the accident occurred in the night time, and at a point between the lamp posts; and further, upon the statement of Prof. Koerner and his sister, that on account of the darkness they did not see the Reel until it was right upon them, and what was done was necessarily upon the moment, without thought, it would be just, at least, for the city to bear a portion of the loss. The damage claimed upon the buggy, is \$65.00, and \$60.00 for the horse. The horse is now about well; at least the petitioner is using it daily, and has been for some time.

As a compromise, your committee think it would be fair to pay \$65.00 on the buggy, and \$10.00 on the horse; provided the petitioner will give receipt in full of any and all causes of action he may claim to have against the city.

The second is the petition of Frank McWhinney, showing that at different times he purchased at tax sale Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, in Myers & McClain's southeast addition to the city. Also, Lot 1, Staunton's addition. Also, Lot 12, Square 13; Lots 10, 10, 10, in different Squares; 11 and 12, in Myer's subdivision southeast addition.

He says the sales were void, for the reason that said property does not lie within the corporate limits of the city, and therefore not liable for city taxation.

If this petition be granted, more of the same kind—amounting to several thousand

dollars—will immediately follow; and your committee desire that the Court may decide whether or not the payments thus made were not *voluntary*. If so, the money cannot be recovered.

Your committee recommend that the prayer of petition be not granted; and that a test case be made of this first petition to refund taxes in Stanton's addition and Myers & McClain's addition, both of which were not contiguous territory, at the time of their annexation.

Respectfully submitted,

James A. Pritchard,
N. Yoke,
John W. Fultz,
Committee.

C. S. DENNY, City Attorney.

Alderman Tucker moved that the first clause of the above report be not concurred in.

Alderman Hamilton moved to amend above motion so as to refer the clause to the Judiciary Committee and City Attorney.

Which amendment was adopted.

The motion as amended, was then adopted, and the first clause so referred.

The favorable action of the Common Council on the second clause of the above report was then concurred in.

The following report from a certain special committee was read; and the favorable action of the Common Council thereon (see page 1089, *ante*) was concurred in:

To the Mayor and Common Council:

Gentlemen:—The Committee on Insecure Buildings, beg to call your attention to the condition of Engine house No. 7, situated on east Maryland street:

We find that the stone pier in front end has settled, so as to loosen the key-stones in the arches over the large doors, which were once before trimmed off, making an even surface, but still continues to drop, and the outer one is likely to fall at any time, and would cause much injury to the building, as the joists (which are a thirty feet span), rest on this wall. Since the erection of the building, an iron column has been placed under the center of the truss which supports the other end of the joists, and the partition above this, has taken the strain off the east and west walls at this point. The other end of this floor rests on the wall above the strained arch, which is shaken by the vibrations from the striking of the bell, the swinging of the large door, the shaking of a thirty foot span of joist, and the continual strain from the guy wires which fasten from the building to the telegraph pole on the Meridian street corner. To take out the whole of the arch, would necessitate the removing of moulded sill course, and the whole of the wall above, at an estimated cost of \$750 00. The cheapest way would be to lift up and re-key the inner arch, take out the outer key-stone and replace it with a larger one, put an iron rod through the building from east to west walls, place a 12 by 14 inch truss beneath the floor about midway, putting an iron column under the centre, in line with that one already in. This would make the building secure, at an estimated cost not to exceed \$225.00.

All of which we respectfully submit for your consideration.

George Weaver,
H. B. Stout,
Frederick Hartmann,
Special Committee

The following motion (adopted by the Common Council—see page 1092, *ante*) was read:

That the City Marshal be, and is hereby, directed to notify the Superintendent of the J., M. & I. R. R., to make the necessary culverts under their tracks, in accordance with the instructions of the City Civil Engineer; and should they fail to construct said culverts within five days from said notice, the Street Commissioner be, and is hereby, directed to make said culverts at the expense of said company.

Alderman Tucker moved that the action of the Common Council on the above motion, be not concurred in.

Which motion failed of adoption.

The motion was then concurrently adopted.

The following motions (adopted by the Common Council—see pages 1092, 1093, 1094, 1095, 1098 and 1099, *ante*) were read and concurrently adopted:

That the Street Commissioner be directed to repair the stone crossings on New Jersey street, at the crossing of Michigan street.

That the City Civil Engineer be, and is hereby, directed to notify the contractor for placing street guides upon lamp-posts, to put the same upon lamp-posts and street corners in West Indianapolis in proper manner, and that the Engineer give the contractor the correct names of the streets, and locate the same.

That the Street Commissioner be, and is hereby, directed to repair the ruts and chuck-holes on Oriental street, between Washington street and the Michigan Road.

That the officers of the C., I. & St. L. R. R. Co. be notified by the City Marshal to repair and re-plank their crossing on East street, as the said crossing is in a very bad condition.

That the C., C., C. & I. R. R., and Wabash, St. Louis & Pacific R. R. Co.'s be requested to place a flagman on Market street crossing.

That the Street Commissioner be instructed to fill with gravel a low place in the alley between New Jersey and East street, just south of St. Clair street, as there is a pond of water stands there several months in the year.

That the City Civil Engineer shall have a street sign placed on the lamp-posts situated on each end of Garfield Place.

The following petition was read, and the action of the Common Council thereon (see page 1093, *ante*) was concurred in:

Indianapolis, Jan. 16, 1882.

To the Honorable Council of the City of Indianapolis:

Gentlemen:—The undersigned, auctioneers of the city, humbly petition your honorable body for an auction license for one year. Our place of business is No. 88, east Washington street.
HUNT & McCURDY.

The following motion (adopted by the Common Council—see page 1096, *ante*) was read, and action thereon postponed until the next regular meeting:

That the City Civil Engineer, together with the Committee on Contracts, be, and are hereby, ordered to have the contractor (S. W. Patterson) for the improvement of north Meridian street, put down the stone crossings and bowlder the intersections, as provided in said ordinance; *Provided* said contractor will do the work according to the specifications of the City Civil Engineer, and at the same price as stated in his bid for said work.

The following motions (referred by the Common Council to the Board of Public Improvements with power to act—see pages 1096 and 1100, *ante*), were read; and, on motion, the Committee on Streets & Alleys and Sewers & Drainage, was added to act jointly with the Board of Public Improvements, and the motions, as amended, were then concurrently adopted:

That the Street Commissioner be, and is hereby, ordered to place a double stone crossing at the intersection of the first alley west of Illinois street, on New York street, as said alley crossing is east of School House No. 12, and should be put in good condition, on account of the school children in said school.

That the Street Commissioner be, and is hereby, directed to place a stone crossing across Harrison street, at the intersection of Noble and Harrison streets; also, across Lord street, at the intersection of Noble and Lord streets. Between 150 and 200 school children pass the above crossings four times each day. Street is low and usually muddy at these crossings.

The following message was read and received:

To the President and Members of the Board of Aldermen:

Gentlemen:—I herewith transmit to your honorable body the following paper, favorably passed upon by the Common Council at its special session held Friday evening, January 20th, 1882, for your action upon the same.

For the Common Council:

Jos. T. MAGNER, City Clerk.

The following report from the City Attorney was read, and the favorable action of the Common Council thereon (see page 1101, *ante*) was concurred in:

Indianapolis, January 20th, 1882.

To the Mayor, Common Council and Board of Aldermen:

Gentlemen:—Among the papers turned over to me by my predecessor, is a bill against the P. C. & St. L. R. R. Co., for the sum of \$431.92 for material furnished and work done in laying the floor at Virginia avenue crossing. There is also a written proposition of the Railway Co. to pay \$147.86 of said amount, if accepted in full for the company's part of said material and work, that being for the part of said improvement between the rails of the company's tracks and three feet on either side.

I have seen Mr. Hutchinson, the company's roadmaster, and he now offers to pay one-half of the whole bill, to-wit: \$215.96 subject to approval of his company, as a final settlement of the matter.

If I have been correctly informed of the facts in the case, I am of the opinion that the railway company could not be compelled to pay more than the \$147.86 originally offered, and therefore regard the proposition now made as a good compromise.

The city can of course hereafter protect herself by ordering the crossings boul-

dered, the abutting property on both sides of Alabama street being owned by the company; or, if a floor is desired again, by having a full understanding before the work is done. I ask for instructions in this matter.

Respectfully submitted,

C. S. DENNY, City Attorney.

The following special message was read :

To the President and Members of the Board of Aldermen :

Gentlemen:—The Common Council, at its session held this evening, January 23d, 1882, refused to concurrently adopt your motion providing for the appointment of fifty extra Policemen for the term of ten days, and adopted the following motion on the same subject, which I herewith submit for your consideration and action.

For the Common Council:

JOS. T. MAGNER, City Clerk.

That the Mayor and Police Board be, and are hereby, fully authorized by the Council and Board of Aldermen to employ at once, at least twenty (20) additional Patrolmen for night duty, at the same rate per day as now paid the regular force, and that they be instructed to include said amounts in the next appropriation ordinance. Said Patrolmen to be employed for a term of two weeks; and the Police Board and Mayor, together with the Chief of Police, be requested to notify the Council and Board of Aldermen how many men will be necessary to the proper protection of life and property, after said two weeks expire.

Alderman Tucker moved to amend above motion by adding Committee on Police Department from the Board of Aldermen.

Which amendment was adopted.

The motion as amended was then adopted.

The following message was read and received :

To the President and Members of the Board of Aldermen :

Gentlemen:—I herewith transmit to your honorable body certain papers, favorably passed upon by the Common Council, at its adjourned session, held on Monday evening, January 23d, 1882, for your action upon the same.

For the Common Council:

JOS. T. MAGNER, City Clerk.

The following entitled ordinance (passed by the Common Council) was read the first time :

G. O. 6, 1882—An Ordinance prohibiting idling, loitering or sleeping in public places, in the city of Indianapolis.

Alderman Hamilton moved to suspend the rules for the purpose of placing the above ordinance on its final passage.

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

AYES, 8—viz. Aldermen DeRuiter, Hamilton, Mussmann, Newman, Seibert, Tucker, Wood, and President Layman.

NAYS—None.

G. O. 6, 1882, was then read the second and third times, and passed by the following vote :

AYES, 8—viz. Aldermen DeRuiter, Hamilton, Mussmann, Newman, Seibert, Tucker, Wood, and President Layman.

NAYS—None.

The following communication and resolution were read :

Indianapolis, January 23d, 1882.

To the Common Council and Board of Aldermen :

Gentlemen:—At a meeting of citizens of Indianapolis, called this day for the purpose of protesting against the recent increase of charges for switching privileges on the railroads of this city, the accompanying resolution was adopted.

The question involved, is one of great importance to a large number of our people, and should receive prompt and earnest attention.

Very respectfully,
D. W. GRUBBS, Mayor.

Resolved, That the Common Council and Board of Aldermen, at their meeting to-night, be, and are hereby, requested to appoint a special committee, of which His Honor, the Mayor, and the President of the Board of Aldermen shall be members, to act with such committees as may be appointed by this meeting, to protect the citizens of this city against the recent action of the several railroad companies doing business at this point.

On motion, the above request was granted, and Aldermen Seibert, Mussmann, Tucker and Drew, were appointed by the Chair to act as the Alderman members of such committee.

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 affidavit, now on file in my office, for the collection of street assessment by precepts, to-wit:

John Greene vs. Unknown Owner, for	\$ 43 50
John Greene vs. The Indianapolis, Cincinnati & Lafayette Railroad Co., for.....	144 00
John Greene vs. The Indianapolis, Cincinnati & Lafayette Railroad Co., for.....	118 13
Samuel W. Patterson vs. James A. and Emma B. Buchanan, for...	8 00
Samuel W. Patterson vs. Jacob Hornung, for.....	11 48

And recommend you order the precepts to issue.

Respectfully submitted,

Jos. T. MAGNER, City Clerk.

The favorable action of the Common Council on the above report (see page 1106, *ante*) was concurred in, and the precepts ordered to issue by the following vote:

AYES, 7—viz. Aldermen DeRuiter, Mussmann, Newman, Seibert, Tucker, Wood, and President Layman.

NAYS, 1—viz. Alderman Hamilton.

Alderman Seibert moved to reconsider the action of the Board of Aldermen (see page 1062, *ante*), in concurring in the action of the Common Council as to the proposed contract of the City of Indianapolis with the Water Works Company.

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

AYES, 3—viz. Aldermen Hamilton, Mussmann, and Seibert.

NAYS, 5—viz. Aldermen DeRuiter, Newman, Tucker, Wood, and President Layman.

The following report from the Judiciary Committee was read; and the favorable action of the Common Council thereon (see page 1108, *ante*) was concurred in:

Indianapolis, Jan. 23d, 1882.

To the Mayor and Common Council:

Gentlemen:—Your Judiciary Committee, together with the City Attorney, to whom was referred the petition of Wm. Rowe, for the refunding of \$1,007.26, with interest, money paid for part of Lot 14, Square 45, at city tax sale on 10th of February, 1880. The sale was void, for the reason that the real estate was sold for the personal tax of The Journal Company, who was not the owner of the real estate at the time the taxes accrued on the personal property.

The sale was for taxes on realty for 1879.....	\$ 632 40
And taxes on personal property for 1878.....	374 86

Total.....	\$1,007 26
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An action was brought in the Superior Court, cause No. 26,691, to quiet title on tax deed, and therein the following facts were proven:

- 1st. The taxes on the real estate for 1878, were paid.
- 2d. The real estate was sold on foreclosure of a second mortgage to L. W. Hasselman and Wm. P. Fishback, October 20th, 1877, and the certificate assigned to Ott. Hasselman, in October, 1878.
- 3d. The United States Mortgage Company foreclosed first mortgage on real estate, and sold the same in 1879.
- 4th. Mr. Ridenour, as Receiver of The Journal Company, sold the personal property to Ott. Hasselman, on November 20th, 1878, and he still holds it, in The Journal Building.
- 5th. The duplicate upon which the sale was made in this case, was delivered to the Treasurer on December 15th, 1879.

Upon these facts, the judgment of the Court was, that the personal tax never became a lien on the real estate, because the property was sold before the duplicate was delivered to the City Treasurer, and that the real estate could not be sold, because it was never delinquent.

Wm. Henderson, as attorney for the U. S. Mortgage Company, has \$632.40—the tax on the realty—which he has ready to pay into the city treasury as soon as duplicate is in shape for City Treasurer to receive it. At present the duplicate is satisfied by the void sale.

Your committee recommend that the sum of \$1,007.26 be refunded to petitioner, with six per cent interest from February 10th, 1880, and that the sum of \$632.40, and its interest, be carried on duplicate against said real estate, to-wit: Six feet and three inches off west side Lot 14, Square 45, city, and advertise the same as delinquent. And further, that the balance of said \$1,007.26, the personal tax, amounting to \$374.86, and interest, be collected by City Treasurer immediately, from the personal property now in the hands of Ott. Hasselman, by purchase from the Receiver of The Journal Company, November 20th, 1878, it being the same property upon which the tax was assessed.

Respectfully submitted,

James A. Pritchard,
N. Yoke,
John W. Fultz,
Committee.

C. S. DENNY, City Attorney.

The following entitled ordinance (passed by the Common Council) was read the first time :

G. O. 7, 1882—An Ordinance requiring the various railroad companies crossing east Market street, east Washington street, south East street, south New Jersey street, south Alabama street and Virginia avenue, south Delaware street, south Pennsylvania street, south Illinois street, south Tennessee street, and west Washington street, west of White River, in the city of Indianapolis, to erect and maintain safety gates, for the protection of the public, at each of said crossings.

Alderman Tucker moved a suspension of the rules for the purpose of placing the foregoing ordinance on its final passage.

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

AYES, 7—viz Aldermen Hamilton, Mussmann, Newman, Seibert, Tucker, Wood, and President Layman.

NAYS—None.

G. O. 7, 1882, was then read the second and third times, and passed by the following vote :

AYES, 7—viz. Aldermen Hamilton, Mussmann, Newman, Seibert, Tucker, Wood, and President Layman.

NAYS—None.

INTRODUCTION OF MISCELLANEOUS BUSINESS.

Alderman Hamilton offered the following motion :

That the City Attorney be, and is hereby, directed to insert the following clause in the proposed contract with the Indianapolis Water Company :

“It is hereby expressly agreed by the Water Works Company, that after the first day of January, 1883, the water furnished by the Water Works Company to the city and citizens of Indianapolis, shall be of a degree of purity not lower than the minimum standard of purity of good ‘potable water,’ as established by the National Board of Health. All questions in regard to the purity of water as furnished by the said Water Works Company, shall be referred to a chemist, to be selected by the Common Council, Board of Aldermen and Board of Health of said city of Indianapolis, and the result of such analyses shall be accepted as conclusive evidence of the degree of purity of said water.”

And it was adopted by the following vote :

AYES, 7—viz. Aldermen Hamilton, Mussmann, Newman, Seibert, Tucker, Wood and President Layman.

NAYS—None.

Alderman DeRuiter offered the following motion ; which was adopted :

That the Committee on Insecure Buildings, be directed to examine the building now being re-erected by F. Stout & Son, and whether, in the opinion of the committee, the building, as now being erected by them, is secure.

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

Indianapolis, Jan. 23, 1882.

To the President and Members of the Board of Aldermen :

Gentlemen:—You ask me to report (1), whether or not the city has the power to tax telegraph companies now operating in her borders; and (2) all other corporations to which franchises have been granted, and (3) whether the Western Union Telegraph Co has ever acquired any legal right to use the streets and alleys of the city for her telegraph poles, etc.

I state the result of my investigations, both as to the law and facts involved, briefly as follows :

Municipal corporations only, have power to levy and collect taxes, properly so called, by virtue of statute. The present tax laws of the State only authorize cities and counties to tax the property of corporations, such as telegraph, street railway, and other like companies, on their tangible property. The city cannot, therefore, impose direct *taxes* upon corporations using her streets and alleys, except upon their tangible property.

The Charter, however, gives the Council exclusive power over the streets and alleys within the city. It may restrict persons and corporations in the use of them, and may exclude them altogether. It follows, therefore, as a natural sequence, that the city may impose a *license* or *charge* against any person or corporation as a condition precedent to the use of her streets and alleys. But where the right of way has been granted, and vested rights have been thus acquired, such a license fee or charge cannot afterwards be imposed. Where the right to repeal at any time has been expressly reserved, however, or the right of the city to impose a license fee against the person or corporation for the use of the streets, is made a part of the

ordinance granting the right, then a charge or license fee may be imposed. Under these two latter classes, fall the Telephone Company, the Brush Electric Light and Power Co., and the Mutual Union Telegraph Co., the right to repeal at any time being reserved in the ordinances granting the Telephone and Telegraph Co.'s their rights, and the right to at any time impose a charge against the Brush Electric Light Co. being made a part of its ordinance.

I find that the Western Union Telegraph Co. has never acquired any franchises from the city at all. At least I have been unable to find any ordinance or resolution granting said company the right to erect or maintain any poles or wires in the city; and have been informed by those more familiar with records and legislation of the city than myself, that they know of none. If I am correct, therefore, as to the fact stated, said company is in no better position in this respect, than though its poles had never been erected; for a nuisance cannot be legalized by user, simply. As to it, therefore, a charge or license fee may be imposed as a condition precedent to the further use of the streets by it, in addition to the tax it now pays on its tangible property in the city.

Respectfully submitted,

C. S. DENNY, City Attorney.

Alderman Wood was excused for the remainder of this session.

Alderman Hamilton offered the following motion; which was adopted:

That the City Civil Engineer report plans for the erection of a *Market House* on the south half of Square 44, which shall not exceed in cost the sum of twenty-five thousand dollars; and that when such plan is accepted by the Common Council and this Board, such *Market House* shall be paid for from the Tomlinson Fund now in the city treasury.

Alderman Tucker offered the following motion; which was adopted:

That the Chief of the Police be, and is hereby, requested to report to this body, the number of cases filed during the past twelve months, against parties for violation of ordinances of blockading of streets by railroad companies; and also the number of cases filed against citizens for blockading of sidewalks, alleys, and having dangerous obstructions in the streets and alleys of the city, in violation of existing ordinances.

On motion, the Board of Aldermen then adjourned.

JAMES T. LAYMAN, President.

Attest: GEO. T. BREUNIG, Clerk.