

PROCEEDINGS OF BOARD OF ALDERMEN.

REGULAR SESSION—MARCH 13, 1882.

The Board of Aldermen of the City of Indianapolis, met in the Aldermanic Chamber, Monday evening, March 13th, A. D. 1882, at half-past seven o'clock, in regular session.

PRESENT—Hon. James T. Layman, President of the Board of Aldermen, in the Chair, and Aldermen DeRuiter, Drew, Hamilton, Mussmann, Newman, Rorison, Seibert, Tucker, and Wood—10.

ABSENT—None.

The Proceedings of the Board of Aldermen for the regular session, held February 27th, 1882, having been printed and placed on the desks of the Aldermen, said Journals were approved as published.

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, February 27th, 1882, for your action upon the same.

For the Common Council:

Jos. T. MAGNER, City Clerk.

The following report from the City Marshal was read, and the action of the Common Council thereon (see page 1221, *ante*), was concurred in, and Aldermen Rorison, Tucker and Newman appointed as a special committee to act with the Committee on Public Property of the Council for receiving proposals for the erection of pounds:

Indinnapolis, Feb. 27, 1882.

To the Common Council and Board of Aldermen:

Gentlemen:—I respectfully report that I have made frequent efforts to obtain suitable locations for Pounds for impounding animals, and so far have not succeeded in securing the two locations as required and provided for by the recent ordinance for impounding animals. When the owners of suitable grounds learn for what purpose the grounds are to be used, they decline to lease them for any price. I ask that a committee of your honorable bodies be appointed, with power to select suitable locations.

Respectfully submitted,

R. S. COLTER, City Marshal.

By consent, Alderman Hamilton presented the following communication; which was referred to the foregoing special committee:

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

From the papers publishing the proceedings of your honorable bodies, I learn that you have an ordinance upon your statute books (and a very good one, by the way), that is entirely disregarded by both officers and people, and the reason given for this condition of things, is because no suitable place can be found for making a pound.

Now as I have been damaged by this neglect to enforce what is commonly called the cow ordinance, it seems but right that I should be the first to aid the city to execute its own ordinances. Therefore, I offer for the use of the city, the free use for two years, paying my own taxes on the same, Lot No. 5, in Van Blaricum's subdivision of Out lot 2, on Washington street, west of White River, 35 by 90 feet. Also, Lot 11, in Hubbard, Martindale & McCarty's southeast addition, fronting on Linden street, in size 30 by 115 feet. The city to fence the same, and remove the fence any time before the expiration of the two years, or sell the same to me at an agreed price.

Respectfully submitted,

March 13, 1882.

WM. S. HUBBARD.

The following report from the Fire Board (see page 1221, *ante*), was read, and on motion by Alderman Seibert, was referred to the Committee on Streets & Alleys and Sewers & Drainage:

To the Common Council and Board of Aldermen:

Gentlemen:—A motion was referred to us, requesting us to examine and report if further fire protection was necessary at or near Reid street and English avenue. We have examined the locality, and would recommend that a 2,000-barrel cistern, near the corner of Deloss and Reid streets, be built; and that the City Engineer be directed to advertise for proposals for same.

Respectfully submitted,

Isaac Thalman,
Phil Reichwein,
N. Yoke,
Fire Board.

The following clauses of the report from the Committee on Judiciary, were read; and the favorable action of the Common Council thereon (see pages 1223 and 1224, *ante*), was concurred in:

The first is the petition of William H. Kilvert, showing that at tax sale on 14th day of February, 1876, he purchased Lot 33, in McKernan & Pierce's subdivision of Out-lot 27, sold for taxes of years 1873, 1874 and 1875, paying for the same the sum of \$20.41. Petitioner says sale was void, for the reason that the same was a double charge on duplicate, and taxes paid. City Treasurer informs your committee that the facts are true.

Your committee recommend that the sum of \$21.41, with its interest from day of sale, be refunded to petitioner.

The second is the petition of F. McWhinney, showing that he bought 37 feet north of 196 feet south end of Lot 13, Out-lot 182, at tax sale of August 8th, 1879, paying for same the sum of \$60.25, and paid the further sum of \$12.46 as taxes on said lot.

He says sale was void for the reason that the same was charged double on duplicate, the taxes being paid. City Treasurer informs your committee the facts are true.

We recommend the sum of \$72.71, with its interest from the several dates at which it was paid, be refunded to petitioner.

The third is the petition of Charles E. Coffin, assignee, showing that at tax sale

on February 14th, 1877, one C. Sydney Converse purchased north half of Lot 9, in Out-lot 27, paying the sum of \$5.41. He says the sale was void, for the reason the city owned the lot at time of sale.

We find that Michael Molony and wife conveyed said real estate to the city of Indianapolis, the 28th day of March, 1870, and the deed is recorded in Record of Mortgages, book 42, page 260. The sale occurred seven years after this date.

Your committee recommend the prayer of petition be granted, and the sum of \$5 61, and interest from day of sale, be refunded to petitioner, now owner of certificate by assignment.

The following report from the Committee on Streets and Alleys, was read, and the favorable action of the Common Council thereon (see pages 1224 and 1225, *ante*), was concurred in:

Indianapolis, Ind., February 27th, 1882.

To the Mayor and Common Council:

Gentlemen:—Your Committee on Streets and Alleys, to whom was referred petition of Warren Reed, Martha A. Reed, Edward Schurmann and Emma S. Schurmann, by Alex. Metzger, her agent, asking the vacation of short alley running from Twelfth street south to first alley south of Twelfth street—being the first alley east of Mississippi street—report in favor of granting the prayer of said petition, all the owners of the property immediately on the line of said alley petitioning for the same. We recommend the prayer of petition be granted, and that the accompanying resolution be passed.

Respectfully submitted,

George Weaver,
Simeon Coy,
Committee.

The following resolution (adopted by the Common Council—see page 1225, *ante*), was read:

Resolved, That the matter of vacating of alley running from Twelfth street south to first alley south of Twelfth street—being the first alley east of Mississippi street—together with the petition and plat presented in such case, be referred to the City Commissioners, with instructions to assess benefits and damages to any person or persons thereby benefited or damaged; the said Commissioners are hereby instructed to return as a part of their report all petitions and notices; and if any property owner immediately on the line of said alley, who is directly interested therein, shall object to such vacation of said alley, to make such fact a part of their report; and the City Clerk is hereby directed to issue the proper notices to the Commissioners.

And it was concurrently adopted by the following vote:

AYES, 9—viz. Aldermen DeRuiter, Hamilton, Mussmann, Newman, Rorison, Seibert, Tucker, Wood, and President Layman.

NAYS—None.

The following motions (adopted by the Common Council—see page 1229, *ante*), were read, and concurrently adopted:

That J L. Spaulding be allowed \$37 for loss sustained in the improvement of west Maryland street sidewalk, beyond the point designated in the ordinance ordering the such improvement—the same having been declared illegal by the City Attorney.

That the City Marshal be, and is hereby, directed to notify the property owners on the line of Hanna street, between Ohio and Washington streets, to remove their fences and buildings out of said street.

The following entitled ordinances (passed by the Common Council), were severally read the first time :

- S. O. 123, 1881—An Ordinance to provide for grading and graveling the first alley south of Henry street, from Mississippi street to Missouri street.
- S. O. 140, 1881—An Ordinance to provide for grading and graveling New York street and sidewalks, from Pine street to Harvey street.
- S. O. 164, 1881—An Ordinance to provide for grading, bowldering and curbing the gutters of Noble street, from Washington street to New York street, except where already bowldered or curbed.
- S. O. 167, 1881—An Ordinance to provide for grading and graveling the east sidewalk of Shelby street, from Pleasant Run to a point where already graded and graveled, north of said Pleasant street.
- S. O. 169, 1881—An Ordinance to provide for grading and paving with brick, (where not already properly paved), the sidewalks of Broadway street, from Home avenue to Lincoln avenue.
- S. O. 170, 1881—An Ordinance to provide for grading and graveling the second alley north of Christian avenue, between Peru street and Bellefontaine avenue.
- S. O. 174, 1881—An Ordinance to provide for grading and graveling the first alley south of Seventh street, from Mill street to Howard street.
- S. O. 176, 1881—An Ordinance to provide for grading and graveling the first alley west of Meridian street, from South street to Garden street.
- S. O. 178, 1881—An Ordinance to provide for grading and graveling Pratt street between Tennessee and Mississippi streets.
- S. O. 179, 1881—An Ordinance to provide for grading and graveling the first alley west of Illinois street, (where not already graded and graveled), from Eighth street to the first street north of Eighth street.
- S. O. 180, 1881—An Ordinance to provide for grading, and paving with brick, the sidewalks, and curbing and bowldering the gutters of Court street, between Alabama and New Jersey streets, (where not already paved, curbed or bowldered.)
- S. O. 181, 1881—An Ordinance to provide for grading, and paving with brick, the north sidewalk of Home avenue, (where not already paved), between Pennsylvania and Delaware streets.
- S. O. 182, 1881—An Ordinance to provide for grading and bowldering the first alley west of Delaware street, between Market and Ohio streets.
- G. O. 72, 1881—An Ordinance to amend Section thirteen (13) of the Market ordinance; ordained July 2d, 1878.
- S. O. 1, 1882—An Ordinance to provide for grading and graveling the first alley south of English avenue, from Linden street to Laurel street.
- S. O. 7, 1882—An Ordinance to provide for grading and paving with brick, the east sidewalk of Dillon street, from English avenue to Prospect street.
- S. O. 8, 1882—An Ordinance to provide for grading and graveling Linden street and sidewalks, from Orange street to Pleasant Run.

- S. O. 9, 1882—An Ordinance to provide for grading and graveling Minnesota street and sidewalks, from Madison avenue to East street.
- S. O. 10, 1882—An Ordinance to provide for grading and graveling Highland street, between Washington and Ohio streets.
- S. O. 11, 1882—An Ordinance to provide for paving with brick, and curbing with stone, the sidewalks of Highland street, between Washington and Ohio streets.
- S. O. 12, 1882—An Ordinance to provide for grading and paving with brick, the west sidewalk of College avenue, from Twelfth street to Clyde street.
- S. O. 13, 1882—An Ordinance to provide for grading and graveling the first alley south of Fletcher avenue, between Grove and Cedar streets.

The following special message was read; and on motion by Alderman Seibert, the matter as set forth therein, was 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 March 6th, 1882, adhered to their former action in recommending that the following work be done under contract by the City Civil Engineer:

11th. Is a motion that the Street Commissioner be, and he is hereby, directed to take up and re-lay the northeast corner 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.

Recommended by the Board of Public Improvements to be done under contract by the City Civil Engineer.

We recommend the work be done by the Street Commissioner, as contemplated in said motion.

I submit the same for your consideration.

For the Common Council.

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, favorably passed upon by the Common Council, at its regular session, held on Monday evening, March 6th, 1882, for your action upon the same.

For the Common Council:

JOS. T. MAGNER, City Clerk.

The following report from His Honor, the Mayor, (see page 1252, *ante*), was read and received:

Indianapolis, Ind., March 6th, 1882.

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

Policemens' witness fees.....	\$108 00
Mayor's fees.....	76 15
Fines in city cases.....	80
Total.....	\$184 95

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 Clerk (see page 1252, *ante*), was read; and, on motion by Alderman Seibert, was referred to the Committee on Judiciary, Ordinances and Rules, and City Attorney:

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:

Samuel Keers & Co. vs. Diana Isherwood, for.....	\$11 42
Samuel Keers & Co. vs. Carrie Newmeyer, for.....	21 45
Samuel Keers & Co. vs. Louisa H. Johnson, for.....	21 45
Samuel Keers & Co. vs. Elizabeth Doggett, for.....	90 93
Samuel Keers & Co. vs. George W. Apple, for.....	16 64
Samuel Keers & Co. vs. E. W. Hollingsworth (christian name unknown), for.....	26 00
James Mahoney vs. Louis A. Meeks et al., for.....	8 00
James Mahoney vs. William V. Wilson, for.....	8 00
James Mahoney vs. David Munson, for.....	8 00

And recommend you order the precepts to issue.

Respectfully submitted,

JOS. T. MAGNER, City Clerk.

The following report from the City Civil Engineer was read; and the favorable action of the Common Council thereon (see page 1255, *ante*) was concurred in:

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

Gentlemen:—The undersigned to whom sundry papers were referred, would report thereon as follows:

1st. Is a motion that the Street Commissioner be directed to repair the culvert and drain along the P., C. & St. L. R. R., between Summit and Oriental streets.

Recommend that the City Marshal be directed to notify the P., C. & St. L. R. R. Co. to do said work.

2d. Is a motion that the Street Commissioner be directed to clear the drift wood from the channel of Pogue's Run.

Recommend that the Street Commissioner be directed to remove the accumulations of drift wood from around the city bridges.

Respectfully submitted,

S. H. SHEARER, City Civil Engineer.

The following report from the City Attorney (see page 1256, *ante*), was read and received:

Indianapolis, March 6, 1882.

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

Gentlemen:—Since the last meeting of the Council, the case of Rudolph Richter et al. vs. The City, in the United States Circuit Court, has been dismissed by the court, for want of prosecution on the part of the complainants.

This was a suit to enjoin the city from further using the prison doors at the Station Houses, and for damages on account of the past use, the complainants claiming that their rights under a patent on prison doors, were infringed by the city. Judgment was rendered in favor of the city for costs.

The case of John H. Hayward et al. vs. "The Mayor, Aldermen and Commonalty of the city of Indianapolis, and the Board of Education of the city of Indianapolis," in the same court, has also been disposed of.

This was a suit (presumably intended to have been brought against the city) for

damages on account of the use made by the city of certain patented school furniture, etc., which complainants claimed was an infringement upon their rights under a patent held by them. I filed a motion on behalf of the city to quash the subpoena and the return thereto, in so far as the same attempted to bring the city into court, for the reason that the city was not sued in her proper corporate name. Before a ruling was made on said motion, the suit was dismissed by the court for failure of claimants to furnish the necessary cost bond. The statute of limitations can be successfully pleaded to any suit hereafter brought on this claim, if I am correctly informed as to dates.

Respectfully submitted,

C. S. DENNY, City Attorney.

The reports of the Superintendents of the City Hospital and Branch, and the City Dispensary, for the month of February, 1882 (see pages 1256 and 1257, *ante*), were read and received.

The report of J. H. Webster, Chief Fire Engineer (see page 1258, *ante*), was read and received.

The report of the Board of Public Improvements and Street Commissioner, showing the expenses for the month of February, 1882 (see page 1258, *ante*), was read and received.

The mortality report of the Board of Health (see page 1259, *ante*), was read and received.

The following report of the Judiciary Committee (see page 1260, *ante*), was read:

Indianapolis, March 6th, 1882.

To the Mayor and Common Council:

Gentlemen:—Your Judiciary Committee, together with the City Attorney, to whom was referred the communication of A. Naltner and his bondsmen, report as follows:

Some weeks ago, the resolution introduced by Mr. Brundage, providing that A. Naltner's pay as garbage contractor should cease on and after November 30th, 1881, and further providing that the City Marshal should notify him in writing of this action, was referred to your committee by the Council and Board of Aldermen, with instructions to use the payments of the months of October, November and December, 1881, in settlement with said Naltner, provided he would release the city from said contract, and give receipt in full of all causes of actions he may claim to have against the city growing out of the garbage contract.

At the second meeting in December last, we reported that we had been unable to make settlement, and obtain said receipt. Then the Brundage resolution was passed, and the City Marshal, as appears by his return in the City Clerk's office, served said notice upon Mr. Naltner on the 26th day of December last. In the meantime, he continued his work. After said notice was served, Mr. Naltner left with the City Attorney his release of all claims and rights of every nature whatever growing out of the garbage contract, providing his claim for the month of December last, amounting to \$450.00, be allowed him.

From all the facts as above set out, your committee are of the opinion that the pay for the month of December, should be allowed and paid, and his receipt in full accepted. By settlement between Mr. Naltner and Mr. Campbell, one half of the December payment belongs to Mr. Campbell.

Your committee therefore recommend that the claim for December, amounting

to \$450.00, be allowed, and the City Clerk to place in next appropriation, \$225.00 to A. Naltner, and \$225.00 to Henry C. Campbell, on A. Naltner's account, and both Campbell and Naltner be required to receipt on his books for both warrants.

Respectfully submitted,

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

Councilman Tucker moved that the above report be referred to the Committee on Streets & Alleys and Sewers & Drainage.

Which motion failed of adoption.

The action of the Common Council in adopting the report, then failed to be concurred in by the following vote:

AYES, 4—viz. Aldermen DeRuitter, Mussmann, Newman, and Wood.

NAYS, 5—viz. Aldermen Hamilton, Rorison, Seibert, Tucker, and President Layman.

The following clause of the report from the Committee on Streets and Alleys was read, and the favorable action of the Common Council thereon (see page 1261, *ante*), was concurred in:

To the Mayor and Common Council:

Gentlemen:—Your Committee on Streets and Alleys, together with the City Attorney, to whom sundry papers were referred, would report:

1st. Is a motion that the Street Commissioner make the necessary repairs to prevent the destruction of the sidewalks of Market street, near the crossing of Highland street.

Recommend the work be done.

The following report of the Committee on Streets and Alleys, was read, and the favorable action of the Common Council thereon (see page 1262, *ante*), was concurred in:

To the Mayor, Common Council and Board of Aldermen:

Gentlemen:—Your Committee on Streets and Alleys, together with the City Attorney, to whom was referred the petition of Wm. Reger, Henry Vehling, and others, asking that Ohio street be opened and extended from the first alley west of Hanna street to Hanna street, have examined said locality, and believe said opening and extension of Ohio street should be made. Therefore recommend the accompanying resolution relative thereto be adopted.

Respectfully submitted,

George Weaver,
Sim. Coy,
Committee on Streets and Alleys.

C. S. DENNY, City Attorney.

The following resolution (adopted by the Common Council—see pages 1262 and 1263, *ante*), was read:

Resolved, That the matter of opening and extending of Ohio street, from the alley west of Hanna street to Hanna street, through the following lots and lands: 12 feet off of Lot 11 and part of Lot 10, north side of the alley running from the first alley west of Hanna street to Hanna street, and 33 feet off of Lot 2, on the south side of said alley, all in Davidson's heirs' addition to the city of Indianapolis, together with the petition and plat presented in such case, be referred to the City Commissioners, with instructions to assess benefits and damages to any person or persons thereby benefited or damaged. The Commissioners are hereby instructed to return as a part of their report, all petitions and notices; and if any property owner immediately upon the line of said street, who is directly interested therein, shall object to such opening and extension of said street, to make such fact a part of their report; and the City Clerk is hereby directed to issue the proper notices to the Commissioners.

And it was concurrently adopted by the following vote :

AYES, 9—viz. Aldermen DeRuiter, Hamilton, Mussmann, Newman, Rorison, Seibert, Tucker, Wood, and President Layman.

NAYS—None.

The following motions (adopted by the Common Council—see pages 1267, 1269, 1271 and 1272, *ante*), were read and concurrently adopted :

That the Street Commissioner be, and is hereby, instructed to place the foot bridge across Pleasant Run in a safe condition, as it is impassable.

That Henry Rodewald be, and is hereby, granted permission to grade and pave the sidewalk on Bismarck street, from Virginia avenue to first alley west, at his own expense, and under the direction of the City Civil Engineer.

That if the Sellers farm be leased or sold to other persons than the present lessees, under the advertisement now being published, said lease or sale be made subject to the rights of the present lessees in certain buildings placed on said farm by them: bidders to be notified that the present lessees will be permitted to remove such buildings unless paid for by such lessee or purchaser.

That in future all ordinances for the improvement of streets with gravel shall call for raked or screened river gravel, and that the Street Commissioner shall use same kind of gravel when making street repairs.

That the Street Commissioner be, and is hereby, instructed to clean the gutter from Ninth street to State Ditch, west side, as it is now in a filthy condition; (the gutter is bowldered.)

That the City Civil Engineer be directed to advertise for bids for an iron railing on east side of the Washington street culvert over Pogue's Run.

That Smith & Thompson be allowed to bowlder the roadway across the sidewalk in front of their property on Harrison street; the above work to be done at their own expense, under the direction of the City Civil Engineer.

The following motions (adopted by the Common Council—see page 1272, *ante*), were read, and on motion, were laid on the table :

That the City Civil Engineer is hereby instructed to receive proposals to raise and rebowlder the east gutter of Virginia avenue, between Elk and Prospect streets. The grade of said gutter was not correctly made at the time the improvement was made. The fault belongs to the city, and ought to be corrected at once.

That the Committee on Public Property be, and is hereby, instructed to advertise for sealed proposals for the sale of all the Tomlinson real estate bequeathed to the city.

The following entitled ordinance was read the first time:

G. O. 26, 1882—An Ordinance providing for the assessment of real and personal property in the city of Indianapolis, for the purpose of taxation for the year 1882.

APPROPRIATION ORDINANCES.

This being the regular appropriation night, the following entitled Appropriation Ordinances were placed on their final passage without a suspension of the rules.

The following entitled ordinance (passed by the Common Council) was read the first and second times:

Ap. O. 14, 1882—An Ordinance appropriating money for the payment of sundry claims against the City of Indianapolis, on account of the Fire Department.

Alderman Tucker moved that the claims of the "Indianapolis Stove Co., \$15.90," and "Wiggins & Donnan, \$7.08," be stricken from the ordinance, and referred to the Committee on Fire Department.

Which motion failed of adoption by the following vote:

AYES, 5—viz. Aldermen Hamilton, Newman, Seibert, Tucker, and President Layman.

NAYS, 5—viz. Aldermen DeRuiter, Drew, Mussmann, Rorison, and Wood.

The ordinance was then read the third time (amount appropriated \$752.24), and passed by the following vote:

AYES, 9—viz. Aldermen DeRuiter, Drew, Hamilton, Mussmann, Newman, Rorison, Seibert, Wood, and President Layman.

NAYS, 1—viz. Alderman Tucker.

The following entitled ordinance (passed by the Common Council), was read the first and second times, and read the third time:

Ap. O. 15, 1882—An Ordinance appropriating money for the payment of sundry claims against the City of Indianapolis, on account of the City Hospital and Branch. [Amount appropriated, \$1,076.38]

And it was passed by the following vote:

AYES, 10—viz. Aldermen DeRuiter, Drew, Hamilton, Mussmann, Newman, Rorison, Seibert, Tucker, Wood, and President Layman.

NAYS—None.

The following entitled ordinance (passed by the Common Council), was read the first and second times, and read the third time:

Ap. O. 16, 1882—An Ordinance appropriating money for the payment of sundry claims against the city of Indianapolis, on account of Station Houses. [Amount appropriated, \$88.99.]

And it was passed by the following vote:

AYES, 10—viz. Aldermen DeRuiter, Drew, Hamilton, Mussmann, Newman, Rorison, Seibert, Tucker, Wood, and President Layman.

NAYS—None.

The following entitled ordinance (passed by the Common Council), was read the first and second times:

Ap. O. 17, 1882—An Ordinance appropriating money for the payment of sundry claims against the city of Indianapolis.

Alderman Seibert moved that the claim of "Henry Edwards, \$35.00," be stricken out of the ordinance, and that it be referred to the Committee on Hospital and Dispensary.

Which motion was adopted.

The ordinance was then read the third time, (amount appropriated, \$76,731.96), and it was passed by the following vote:

AYES, 10—viz. Aldermen DeRuiter, Drew, Hamilton, Mussmann, Newman, Rorison, Seibert, Tucker, Wood, and President Layman.

NAYS—None.

The following entitled ordinance (passed by the Common Council), was read the first and second times, and read the third time:

Ap. O. 18, 1882—An Ordinance appropriating money for the payment of sundry claims against the city of Indianapolis, on account of Printing, Stationery and Advertising. [Amount appropriated, \$502.42.]

And it was passed by the following vote:

AYES, 10—viz. Aldermen DeRuiter, Drew, Hamilton, Mussmann, Newman, Rorison, Seibert, Tucker, Wood, and President Layman.

NAYS—None.

Alderman Rorison gave notice that he would make a motion to reconsider the action of the Board of Aldermen relative to the claim of A. Naltner, as reported by the Council Judiciary Committee, at the next regular meeting.

Alderman Hamilton moved a suspension of the rules for the purpose of placing G. O. 26, 1882, on its final passage.

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

AYES, 10—viz. Aldermen DeRuitter, Drew, Hamilton, Mussmann, Newman, Rorison, Seibert, Tucker, Wood, and President Layman.

NAYS—None.

The following entitled ordinance was then read the second and third times :

G O. 26, 1882—An Ordinance providing for the assessment of Real and Personal property in the city of Indianapolis, for the purpose of taxation for the year 1882.

And it was passed by the following vote :

AYES, 10—viz. Aldermen DeRuitter, Drew, Hamilton, Mussmann, Newman, Rorison, Seibert, Tucker, Wood, and President Layman.

NAYS—None.

REPORTS FROM CITY OFFICERS.

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

Indianapolis, March 13, 1882.

To the President and Members of the Board of Aldermen:

Gentlemen:—At your last session, you asked me to report “whether or not the property bequeathed to the city by Stephen D. Tomlinson, deceased, in 1870, on condition that there be ‘no unnecessary delay in converting to the use designated,’ and that it shall not be held indefinitely for rent,’ has reverted to the heirs of said Tomlinson, on account of the failure by the city to comply with the conditions specified; and if the city has lost title to said property, whether she is bound to pay the annuity of \$7,000 to the widow of said Tomlinson?”

The first item of the will reads as follows: “I bequeath all the property of which I am possessed, both real and personal, to my beloved wife, Mary T. Tomlinson, to be by her used for her maintenance and convenience, and to be by her consumed in any degree or to any extent, according to her desires and necessities.”

The second item reads: “The residue of my estate which may remain after her decease, whether the same be acquired by exchange or purchase, I bequeath to the city of Indianapolis, to be used in the erection of buildings for the use of citizens and city authorities, what are commonly termed ‘public buildings,’ on the west end of the east Market House, fronting on Delaware street, and next north of Market street. And I further direct, that there be no unnecessary delay in converting the property hereby bequeathed to the uses designated, as I do not wish to endow the city with a property to be held indefinitely for rent.”

Item third reads: “Should it be that the city provides their (her) public buildings before this devise shall come to it, I hereby authorize my beloved wife to direct the purpose to which the same may be applied.”

These are all the provisions of the will that have any bearing on the questions under consideration. From them it will be seen that the testator did not contemplate that the city should acquire any right to the property until after the death of Mrs. Tomlinson; and two contingencies are mentioned which might deprive her (the city), of it altogether. *First*, Mrs Tomlinson was given the right to consume the entire estate, should she so desire; and *second*, in case the city should provide her

"public buildings" during the life time of Mrs. Tomlinson, the power of disposition was also granted to her. All the rights, then, which the city could secure in the property during Mrs. Tomlinson's life, would be by contract with her.

On the 27th day of April, 1874, a contract was entered into between Mrs. Tomlinson and the city, by which she relinquished her interest in the estate of her late husband to the city, in consideration that the city would pay her an annuity of \$7,000 during life. The city is bound by this contract. She cannot declare a forfeiture and refuse to pay the money. Nor, in my opinion, can the heirs of the deceased declare a forfeiture, if at all, until a reasonable time has elapsed after the death of Mrs. Tomlinson, to enable the city to convert the estate into money and erect the contemplated buildings. In the contract with Mrs. Tomlinson above mentioned, it was not contemplated that the buildings should be erected prior to her death, unless the city should so desire; for it is provided therein that the rents derived from the property, shall be set apart for the purposes designated in the will; and also, that Mrs. Tomlinson should have the right to occupy, as lessee of the city, certain of the property therein described, during her pleasure, but determinable on the part of the city by giving twelve months notice.

Mrs. Tomlinson has also subsequently given the city a written permission to sell said property, if deemed advisable, and to invest the proceeds of said sale, as well as the funds now on hands, derived from rents, "in bonds, mortgage or other securities, until such funds and the accumulations of interest thereon shall be deemed by the Common Council and Board of Aldermen sufficient to erect a suitable building on said space, (meaning the East Market Space), and waving all right she might, under the previous contract, have "to claim a rescission of said contract on account of the temporary investment of said funds."

I do not see, under these facts, how it can be contended that the property has reverted to the heirs of Stephen Tomlinson, or is likely to. I am equally clear, also, that the city must continue to pay the annuity to Mrs. Tomlinson.

Respectfully submitted,

C. S. DENNY, City Attorney.

The Chief of Police submitted the following report; which was received:

Indianapolis, March 13, 1882.

To the President and Members of the Board of Aldermen:

Gentlemen:—In response to a resolution adopted by your honorable body on the 13th day of February, 1882, concerning obstructions of streets and alleys, I hereby report that the instructions mentioned, have been given the patrolmen. I shall use all reasonable effort to comply with said resolution.

Respectfully submitted,

R. C. WILLIAMSON, Chief of Police.

The City Civil Engineer submitted the following report, which was approved; and, on motion by Alderman Hamilton, the claim of the Indianapolis Water Co. was *not allowed*.

To the President and Members of the Board of Aldermen:

Gentlemen:—The bill of the Indianapolis Water Co. having been referred to me for approval, I submit the following report thereon:

The removal of the hydrant was made to accommodate the private interests of Mr. J. H. Vajen, and it was not until he had excavated the sidewalk and built his arial wall around said hydrant, that he became alarmed, through fear of the pipe bursting, and asked for the removal. And further, as I am informed, Mr. Pendergast, then Fire Engineer, refused to order said hydrant removed, from the fact that he did not believe the city should pay for it, and the Water Co., believing the city ought not to pay for it, obtained a promise from Mr. Vajen to pay for the same in case the city failed so to do. For all of these reasons I am of the opinion that Mr. Vajen should pay for the change, and therefore return the account without my approval.

Respectfully submitted,

S. H. SHEARER, City Civil Engineer.

William C. Phipps, Clerk of the Board of Public Improvements, submitted the following report; which, on motion by Alderman Rorison, was referred to the Committee on Streets & Alleys and Sewers & Drainage:

To the President and Members of the Board of Aldermen:

Gentlemen:—Subject to your order of February 28th, 1882, directing me to report to your honorable body how and for what the last appropriation of \$5,000 for street repairs department was expended, would report:

The following bills were paid:

Ike King, blacksmithing	\$ 3 00
Hillman & Son, blacksmithing.....	31 00
J. M. Buchanan, blacksmithing.....	11 55
H. Gredts, bowlders.....	2 00
H. Kyle, bowlders.....	4 00
D. Demott, bowlders.....	2 00
Adams Brick Company, brick.....	41 50
Kuhn & Co., cement.....	6 48
S. J. Patterson, gravel.....	34 30
Wm. A. Morrison, gravel.....	30 00
S. W. Patterson, gravel.....	17 00
Dunning & Hudson, gravel.....	41 20
J. J. Weinner, gravel.....	6 60
M. Jutti, gravel.....	16 40
C. Vonnegut, hardware.....	33 02
E. H. Eldridge, lumber.....	10 43
Piercy & Christian, lumber.....	497 35
Richard Carr, stone curb.....	33 80
Hicks, Holmes & Co., stone crossings.....	111 40

Total amount expended for material, etc.....\$933 03

The following work has been done by the dirt-scraping gang:

Scraped mud off of Delaware street, between Market and Wabash streets; also, East Market space; cleaned alley south of Dell's coal office, and opened gutters to Union Tracks; scraped Illinois street, west side, from Washington street to Market street; also, Pennsylvania street, from Market street to Ohio street; Washington street, from Illinois street to first alley east of Pennsylvania street; Wabash street, from Pennsylvania street to Delaware street; Pennsylvania street, from Washington street to Ohio street; Washington street, from Delaware street to East street; Market street, between Delaware and Pennsylvania streets; alley between Washington and Market streets; gutters of Virginia avenue, between Louisiana and Merrill streets; cleaning snow out of gutters of Washington street between Illinois and Delaware streets; scraping mud off crossings of North Illinois, Tennessee, Mississippi and Pennsylvania streets; cleaning gutters on Virginia avenue on north side from Merrill to Cedar street; south side from Merrill to Stevens street; cleaning around East Market space second time; cleaning gutters of Mississippi street from North street to Walnut street; cleaning crossings of Mississippi street and Tennessee street; cleaning gutters of Mississippi street between North and Pratt streets; cleaning snow off of East Market space; cleaning gutters on Delaware street from New York street to Sixth street; cleaning Illinois street from Chesapeake street to North end tunnel; cleaning the alley at Root's coal yard; Georgia street gutters, between Pennsylvania street and Meridian street; repairing Illinois street with cinders from Maryland to Louisiana street; cleaning north end of Illinois street tunnel; cleaning McNabb street; Illinois street, between South and Pogue's run; cleaning Alabama street, between Maryland street and Virginia avenue; Maryland street, between Pennsylvania and Meridian streets, Maryland street between Delaware and Pennsylvania streets; cleaning gutters of Virginia avenue from Merrill to Huron street; opening gutters on Russell avenue; graveling West street from Washington street to Market street; cleaning crossings of Meridian street, between Washington street and South street; Illinois street, between South and New York

street; Washington street, between Illinois and Delaware streets; Delaware street, between Washington and New York streets; Pennsylvania street, between Washington and New York streets; Indiana avenue, between Illinois and West streets; Meridian street, between Circle and New York streets; cleaning crossings on Virginia avenue between Washington and Dillon streets; Fletcher avenue, between Dillon and Noble street; South street, between Noble and Meridian; Georgia street, from Delaware to West street, West street, between Georgia and Wabash streets; Washington street, between Tennessee and California streets; Maryland, between Virginia avenue and West streets; Alabama street, between South street and Fort Wayne avenue; Fort Wayne avenue, between Alabama street and Christian avenue; Christian avenue, between Central avenue and College avenue; cleaning Mississippi street, between Pratt and First streets; Illinois street, between Washington and Chesapeake streets; cleaning Illinois street tunnel; cleaning on Meridian street from Washington street to Louisiana street; cleaning Mississippi street, between Pratt and First streets; scraping Delaware street, between Washington street and St. Clair street, and North street from Delaware to Alabama street; cleaning around the Circle; cleaning up Hay Market.

The above statement of work done by the dirt-cleaning gang does not state where and from what streets dirt has been hauled, as said gang has from four to seven dirt teams with them, all the time hauling such dirt as is necessary. Also, a great many street crossings have been cleaned, no street given. The total amount expended in the above work of dirt-scraping gang is, \$1,179.72.

The following streets have been repaired with gravel by North side gravel gang: Ohio, between Meridian and Illinois, 5 loads; Fort Wayne avenue, between North and Cherry streets, 68 loads; Park avenue, between St. Clair and Eighth streets, 114 loads; Cherry street, between East and Park avenue, 5 loads; Braden alley, between East and New Jersey streets, 20 loads; Beeler street, between Lincoln and Seventh streets, 30 loads; Clifford avenue, 5 loads; Indiana avenue, between Michigan and North streets, 5 loads; Alvord street, near Massachusetts avenue, 5 loads; Broadway street, between St. Clair and Tenth streets, 104 loads; Blake street, between North and Elizabeth streets, 18 loads; Alabama street, between St. Clair street and Home avenue, 102 loads; Indiana avenue, between North and California streets, 7 load; West street, between Michigan street and Indiana avenue, 68 loads; hauling spauls from State House, on Tennessee street, between Market and Ohio streets, 177 loads; also, on Mississippi street, between Washington and Ohio streets, 435 loads; hauling dirt three days from scraping gang. Amount paid this gang out of said appropriation, \$713 38.

The following work has been done by the South side gang, hauling gravel on the following streets: Bates street and alley crossings, 7 loads; corner, Georgia and Benton streets, two loads; Pine street, between Washington and Meek streets, 16 loads; Pine street between Meek and Georgia streets, 6 loads; Pine street, between Bates and Georgia streets, 36 loads; Shelby street culvert, 11 loads; Dillon street, 4 loads; West street, between South and Merrill, 9 loads; McCarty street, between Madison avenue and Wisconsin streets, 8 loads; Virginia avenue, 3 loads; South street Engine house, 1 load; Pine street, between Bates and Lord streets, 15 loads; Coburn street, between East and Wright streets, 12 loads; Ray street bridge over Pogue's run, 6 loads; Olive street, 2 loads; Hoyt street, corner Dillon, 2 loads; Meek, corner Dillon street, 3 loads; Huron, corner Dillon street, 1 load; English avenue, corner Dillon street, 7 loads; Harrison street, corner Dillon street, 2 loads; Georgia street, between Pine and Dillon streets, 1 load; corner Union and Merrill streets, 1 load; Dillon street, between Huron street and Woodlawn avenue, 12 loads; corner of Concorlia and Bates streets, 1 load; corner of Hoyt avenue and Olive streets, 2 loads.

Rolling mill cinders have been placed at the following points: Corner of West and Sharpe streets, 3 loads; canal bridge on Michigan street, 2 loads; corner Holmes and Bradshaw streets, 1 load; Sixth street and canal, 5 loads; corner Meridian and Hanway streets, 6 loads; Ray street bridge, 5 loads; Spruce street bridge, 5 loads; Olive street bridge, 1 load; bridge near German Orphan Asylum, 6 loads.

One and sometimes two teams are kept hauling lumber and stone off the cars that belong to this gang.

Amount paid South side gang, \$516.70.

The following work has been done by the bowlder gang: Removing pipe from corner of Illinois and Fifth street, and Illinois and Sixth streets, and relaying the gutters with bowlders; taking up stone crossings, three crossings on Indiana avenue, corner of Tennessee street, two at Indiana avenue and Mississippi street, one at Illinois and North streets, and one at Illinois and St. Joseph streets, and relaying the same; laying new stone crossings at Harrison and Noble streets, Tennessee and Market streets, and at the alley between Delaware and Alabama streets, on Ohio street; repairing crossing of Meridian and McCarty streets; repairing bowlder streets in various parts of the city. Amount paid bowlder gang, \$459.55.

The carpenter gang do the repairing and building of foot bridges, wooden culverts and bridges in all parts of the city. Amount paid carpenter gang, \$592.99.

The sewer gang look after and repair all public sewers catch basins man-holes, dunking foundations, etc., and the amount paid said sewer gang is, \$604.63.

Total amount expended, as shown in the above, \$5,000.00.

Respectfully submitted,

WM. C. PHIPPS,
Clerk Board of Public Improvements.

REPORTS FROM STANDING COMMITTEES.

The Committee on Markets and Public Property, through Alderman Drew, submitted the following report; which was concurred in:

To the President and Members of the Board of Aldermen:

Gentlemen:—Your committees on Finance, Markets and Public Property, to whom was referred Alderman Rorison's motion contemplating the straightening of the walks in University Park, recommend that the work be done under the direction of the City Civil Engineer, and that three hundred dollars be appropriated to defray the expense.

Respectfully submitted,

F. W. Hamilton,
D. Mussmann,
Finance Committee.

H. E. Drew,
D. DeRuiter,
Geo. P. Wood,
Committee on Markets and Public Property.

The Judiciary Committee, through Alderman Rorison, made a verbal report, returning the following resolution, without recommendation:

Resolved. That the rule of this body be, hereafter, that we reserve the right to reconsider any of the actions of this Board of Aldermen, at the next ensuing meeting.

INTRODUCTION OF MISCELLANEOUS BUSINESS.

Alderman Hamilton presented the following remonstrance; which, on motion by Alderman Seibert, was referred to the Committees on Judiciary, Ordinances and Rules, Streets & Alleys and Sewers & Drainage, City Civil Engineer and City Attorney, with the ordinances, S. O. 10 and 11, 1882:

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

Gentlemen:—The undersigned, a resident of the city of Indianapolis, and the owner of the real estate at the northeast corner of Market and Highland streets, fronting 210 feet on Market street and running back 245 feet along the east line of Highland street at said point, would most respectfully remonstrate against the passage of special ordinances Nos. 10 and 11, introduced in the Common Council February 6th. 1882, the one for the grading and graveling of Highland street, from Ohio to Washington street, and the other for the curbing with stone and the paving with brick the sidewalks on said street from Washington to Ohio street. I learned yesterday for the first time of the pendency of said ordinances, or would have made my objection known sooner.

These ordinances do not propose that Highland street shall be improved according to the grade that was necessarily established at the crossing of Market street when that street was improved; but they are couched in language that might deceive members of your honorable bodies, unless they should examine into the proceedings of former councils in reference to said street; for said ordinances, after providing that the work shall be done under the direction of the City Civil Engineer, to his entire satisfaction, go on to say: "And in all respects according to plans and specifications on file in his (the Engineer's) office, adopted by the Common Council and Board of Aldermen March 23d, 1881."

Now, by reference to said plan and specifications, it will be seen that if the improvement of Highland street should be made in accordance therewith, it will change and lower the grade thereof at the crossing of Market street some five feet, and will thus force the reimprovement and further change of grade of Market street, while no one is petitioning therefor.

And further: The petition filed with the ordinances herein referred to do not ask for a change of grade, or that the work be done in accordance with the plans or resolutions of former Engineers or former Councils, but simply for the improvement of Highland street; and if the ordinances had been drawn in the usual way, they would have (as it seems to me,) provided for no change in the grade of the proposed improvement, unless asked for by petition. But these ordinances, by the added portion which I have quoted, do in effect and actually change grades already established by the city; and if damages should result by said change of grade to any property holder along the line of said improvement (as there is no party asking for the change of grade,) the city would have the damages to pay; and not only the damages resulting from the change made in the grade of Highland street, but also those resulting from the forced change of grade that would be made in Market street. For if you cut Highland street down five feet lower than Market street, where it crosses the same, Market street will have to be cut down proportionally, thereby adding further expense to both the city and property holders along Market street.

Now as the improvement could be made in accordance with the grade established at Washington and Market streets, when those streets were improved, without injury to any one, and as the improvement as asked under said ordinances, as they now stand, would do irreparable injury to my property, I most respectfully remonstrate against their passage.

Respectfully,

J. L. MITCHELL.

Indianapolis, March 1st, 1882.

Alderman Drew presented the following remonstrance; which was referred to the Committee on Streets & Alleys and Sewers & Drainage, with the ordinance, S. O. 180, 1881:

Indianapolis, March 4th, 1882.

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

Gentlemen:—The undersigned, owners of real estate fronting on Court street, between New Jersey and Alabama streets, respectfully remonstrate against the passage of an ordinance providing for the paving, curbing and bowldering of said street.

Charles Anderson, 140 ft. 6 in.; Felix Deitch, 32 ft.;
Amelia B. Mansur, for self and as Guardian, by
John S. Spann & Co., agents, 90 ft. (about); George
Anderson, 32 ft.; Amelia Langbein, 31½ ft.; F. J.
Rapp, 36 ft.; James Anderson, 36 ft.; H. C. G. Bals,
142 ft. 6 in.; John Woche, 18 ft.; C. A. Maus &
Bros., 37½ ft.; Fr. Thoms, 17½ ft.

Alderman Tucker offered the following resolution:

Resolved, That the rule of this body be, hereafter, that we reserve the right to *reconsider* any of the actions of this Board of Aldermen, at the next ensuing meeting, excepting on the passage of Salary and Appropriation ordinances.

And it failed of adoption by the following vote:

AYES, 5—viz. Aldermen Hamilton, Mussmann, Newman, Tucker, and Wood.

NAYS, 5—viz. Aldermen DeRuiter, Drew, Rorison, Seibert, and President Layman.

Alderman Tucker presented the following as a notice, and that he wished it to be spread on the minutes as a matter of record:

I reserve the right to reconsider any and all ordinances passed by this Board of Aldermen at our next regular meeting, on all ordinances except regular salary ordinances, on such ordinances as I shall vote in the *affirmative*.

The Chair ruled the above as out of order.

Alderman Hamilton offered the following motion; which was adopted:

That the City Attorney prepare and have presented at the next meeting of the Council, an ordinance repealing General Ordinance No. 21, 1882, granting the Mutual Union Telegraph Company, of New York, the privilege of using certain streets and alleys of the city of Indianapolis in constructing lines of telegraph in said city.

Alderman Hamilton offered the following motion:

That the City Clerk have presented to Council, at the next meeting, the inclosed ordinance, amending Section 3, of "An ordinance granting the Mutual Union Telegraph Co. of New York, the privilege of using the streets of the city," ordained January 16th, 1882.

Which failed of adoption, by the following vote:

AYES, 5—viz. Aldermen Hamilton, Rorison, Seibert, Tucker, and Presiden Layman.

NAYS, 5—viz. Aldermen DeRuiter, Drew, Mussmann, Newman, and Wood.

Alderman Seibert offered the following motion ; which was adopted :

That the Judiciary Committee, City Civil Engineer, Street Commissioner and City Attorney, examine and report to this Board at its next meeting, whether or not The Mutual Union Telegraph Company, of New York, and the Indianapolis Brush Electric Light and Power Company, or either of them, have violated any of the ordinances of said city, in the erection of their poles along the streets, gutters, sidewalks and alleys of the city; and if so, wære and in what respect said ordinances have been violated.

On motion, the Board of Aldermen then adjourned.

JAMES T. LAYMAN, President.

Attest: GEO. T BREUNIG, Clerk.