

PROCEEDINGS  
OF THE  
COMMON COUNCIL.

REGULAR SESSION.

CHAMBER OF THE COMMON COUNCIL OF THE  
CITY OF INDIANAPOLIS,  
MONDAY, MARCH 18TH, 1867, 7 O'CLOCK, P. M. }

The Common Council met in regular session.

Present—His Honor, the Mayor, John Caven, in the chair, and the following members:

Councilmen Allen, Brown, Coburn, Colley, Emerson, Glazier, Jameson, Kappes, Loomis, MacArthur, McNabb, Seidensticker and Staub—13.

Absent—Councilmen Fletcher, Grosvenor, Kemker, Schmidt and Thompson—5.

The proceedings of the regular session held March 11th, 1867, were read and approved.

Mr. Allen presented the following remonstrance:

INDIANAPOLIS, March 16, 1867.

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

We, the undersigned, remonstrate against the grading and graveling of a portion of Harrison street, viz., from Noble street to Pine street.

Alonzo Meek,	James Jolly,
Henry W. Evans,	Chas. Barnitz,
Nicholas Leppert,	And 6 others.

Which was referred to the Board of Public Improvements.

Mr. Allen introduced special appropriation ordinance No. 13—1867, entitled:

AN ORDINANCE appropriating money for the use of the Fire Department,  
Which was read the first time by its title, and passed to a second reading.

Mr. Coburn offered the following motion:

That the Lamp Lighter order the property owners to cut off the limbs of all trees, the trunks of which are not less than six inches in diameter, that come in contact with the street lamps so as to shade the light in the least.

Which motion was adopted.

Mr. Coburn offered the following motion:

That this Council order the purchase of an air-pump for the use of the Lamp Lighter, as it is very necessary that he should have one.

Which motion was adopted.

Mr. Emerson presented the following petition:

INDIANAPOLIS, March 18, 1867.

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

GENTLEMEN:—The undersigned, property owners living on the line of New York street, between West and Missouri streets (the Canal), respectfully petition your honorable body to cause to be graded and graveled the south sidewalk of said street between the points above named.

C. W. Rhoads,	Louise Glessing,
H. Hereth,	Alex. Jameson.
H, Habenev,	

Which was received.

Mr. Emerson introduced special ordinance No. 7—1867, entitled:

AN ORDINANCE to provide for grading and graveling the sidewalk on the south side of New York street, between the Canal and West street,

Which was read the first time by its title, and passed to a second reading.

Dr. Jameson presented the following petition:

INDIANAPOLIS, March 7, 1867.

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

We, the undersigned citizens of Indianapolis and vicinity, respectfully petition you to grant Levi Wright the privilege of erecting a hay scale in front of his place of business, No. 323 North Alabama street, between North and Walnut streets.

W. J. Vigus,	R. L. Ramsey,
E. Enerson,	W. W. Loucks,
Wm. Sweinhart,	And 24 others.

On motion by Dr. Jameson, the request of the petitioner was granted, the Council reserving the right to remove the scales at any time.

Dr. Jameson offered the following resolution :

*Resolved,* That the City Treasurer be directed to retain all moneys collected by him in payment of taxes to be applied to payment of the principal of the bank loan which becomes due on the 13th day of April next.

Which was adopted.

Dr. Jameson offered the following resolution :

*Resolved,* That in view of the stringency of the times that all persons who have not paid their taxes to this date be granted until the third Monday in April, 1867, and that this Council pledge themselves to refund to the Treasurer the penalty on all taxes paid before the third Monday in April, 1867.

Mr. Brown called for the ayes and noes.

The question being on the passage of the resolution, those who voted in the affirmative were Councilmen Allen, Coburn, Emerson, Glazier, Jameson, Loomis, MacArthur and McNabb—8.

Those who voted in the negative were Councilmen Brown, Colley, Kappes, Seidensticker and Staub—5.

So the resolution passed.

Dr. Jameson offered the following resolution :

*Resolved,* That the City Printer be directed to print 500 copies of the new Charter in the English language, and 300 in the German language, with the least possible delay.

Which was adopted.

Dr. Jameson asked and was granted leave of absence for the remainder of the session.

Mr. Kappes offered the following motion :

That the Mayor be, and is hereby, instructed to open a correspondence with Mr. Stein, Gas Inspector of Cleveland, for the purpose of eliciting information in regard to the duties of his office, together with a report of the quality and quantity of gas consumed by the City of Cleveland. Also, in regard to the introduction of machines for gauging the quantity and quality of gas; and, also, a statement of savings and other benefits resulting therefrom.

Which was adopted.

Mr. MacArthur presented the following petition :

INDIANAPOLIS, March 18, 1867.

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

The undersigned, property holders on Mississippi street, between Vermont and First streets, respectfully petition your honorable body to pass an ordinance for laying of the mains, erecting lamp posts, and lighting said street.

J. R. McCormick,

Wm. M. Woollen,

Jas. H. East,

David King,

Charles John,

And 14 others.

Which was referred to the Board of Public Improvements.



Mr. MacArthur offered the following motion :

That the City Civil Engineer set the stakes on Merrill street, between the west side of Mississippi street and where Merrill street crosses Pogue's Run, between Illinois and Tennessee streets, for the purpose of making a new channel for Pogue's Run between the afore named points.

Which was referred to the Board of Public Improvements.

Mr. McNabb offered the following resolution :

*Resolved*, That O'Conner and Schier be directed to fill up the sink in the gravel pit on Henry street and sidewalks without delay, and that the Civil Engineer notify them at once.

Which was adopted.

Mr. McNabb offered the following motion :

That J. B. MacArthur be allowed to place in front of his premises, No. 15 South Delaware street, a hay scale.

Mr. Colley called for the ayes and noes.

The question being on the adoption of the motion, those who voted in the affirmative were Councilmen Colley, Kappes and McNabb—3.

Those who voted in the negative were Councilmen Allen, Brown, Coburn, Emerson, Glazier, Loomis, MacArthur, Seidensticker and Staub—9.

So the motion did not pass.

His Honor, the Mayor, offered the following motion :

That the City Attorney be instructed to examine the new City Charter and report what legislation, if any, is necessary by this Council in order to provide for the assessment of real estate for the present year.

Which was adopted.

His Honor, the Mayor, presented the following petition :

INDIANAPOLIS, March 18, 1867.

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

GENTLEMEN:—The undersigned respectfully petition your honorable body to make such appropriation as may to you seem just to aid the Benevolent Society in relieving the poor and suffering of our city.

Respectfully,

JAMES BLAKE, President,  
JAMES M. RAY, Treasurer.

His Honor, the Mayor, stated that James Blake, Esq., was present and desired to be heard upon the subject.

Mr. MacArthur moved that the rules be suspended and Jas. Blake, Esq., permitted to address the Council on the subject of making an appropriation by the Council for the use of the Benevolent Society.

The question being on the suspension of the rules, those who voted in the affirmative were Councilmen Allen, Brown, Coburn, Colley, Emerson, Glazier, Kappes, Loomis, MacArthur, McNabb, Seidensticker and Staub—12.

No Councilman voting in the negative.

So the rules were suspended, and Mr. Blake proceeded to address the Council.

After which, on motion by Mr. Brown, the petition and matter was referred to the Committee on Benevolence and the City Attorney.

His Honor, the Mayor, presented the following communication :

INDIANAPOLIS, March 18, 1867.

*Hon. John Caven, President of Special Committee on Fire Alarm Telegraph :*

SIR—In a former proposal for a system of Fire Alarm Telegraph, I embraced a large estimate, covering the entire city. Having had numerous suggestions made relative to other plans, I herewith have the honor to submit the following, which is intended to connect the various Engine Houses with the Central Station, or Alarm Tower, and place a signal box at the house of the Chief Fire Engineer. This will give a system which can be regulated by the Chief Fire Engineer by means of his own private code of signals, and will enable the watchman on the Tower to send the firemen at once to the locality of a fire. One man, who can be selected from the employees of the Fire Department will be all that will be required to test the lines and keep the batteries in order. The different Wards or Districts of the city can be added on at any time, and with as many boxes as the city may see fit hereafter.

In accordance with the above general description, the American Fire Alarm and Police Telegraph Company, through the undersigned its authorized agent, respectfully propose to erect and place in complete working order.

Six (6) of our best improved cast iron signal boxes, with Police key—one to be placed in each of the Engine Houses, one at the office of the Mayor, and one at the house of the Chief Fire Engineer, wherever that may be. Five keys will be furnished to each box.

Four (4) of our largest and best Engine House Gongs, one at each Engine House.

Wire to be of the best annealed and galvanized iron—not to exceed eight miles—to be securely fastened by proper insulators to poles or houses through the city.

Poles to be of sound timber, well set in the ground, and to be painted with at least two coats of good paint.

Batteries of a sufficient quantity to work the line satisfactorily.

The whole to be done in our usual workmanlike manner within three months from the date of contract. All materials used to be of the best quality.

The city to grant the right of way through its various avenues and to pay

for the same when completed the sum of twenty-nine hundred and fifty dollars (\$2,950), in a bond bearing the usual interest payable in one year.

Very respectfully,

J. THOMAS ELLIOTT,  
Agent Am. Fire Alarm and Police Tel. Co.

Which, on motion, was referred to the Committee on Fire Department.

#### REPORTS FROM BOARDS.

Mr. Coburn, from the Board of Public Improvements, made the following report :

OFFICE BOARD OF PUBLIC IMPROVEMENTS, }  
Indianapolis, March 12, 1867. }

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

GENTLEMEN:—The Board of Public Improvements, to whom the matter was referred, would respectfully report to your honorable body that they herewith report ordinances for the following improvements, as petitioned for by property owners on the respective streets and alleys.

To grade and gravel New Jersey street and sidewalks, between McCarty street and Noble's pasture.

To grade and gravel Blake street and sidewalks, between New York and Vermont streets.

To grade and gravel Harrison street and sidewalks, between Noble street and the Corporation line east.

To grade and gravel the alley running north and south through square No. 32, between Ohio and New York streets.

HENRY COBURN, }  
JNO. B. MACARTHUR, } *Board.*

Which was received.

Also, special ordinance No. 8—1867, entitled :

AN ORDINANCE to provide for grading and graveling Harrison street and sidewalks, between Noble street and the Corporation line east,

Which was read the first time by its title, and referred to the Board of Public Improvements, together with the remonstrance on the same subject.

Also, special ordinance No. 9—1867, entitled :

AN ORDINANCE to provide for grading and graveling Blake street and sidewalks, between New York and Vermont streets,

Which was read the first time by its title, and passed to a second reading.

Also, special ordinance No. 10—1867, entitled :

AN ORDINANCE to provide for grading and graveling New Jersey street and sidewalks, between McCarty street and the south line of Rosett's subdivision,

Which was read the first time by its title, and passed to a second reading.



Also, special ordinance No. 11—1867, entitled :

AN ORDINANCE to provide for grading and graveling the alley running north and south through square No. 32, between Ohio and New York streets,

Which was read the first time by its title, and passed to a second reading.

Mr. Coburn, from the Board of Public Improvements, made the following report :

OFFICE BOARD OF PUBLIC IMPROVEMENTS, }  
Indianapolis, March 12, 1867. }

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

GENTLEMEN:—The Board of Public Improvements, to whom the matter was referred, would respectfully report to your honorable body that they are of the opinion that the city should raise the sidewalks on California street, between Indiana Avenue and St. Clair street. The grade was made too low by the Civil Engineer, and the water runs out of Indiana Avenue and fills the lots and cellars on this street. The whole amount of improvement will not cost more than sixty dollars.

HENRY COBURN, }  
JNO. B. MACARTHUR, } *Board.*

Which was concurred in, and the Street Commissioner directed to do the work.

His Honor, the Mayor, for Dr. Jameson, President of the Board of Police, submitted the following report :

INDIANAPOLIS, March 18, 1867.

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

In relation to the report of the City Lamp Lighter, your committee respectfully referred to Chief of Police, with instructions to take the necessary steps to prevent the evil complained of.

P. H. JAMESON, *Pres't of Board.*

Which was concurred in.

REPORTS FROM COMMITTEES.

Mr. Colley, from the Judiciary Committee, made the following report :

INDIANAPOLIS, March 18, 1867.

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

Your committee, to whom was referred the motion "that the City Auditor embrace in the next ordinance on accounts an order for ninety (90) dollars in favor of G. W. Clippinger, refunding taxes," would respectfully report that they have had the matter under consideration, and have heard the party interested, and that in law the said G. W. Clippinger has no claim, but in equity he may have and perhaps has, a just claim, to show which a member of the committee will state the facts in the case.

S. A. COLLEY, }  
AD SEIDENSTICKER, } *Committee.*  
W. H. LOOMIS. }

Which, on motion by Mr. Brown, was concurred in.

The question then recurring upon the adoption of the motion "to include in the next ordinance allowing accounts the sum of \$90 in favor of G. W. Clippinger, refunding him taxes."

Mr. Seidensticker called for the ayes and noes.

Those who voted in the affirmative were Councilmen Coburn and Kappes—2.

Those who voted in the negative were Councilmen Allen, Brown, Colley, Emerson, Glazier, Loomis, MacArthur, McNabb, Seidensticker and Staub—10.

So the motion did not pass.

Mr. Colley, from the Judiciary Committee, made the following report :

INDIANAPOLIS, March 18, 1867.

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

The committee to whom was referred the communication of the City Civil Engineer in regard to the supply pipes connecting with the street lamp in front of the gate at the Court House square, on Delaware street, and the failure of said lamp to burn, owing, as it is supposed, to a deficiency in said supply or service pipe, would submit the following portion of Section 3 of "an ordinance investing the Indianapolis Gas Light and Coke Company with the privileges," &c.:

"SEC. 3. The gas sold by said company, except in case of emergency or accident, shall be free from all non-inflamable, poisonous qualities, and in all other respects of the highest standard of purity; and the same shall be supplied promptly, and in sufficient quantity, by said company, to all paying consumers thereof, and to all persons applying therefor, on or adjacent to any street or alley along which the mains of said company shall have been extended, and shall, upon application in writing, promptly lay all necessary service pipes in or across any street, gutter, sidewalk, or alley. And said company shall make no charge for any meter, nor for the rent of the same; nor shall any charge be made by said company for service pipe laid in any street, gutter, or sidewalk, nor for laying said pipe, nor for properly repairing all streets, gutters, and sidewalks thereafter, nor for tapping any main. And, furthermore, such company shall not charge more for making any connection between its pipes, and those of any person applying for gas, nor for the setting of any meter, than the actual cost of doing the same."

From the above section of the ordinance the committee are of the opinion that the Gas Company are bound to lay a suitable and efficient service pipe, in the matter referred to in the Civil Engineer's communication, after notice in writing to said Gas Company, upon the order of the Council.

S. A. COLLEY,  
AD. SEIDENSTICKER, } *Committee.*  
W. H. LOOMIS,

Which was concurred in, and the City Civil Engineer directed to give the proper notice in writing to the Gas Company.



Mr. Colley, from the same Committee, made the following report :

INDIANAPOLIS, March 18, 1867.

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

GENTLEMEN:—Your committee to whom was referred the petition of J. W. Sutherland, would respectfully report that they have read the petitioner's communication; that it is very lengthy, and much of it irrelevant; that the facts in the case are: That the petitioner enlisted under one of the calls or requisitions of the Government, and was accredited to this city on the muster-roll, and received no bounty from the city (the city then was paying a bounty to recruits), and that he asks that he may be excused by the Council from paying any taxes unto the city, upon any assessment that may be made upon his property in this city, until the city taxes assessed against him shall amount to \$150, the amount of bounty that the petitioner claims was and is due him from the city; and, without expressing any opinion in regard to the matter, your committee recommend that this petitioner's claim be referred to the City Attorney for his action in the premises, as the same involves a question of legal principle in regard to exempting property from the taxation, and the Attorney being the legal adviser of the city.

S. A. COLLEY,  
W. H. LOOMIS,  
AD. SEIDENSTICKER, } *Committee.*

Which was concurred in.

His Honor, the Mayor, for Dr. Jameson, Chairman of the Finance Committee, made the following report :

INDIANANOLIS, March 18, 1867.

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

In the case of Levi Comegys your committee would respectfully report with the recommendation that the petitioner be allowed the sum of \$35, and that the Auditor be instructed to report an ordinance appropriating the same.

P. H. JAMESON, *Chair. Com. on Finance.*

The question being on concurring in the report, Mr. Colley called for the ayes and noes.

Those who voted in the affirmative were Councilmen Allen, Brown, Coburn, Colley, Emerson, Glazier, Kappes, MacArthur, McNabb, Seidensticker and Staub—11.

Councilman Loomis voting in the negative—1.

So the report was concurred in.

His Honor, the Mayor, for Dr. Jameson, Chairman of the Finance Committee, submitted the following report :

INDIANAPOLIS, March 18, 1867.

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

Your committee on the petition of J. Franklin would respectfully report, with the recommendation that the petition be laid on the table.

P. H. JAMESON, *Chair. Com. on Finance.*

Which was concurred in.

Mr. Kappes, from the Committee on Benevolence and City Hospital presented the following :

RECAPITULATION OF THE WEEKLY REPORT OF THE CONTENTS OF REGISTER OF PATIENTS OF CITY HOSPITAL ENDING MARCH 9, 1867.

Number of patients in Hospital at last report .....	25
Number of patients received in Hospital since last report .....	4
Number of patients born in Hospital since last report .....	0
Number of patients discharged from Hospital since last report .....	3
Number of patients died in Hospital since last report .....	0
Number of patients remaining in Hospital at present report .....	26

ALSO, WEEKLY REPORT OF CONTENTS OF REGISTER OF PATIENTS OF CITY HOSPITAL ENDING MARCH 16, 1867.

Number of patients in Hospital at last report .....	26
Number of patients received in Hospital since last report .....	4
Number of patients born in Hospital since last report .....	2
Number of patients discharged from Hospital since last report .....	2
Number of patients died in Hospital since last report .....	0
Number of patients remaining in Hospital at present report .....	30

Which were accepted and approved.

REPORTS FROM CITY OFFICERS.

The City Attorney presented the following opinion :

INDIANAPOLIS, March 18, 1867.

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

GENTLEMEN:—I have received opinions from Messrs. McDonald, Roche & Sheeks, and Messrs. Hendricks, Hord & Hendricks, counsel representing the railroad interests of the city.

It will be found that these gentlemen concur in an opinion I gave your honorable body some weeks since.

I have thought it proper, in order that there may be no further misunderstanding upon the subject, to set forth at length the mode of taxing railroad companies, which, in my opinion, should be adopted.

1. The grounds on which are located any buildings or improvement connected with the road, the rolling machinery, the road bed and track, should be placed in one class. The total value of the entire road, including the property aforesaid, should be computed and taxed by the mile. To illustrate, suppose the road to be one hundred miles in length, the total value of the road and aforesaid property to be one hundred thousand dollars, and one mile of the road situated within the corporate limits of the city; the tax to be assessed on said property should be on a valuation of one thousand dollars.

2. All lots or parcels of real estate not used in operating the road should be taxed just as real estate owned by natural persons is taxed.

3. All buildings, whether depots or otherwise, all fixtures and stationary machinery within the city limits, should be taxed as the like property of natural persons is taxed.

The total of these three classes will give the amount to be assessed against the railroad company.

I transmit herewith the opinions of the gentlemen above named.

Respectfully,

B. K. ELLIOTT, *City Attorney.*



INDIANAPOLIS, March 18, 1867.

*To Edwin J. Peck:*

The 41st Section of the Act of December 20th, 1865, for the incorporation of cities, confers the power upon the city authorities to levy, and cause to be assessed and collected, an ad valorem tax on all property subject to taxation for State or county purposes, within such city. It further provides that "the cities and incorporated towns, through or into which any railroad may pass, may assess any railroad, building, fixtures and machinery connected therewith, within the city or town limits, on the same *basis*, and in the same manner that the like property of natural persons is assessed, but the rolling machinery used in operating the road shall be deemed embodied in the tax by the mile

The Act of December 21, 1865, entitled "An Act to secure a just valuation and taxation of all railroad property within the State," &c., provides for the assessment and taxation of all railroad property as a *unit*, which is in any way used in running or operating the road by embracing the value of all such property in the value of road per mile. In the 7th section of the last named act, the same authority, and in the same language, is conferred on cities and incorporated towns, to assess separately, any buildings, machinery and fixtures within their limits, belonging to any railroad, as is conferred in the 41st section of the act for the incorporation of cities, above quoted.

The act of 1865, for assessment and taxation of railroad property is similar in its provisions to the act of 1859, on the same subject, except that the act of 1859 did not authorize cities and towns to assess any railroad property for taxation, except such property within the limits of cities and towns, as was subject to taxation for State and county purposes, and consequently did not permit the assessment of railroad buildings, fixtures and machinery, separate from the general property used by the roads.

In the case of the Toledo and Wabash Railroad Company *vs.* the City of Lafayette (22d Ind., p. 262), in construing the act of 1859, the Supreme Court say, "A railroad company is to be taxed for its road as a unit, including not only its track, rolling machinery, side tracks and switches, but all its depots, machine shops, &c.; in short, including all property used in any way by it in running or operating the road." It was therefore held by the Court that, under the act then in force, the authority of a city to tax all railroad property connected with the running or operating of the road, was limited to taxing the road per mile within the limits of the city, as all such property was embraced in the valuation per mile. It is clear from the statutes we have quoted that the only additional power the cities now possess is to assess the railroad buildings and fixed machinery within city limits, and to add this assessment to the value of the road per mile, and that no specific assessment can be made on depot grounds, side tracks, rolling machinery or any other property used in running operating the road.

The question, arises, how is the city to determine the value of a railroad per mile within the limits of the city?

Our answer is, that the value of the railroad per mile as ascertained under the act of 1865, to "secure a *just* valuation and *taxation* of all railroad property in the State," must control the city assessment. This is quite clear, we think, from an examination of the two acts. They both passed the Legislature at the same session, and about the same time. The act for the incorporation of cities took effect on the 20th of December, 1865, and the act to secure a *just* valuation of railroad property on the 23d of the same month; the provision in regard to the assessment of railroad buildings, fixtures, and machinery, for city taxes, is common to both, and in the same language; thus showing that the Legislature was considering them together. It is the only provision in the act for the incorporation of cities that prescribes any mode for the assessment of any kind of railroad property. By its terms railroad buildings, fixtures and machinery, are to be assessed on the same *basis*, and in the same *manner* that the like property of natural persons is assessed. While the act to secure a *just* valuation and taxation of railroad property, gives all the *data* and numerates all the property to be embraced, to secure a full, fair, and just valuation of the road per mile, with the neces-



sary powers to equalize such valuation, thus making the valuation of railroads uniform and equal throughout the State. The conclusion is irresistible that the value thus fixed must control all assessments for taxes on that species of property levied under the State authority, whether made by a county, a city, or an incorporated town. We therefore conclude that, under the law as it now stands, the city authorities may ascertain the length of the several railroads within the city limits, and their respective values per mile, as ascertained and fixed in the valuation of railroad property by State authorities, and to this add the value of such buildings, fixtures and machinery as each road may possess within the city, excluding rolling machinery used in the city, and assess such taxes as by law it may be authorized to assess on the valuation thus found, and that this includes all the taxable property of any road in the city, except such property as it may hold detached from the operations of the road.

Yours with respect,

McDONALD, ROACHE & SHEEKS.

INDIANAPOLIS, March 18, 1867.

We have carefully considered the question discussed in the above opinion and concur in the conclusion arrived at by Messrs. McDonald, Roache & Sheeks.

We would say in addition, that we think that, upon every principle of justice and sound legal reason, any legislative enactment authorizing *double taxation* should be strictly construed. In this case the real estate of a railroad company, not only in this city, but in *all other cities on the line*, is included in the average valuation *per mile*, and the city taxes *this pro rata*. When it is proposed to double tax all or any part of this property, a clear authority should be shown. Here section 7 of the act for assessment of railroad property (Laws Sp. Ses. 1865, p. 123), professes to authorize such double tax so far as relates to "any railroad *building, fixtures and machinery, connected therewith*, within the city or town limits," but it does not *profess*, and can not be intended, to authorize such tax on any other property. It embraces, in terms, the improvements specified, but does not embrace the grounds on which these improvements are situate.

This distinction between real estate, as such, and improvements, is by no means a new thing in our assessment laws.

HENDRICKS, HORD & HENDRICKS.

On motion by Mr. Brown, the opinion of the City Attorney was accepted and approved; and the opinion of Messrs. McDonald, Roach and Sheeks, with the concurrent opinion of Messrs. Hendricks, Hord and Hendricks, were accepted and ordered to be spread upon the minutes.

The City Attorney also presented the following opinion:

INDIANAPOLIS, March 18, 1867.

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

GENTLEMEN:—In accordance with the request of members of your honorable body, I have examined the provisions of the law respecting the power of Council to defer the payment of taxes and relieve from the penalty provided by statute in cases of delinquency.

The Charter is imperative; ten per centum penalty attaches on all taxes remaining unpaid after the third Monday in March. The late statute extending the time of payment of State and county taxes, does not apply to taxes levied by cities. The Council can do no act in contravention of the Charter, and it follows that the time in which taxes are to be paid cannot be lawfully extended, nor the penalty provided by law legally remitted.

Respectfully,

B. K. ELLIOTT, *City Attorney.*

Which was accepted and approved.

Mr. Loomis then moved to reconsider the vote had on the passage of the resolution, offered by Dr. Jameson, extending the time for attaching the penalty of ten per cent. on delinquent city taxes to the third Monday in April, 1867.

Mr. Colley called for the ayes and noes.

Those who voted in the affirmative were Councilmen Allen, Brown, Coburn, Colley, Emerson, Glazier, Kappes, Loomis, MacArthur, McNabb, Seidensticker and Staub—12.

No Councilman voting in the negative.

So the vote was reconsidered.

The question then recurring upon the adoption of the motion, it was not adopted.

The City Auditor made the following report :

INDIANAPOLIS, March 18, 1867.

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

GENTLEMEN:—The City Auditor respectfully reports the following Contract and Bond of Samuel Lefever for building a double rubble culvert over Pogue's Run on McNabb street. Respectfully,

JOHN G. WATERS, *City Auditor.*

On motion, the report was received and the Contract and Bond accepted and approved.

The City Auditor, also, reported special appropriation ordinance No. 14—1867, entitled :

AN ORDINANCE appropriating money for the payment of sundry claims against the City of Indianapolis,

Which was read the first time by its title and laid over.

ORDINANCES ON SECOND READING.

Mr. Seidensticker called up special ordinance No. 5—1867, entitled :

AN ORDINANCE to provide for bowldering McNabb street and setting stone curbing on the sidewalks,

Which was read the second time.

Mr. Seidensticker called up special ordinance No. 4—1867, entitled :

AN ORDINANCE to provide for grading and graveling Noble street and sidewalks, between Washington and North streets,

Which was read the second time.

Mr. Loomis called up special ordinance No. 3—1867, entitled :

AN ORDINANCE to provide for the grading and graveling of the alley running east and west, between Elm and Huron streets, from Cedar street to the first cross alley,

Which was read the second time.

Mr. Emerson called up special ordinance No. 7—1867, entitled :

AN ORDINANCE to provide for grading and graveling the sidewalk on the south side of New York street, between the Canal and West street,

Which was read the second time and ordered to be engrossed.

Mr. Allen called up special appropriation ordinance No. 13—1867, entitled :

AN ORDINANCE appropriating money for the use of the Fire Department,

Which was read the second time.

Mr. Glazier called up special ordinance No. 10—1867, entitled :

AN ORDINANCE to provide for grading and graveling New Jersey street and sidewalks, between McCarty street and the south line of Rosett's sub-division of out-lots numbered 107 and 108,

Which was read the second time and ordered to be engrossed.

Mr. MacArthur called up special ordinance No. 11—1867, entitled :

AN ORDINANCE to provide for grading and graveling the alley running north and south through square No. 32, between Ohio and New York streets,

Which was read the second time and ordered to be engrossed.

Mr. MacArthur called up special ordinance No. 9—1867, entitled :

AN ORDINANCE to provide for grading and graveling Blake street and sidewalks, between New York and Vermont streets,

Which was read the second time and ordered to be engrossed.

#### ORDINANCES ON THIRD READING.

Mr. Allen moved that rule 10 of section 1 and section 9 of the rules and regulations be suspended, and special appropriation ordinance No. 13—1867, be taken up, read the third time and placed upon its passage.

The question being upon the suspension of the rules, those who voted in the affirmative were Councilmen Allen, Brown, Coburn, Col-



ley, Emerson, Glazier, Kappes, Loomis, MacArthur, McNabb, Seidensticker and Staub—12.

No Councilman voting in the negative.

So the rules were suspended.

Special appropriation ordinance No. 13—1867, entitled :

AN ORDINANCE appropriating money for the use of the Fire Department,

Was then taken up, read the third time, and placed upon its passage.

The question being, shall the ordinance pass? those who voted in the affirmative were Councilmen Allen, Brown, Coburn, Colley, Emerson, Glazier, Kappes, Loomis, MacArthur, McNabb, Seidensticker and Staub—12.

No Councilman voting in the negative.

So the ordinance passed.

Mr. Seidensticker called up special appropriation ordinance No. 12—1867, entitled :

AN ORDINANCE appropriating money for the payment of E. J. Metzger for printing ordinances, &c.,

Which was read the third time and placed upon its passage.

The question being shall the ordinance pass? those who voted in the affirmative were Councilmen Allen, Brown, Coburn, Colley, Emerson, Glazier, Kappes, Loomis, MacArthur, McNabb, Seidensticker and Staub—12.

No Councilman voting in the negative.

So the ordinance passed.

Mr. Loomis moved to suspend rule 19 of section 1, and section 9 of the rules and regulations, to take up special ordinance No. 3—1867.

The question being on the suspension of the rules, those who voted in the affirmative were Councilmen Allen, Brown, Coburn, Colley, Emerson, Glazier, Kappes, Loomis, MacArthur, McNabb, Seidensticker and Staub—12.

No Councilman voting in the negative.

So the rules were suspended.

Special ordinance No. 3—1867, entitled :

AN ORDINANCE to provide for the grading and graveling of the alley running east and west between Elm and Huron streets, from Cedar street to the first cross alley,

Was then taken up, read the third time, and placed upon its passage.

The question being, shall the ordinance pass? those who voted in the affirmative were Councilmen Allen, Brown, Coburn, Colley, Emerson, Glazier, Kappes, Loomis, MacArthur, McNabb, Seidensticker and Staub—12.

No Councilman voting in the negative.

So the ordinance passed.

Mr. Seidensticker moved that rule 19 of section 1, and section 9 of the rules and regulations be suspended and special ordinance No. 5—1867, be taken up, read the third time, and placed upon its passage.

The question being on the suspension of the rules, those who voted in the affirmative were Councilmen Allen, Brown, Coburn, Colley, Emerson, Glazier, Kappes, Loomis, MacArthur, McNabb, Seidensticker and Staub—12.

No Councilman voting in the negative.

So the rules were suspended, and the ordinance read the third time and placed upon its passage.

The question being, shall the ordinance pass? those who voted in the affirmative were Councilmen Allen, Brown, Coburn, Colley, Emerson, Glazier, Kappes, Loomis, MacArthur, McNabb, Seidensticker and Staub—12.

No Councilman voting in the negative.

So the ordinance passed.

#### UNFINISHED BUSINESS.

Mr. Glazier offered the following motion :

That the contract on East street be extended thirty days by consent of surety being filed with the City Auditor.

Which was adopted.

Mr. Coburn moved to reconsider the vote taken on the motion to purchase an air pump for the use of the City Lamp Lighter, which, on motion by Mr. Seidensticker, was laid upon the table.

On motion by Mr. Colley the Council adjourned.

JOHN CAVEN, *Mayor*.

ATTEST :

C. S. BUTTERFIELD, *City Clerk*.