REGULAR MEETING.

COUNCIL CHAMBER, CITY OF INDIANAPOLIS,
March 7, 1892.

The Common Council of the City of Indianapolis met in the Council Chamber, Monday evening, March 7, at 8 o'clock P. M.

Present, Hon. Martin J Murphy, President of the Common Council, in the Chair, and 21 members, viz: Messrs. Allen, Colter, Cooper, Costello, Gasper, Gauss, Holloran, Laut, Linn, McGill, McGuffin, Olsen, Puryear, Rassmann, Ryan, Schmidt, Schrader, Sherer, White and Young.

The Proceedings of the Common Council for the regular session held Monday, February 15, 1892, having been printed and placed upon the desks of the Councilmen, said Journal was approved as published.

The Clerk proceeded to read the Journal, whereupon Councilman Rassmann moved that the further reading of the Journal be dispensed with. Which motion prevailed.

COMMUNICATIONS, ETC., FROM MAYOR.

His Honor, the Mayor, presented the following communication:

To the Members of the Common Council:

GENTLEMEN:—I have approved General Ordinance No. 7, also Resolution No. 1, 1892, passed at your meeting held February 15, 1892.

Respectfully yours,

T. L. SULLIVAN,
Mayor.

REPORTS FROM OFFICIAL BOARDS.

To the Honorable President and Members of the Common Council, City of Indianapolis:

GENTLEMEN:—We beg to present you herewith, for your approval, a certain contract made and entered into on the first day of March, 1892, by and between the Board of Public Works of the City of Indianapolis and the Indianapolis and Broad Ripple Rapid Transit Company.

Very respectfully,

A. W. CONDUITT,
A. SCHERRER,
M. M. DEFREES,
Board of Public Works.

Which was received and ordered spread on the minutes.

DEPARTMENT OF PUBLIC HEALTH AND CHARITIES,
OFFICE OF COMMISSIONERS, ROOM 10, COURT HOUSE,
INDIANAPOLIS, March 7, 1892.

To the Honorable City Council:

GENTLEMEN:—We understand that a strong effort is being made to have Sec. 7 of General Ordinance No. 31, pertaining to the removal of dead animals, repealed.

If this section is repealed no protection would be afforded to the health of the city, and would leave no one responsible for the removal of dead animals from our streets and alleys.

Under the existing contract the carcasses of all animals are removed promptly and the contractor is placed under one thousand dollar bond to remove such carcasses promptly and within a given time.

Every city of any importance has a sanitary law of this kind, and we earnestly request that this section be not repealed.

Respectfully,

FRANK A. MORRISON,
President Board of Health.
GEORGE J. COOK,
Secretary Board of Health.

Which was received and ordered spread on the minutes.

REPORTS, ETC., FROM STANDING COMMITTEES.

Mr. Ryan, on behalf of the Committee on Contracts and Franchises, to whom was referred G. O. No. 1 (Water Contract), 1892, made the following report:

INDIANAPOLIS, IND., March 7, 1892.

Mr. President:

Your Committee on Contracts and Franchises to whom was referred General Ordinance No. 1, 1892, relating to a certain agreement between the City of Indianapolis and the Indianapolis Water Company, have had the same under consideration and would respectfully report:

That your Committee requested Leon O. Baily, City Attorney, for an opinion touching the legal rights of this body concerning the subject matter of said contract, and especially as to the rights of the Common Council in fixing rates to private consumers; that the opinion of said City Attorney is herein set forth and made a part of this report, as follows:

INDIANAPOLIS, IND., March 3, 1892.

To the Honorable Chairman and Members of the Committee on Contracts and Franchises of the Common Council:

GENTLEMEN—Replying to your inquiry as to the power of the Common Council in the matter of fixing prices to be charged the inhabitants of the city of Indianapolis for water under the present city charter, and the bearing which the franchise of the Indianapolis Water Company has thereon, I would most respectfully say:

The present charter of the city of Indianapolis provides, in clause 5, under the head of "occupations," in section 23, that the Common Council shall have the power to enact ordinances

"To license, tax, regulate and prohibit the supply, distribution and consumption of artificial and natural gas, and of water and electricity, and to fix the prices thereof."

In clause 9 of section 59 it is provided that the Board of Public Works shall have the power

"To contract for the furnishing of gas, either natural or artificial, water, steam, or electricity, light or power, to the said city, or the citizens thereof, by any company or individual, and in such contract to fix the prices to be charged for the same, subject to the ordinances of such city in relation to private consumers."

In clause 11 of the same section it is declared that the Board shall have the power

"To authorize and empower, by contract, telegraph, telephone, electric light, gas, water, steam, or street-car or railroad companies, to use any street, alley or public place in such city, and to erect necessary structures therein, and to prescribe the terms and conditions of such use, to fix by contract the prices to be charged to patrons: *Provided*, That such contract shall in all cases be submitted by said Board to the Common Council of such city, and approved by it by ordinance before the same shall take effect."

Independent of any existing contract between the city and the Water Works Company it seems clear, from these several clauses, that the Common Council is empowered to pass ordinances fixing the price to be charged for water supplied to private consumers, and that it is within the power of the Board of Public Works to make contracts for the supply of water to the city, in its corporate capacity, and likewise to fix the rates to be charged to private consumers within the maximum limit prescribed by ordinance, but such contract so made by said Board, before it shall become effective, must be approved by ordinance.

A full consideration of the question presented, however, requires a statement of the statute, ordinance and contract, heretofore existing, which define the relations between the city of Indianapolis and the Indianapolis Water Works Company. They may be stated as follows:

In an act of the General Assembly of the State of Indiana, approved March 6, 1865, the following language is employed in section 8 of that law:

"*Provided*, That the Common Council of such city may, in such grant, impose such just and reasonable terms, restrictions and limitations upon such company, in reference to the manner in which such streets, alleys, wharves and public grounds are to be used, and in reference to the charging and collecting of tolls, water rents or other compensation for the supply of water to be furnished by such company to said city and its inhabitants, as shall be necessary to guard against the improper use of such streets, alleys, wharves and public grounds, and to protect such city and its inhabitants from the imposition of undue or excessive rates or charges for the supply of water; but no restrictions shall be imposed by said Common Council which will prevent such company realizing upon its capital stock an annual income or dividend of ten per cent. after paying the cost of all necessary repairs and expenses."

Under the law above referred to the Water Works Company of Indianapolis was organized in 1869.

In 1870 the city of Indianapolis passed an ordinance pursuant to the power conferred upon it by said act of 1865, in section 3, of which it declared that—

"The company shall have the right to charge the city and the citizens thereof for such water, as may be supplied, as much as the average paid by other cities of the United States and citizens thereof, of like population, that are supplied with as efficient water works, unless a less price may be agreed upon; but the Company may not demand or charge a greater price. In case the Company and City Council fail to agree upon a schedule of prices to be paid by the city and its citizens, then such schedule and rates of charges shall be ascertained and determined by five disinterested persons, non-residents of the city (two of whom shall be chosen by the Company, two by the Common Council, and the fifth by the four thus chosen); and the rates, so fixed, shall remain in full force until altered by agreement or arbitration, as aforesaid; and either the city or Company may demand a re-adjustment of such rates, either by agreement or arbitration, as aforesaid, at any time after the expiration of one year from the last preceding adjustment; but in no event shall the city be charged more than fifty dollars per annum for each hydrant or fire-plug."

Under these conditions the Water Works Company of Indianapolis continued in business until succeeded by the Indianapolis Water Company.

In 1881 a law was passed by the General Assembly of the State giving the present Company the power and authority to succeed to all the franchises and privileges of the old Company and enabling them to dispose of the debts and obligations of the old Company in a manner most advantageous to the new organization.

In 1882 the present Company made a contract with the city, which was approved by ordinance containing the following clause:

"And it is hereby expressly understood and agreed between the said city and Company, that when the said seventy-six (76) hydrants shall have been re-located at an average not to exceed one hydrant for every five hundred (500) feet of main, laid as aforesaid, then the said city may require hydrants to be located as provided in section 5 of the charter of said Company, being 'An ordinance authorizing the Water Works Company of Indianapolis to construct, maintain and operate water works, and supply to the city and citizens of Indianapolis, defining their powers and privileges, and prescribing their duties,' ordained January 3, 1870, which ordinance it is hereby expressly understood and agreed, is, and shall continue to be, in

full force, in all its parts, as against the parties hereto, except in so far as its provisions may be modified or changed by this contract; and as to any such modification or changes, they shall only be effectual during the continuance of this contract, and when the same expires by limitation, or shall be annulled by the parties hereto, then said ordinance shall revive as to any part so modified or changed, and all its provisions shall be and continue in full force, notwithstanding any change that may have been made in the name of said Company since its first organization under said ordinance."

The above contract of 1882 was in force from September, 1881, for five years, "and thereafter until a new contract shall be made."

In 1887 a new contract was made between the City of Indianapolis and the said Water Company, containing similar provisions to those contained in the contract ordinance of 1882, with reference to the revival of the ordinance of 1870, and the fact that such contract should be continued for a term of years, "and thereafter until a new contract shall be made"

The same is true with reference to the contract which was prepared and introduced in the Council and known as General Ordinance, No. 33, 1890, but never adopted.

The same is true with reference to the contract made by the Board of Public Works and now pending in this body.

The power of amendment, modification or repeal was not expressly reserved, either in the general act of 1865 or the ordinance of 1870.

It is in the light of the foregoing facts that this subject must be considered and a conclusion reached.

The doctrine that franchises are contracts has frequently been invoked by corporations to protect them from regulations and burdens imposed by States and municipalities, under what is known as the "police power" of the government. It is abundantly settled, however, that this power is inherent in the State and can not be alienated or bartered away. It is a power incapable of surrender or annihilation. All laws affecting the morals, comfort, health and safety of the people fall within this general power of government, and matters touching upon these questions are above and beyond the power of contract. As a branch of this power it is now settled that the rates or charges made by railroad, telephone, gas, water and other companies may be fixed, although it is probably true that a State or municipality, under the guise of mere regulation, can not place the price so low as to amount to a confiscation or to deprive the owner of a reasonable compensation for its use, and, while the courts place the power of fixing the rates and charges of corporations, which devote their property to public use, under the police power of the State, unlike laws strictly dealing with questions of public morals, comfort, health and safety, it seems to be settled that such power of regulating and fixing prices may be alienated by contract. Therefore, laws requiring water, gas and like companies to supply customers at such prices as may be fixed by the municipal authorities can not be regarded as unconstitutional or as authorizing the taking of property for a public purpose within the meaning of section 21 of article 1 of the Constitution of this State, but is fully within the power of governmental regulation, unless prohibited by some valid contract obligation.

This position seems to be fully sustained by a recent decision of our Supreme Court in the case of the *City of Rushville* v. *Rushville Natural Gas Company*, 28 N. E. 853, wherein Judge McBride, speaking for the whole Court, said:

"It is too well settled to be longer the subject of controversy that, where the owner of property devotes it to a use in which the public have an interest, he must, to the extent of the interest thus acquired by the public, submit to the control of such property by the public for the common good. Indeed, so firmly is this established, and by authorities so numerous, that it is hardly necessary to cite. The work of supplying natural gas to cities is a public one, for which property may be appropriated under the right of eminent domain. Property thus employed is devoted to a public use, and is subject to regulation and control by the State, and the State may delegate such control, in whole or in part, to the municipal corporations, in so far as relates to property thus devoted to such use within their limits. The right of control thus possessed, and which may be so delegated, includes the power to fix reasonable maximum rates that may be charged by the holders of the franchise, unless the State or the municipality are restrained by some provision in the charter or grant of the license, which amounts to a contract."

The ordinance of 1870, as provided by section 11 thereof, was accepted in writing by the company within ten days after its passage, although the mere fact of the company's operating under its provisions would have been, in itself, a sufficient acceptance. Later, and at the times and in the manner above set forth, the present company, successor to the first organization, has entered into express articles of agreement, which in all instances have been approved by the Common Council, and may be appropriately designated as contract ordinances. The latter of these, made in 1887, is the one under which the company is now operating.

Neither the ordinance nor the contracts referred to fix or pretend to fix the rates of charges to private consumers, but merely provide that the company may charge as much as the average price paid by other cities of the United States, and the citizens thereof, of like population, that are supplied with as efficient water works, unless the company and city may agree upon a less price. And that, in the event the company and city fail to agree, the whole matter shall be determined by five disinterested persons, non-residents of the city, two of whom shall be chosen by the city, two by the company, and the fifth by the four thus selected, and that the schedule thus agreed upon shall be binding for one year and until a further adjustment of rates be fixed by the same method.

It is a well settled proposition that a municipality can exercise only such powers as are, in express language or by necessary implication, delegated to it by the State, and that no legislative power thus given to a city can, by it in turn, be delegated to some committee, board, executive or other officer. It is probably as well settled, also, that a municipality can not invest a corporation devoting its property to public use with an exclusive or perpetual franchise.

The latter part of section 8 of the act of 1865, under which the Water Works Company was organized, and from which the city of Indianapolis derives all the power relative to the subject which it possesses, employs the following language:

"*Provided*, That the Common Council of such city may, in such grant, impose such just and reasonable terms, restrictions and limitations upon such company, * * * * * * * and in reference to the charging and collecting of tolls, water rents and other compensation for the supply of water to be furnished by said company to said city and its inhabitants as shall be necessary to guard against the improper use of such streets, alleys, wharves and public grounds, and to protect said city and its inhabitants from the imposition of undue rates or charges for the supply of water, etc."

Section 10 of the same act of 1865 authorizes the company to charge and collect such rates for water as shall be fixed by its by-laws, subject only to the restrictions imposed by such Common Council, as aforesaid.

Upon the foregoing statement of facts I have reached the following conclusions, which may be most conveniently stated in propositions:

1. Primarily, the Common Council, by general ordinance, has the right and power to fix water rates to private consumers which will be binding upon all persons and corporations not operating under a contract, and which will likewise attach and apply to any company now possessing contractual rights, should a time ever be reached when such agreement has expired.

2. It is the sole province of the Board of Public Works to negotiate all contracts relative to water furnished to the city, as a corporation, and to fix rates to private consumers, within the terms of existing ordinances, which contracts must be approved by the Common Council.

3. There is a contract now in existence between the city of Indianapolis and the Indianapolis Water Company, covering the supply furnished to the city itself, and in terms adopting and making the ordinance of 1870 a part of such contract, which provides that the rates to private consumers shall be fixed by agreement or arbitration, within the limitations hereinbefore indicated. So long, therefore, as it remains, and is held as a valid agreement between the parties thereto, the city, by its Common Council, can not fix water rates to private consumers, which will be in violation of the terms of such contract.

4. Under and pursuant to the terms of the existing contract, it is the duty of the city and the Water Company annually to agree upon the rates to private consumers. And in the event of a failure between said company and the city to so agree, the question shall be submitted to arbitration in the manner elsewhere herein set forth. These rates to private consumers are not now incorporated in or fixed by the present proposed contract made by the Board of Public Works, and in

view of the present law governing the city of Indianapolis, I am of the opinion that it is the duty of the Water Company to submit its rates to said Board, and, in a supplemental contract made with said Board, to agree upon such rates covering one year from the date of its adoption, which should be approved by ordinance of the Council, and in case of a failure to make such an agreement, the question must be submitted to arbitration.

5. As to the validity of the terms, and especially of section 3 of the ordinance of 1870, I would respectfully suggest that, under the power delegated by the State in the act of 1865, it is made the duty of the Common Council to impose such restrictions upon the Water Company as shall protect said city and its inhabitants from undue or excessive charges for water (provided such restrictions shall not reduce the income of said company below a dividend of ten per cent., after the payment of repairs and expenses), and that, under this language, the city had and has no right whatever to delegate such authority to arbitration, or to limit the city in its power of imposing such restrictions to an agreement which must be assented to by the Company. While the State has given the city of Indianapolis power to impose such restrictions, not only is it beyond the power of the city to delegate such authority, but, in making such restrictions they should be definite, unambiguous and certain. Accordingly, the limitation which provides that the rates should not exceed those of other cities of the same population having as efficient water-works, is so impractical and uncertain as, in my opinion, to be void. As a question of practical benefit to private consumers, however, it is very apparent that, with the ten per cent. limitation placed upon the Council by the act of 1865, its ability to reduce the present rates is absolutely destroyed. Indeed, the Company itself, long ago, placed its rates far below the lowest point, in view of the ten per cent. provision referred to, which the Council itself has the right to fix. I am informed, upon authority which I regard as altogether worthy and reliable, that the present company, during its existence, has never reached even a two per cent. dividend. Therefore, it would probably be ill advised to change the method of fixing rates from that provided in the contract and acquiesced in by the company.

6. I wish also to express a doubt as to the power of the city to grant a charter to any corporation, which may be considered in the nature of a perpetual grant, incapable of amendment. The franchise in question, however, is limited, first, by the original statute of 1865, under which the Water Company is organized, to fifty years, and its rights will expire in 1919; and secondly, by a provision in the original act giving the city the right to purchase the plant of said company within twenty-five years from the company's organization, which is well nigh expired, and by the language of the ordinance of 1870, where it is agreed that the city at any time, on giving six months' notice, shall have the right to purchase said plant at such price as may be agreed upon between the city and the company, and, in case of a disagreement, that the price shall be fixed by arbitration. So far as the term of the contract be concerned, therefore, I see no ground upon which the franchise could be declared void, unless it might be regarded as unreasonable, a decision which I would consider as altogether improbable.

Aside from the conclusions above given, I wish to call attention to the desirability of incorporating at full length in any contract now made with the Water Company every right given or duty imposed which may relate to the subject, so that such an instrument shall stand in lieu of all other ordinances or contracts, whatsoever, theretofore passed or agreed upon, to the end that the city, the Water Company and the public may know where—in what document—and within what limits their rights and duties are to be found. By this, the use of that dangerous and uncertain clause, "and thereafter until a new contract shall be made," heretofore employed, may be avoided and the city be left, at the expiration of such period, in an attitude of exact equality with the company.

Very respectfully submitted,

LEON O. BAILEY,
City Attorney.

Your committee further report, in view of the above opinion given, that the contract embodied in General Ordinance No. 1, 1892, be returned by the City Clerk to the Board of Public Works and that said Board be respectfully requested, so far as may lie within their power, to amend the same in the following particulars, namely:

1. The suggestion of the City Attorney that any contract now entered into between the city and the Water Company should clearly define all the rights existing between the parties thereto and be in lieu of all other contracts or ordinances, so fully meets with the approval of your committee that they urge that the Board of Public Works undertake to secure such an agreement with said company. One clause of such a contract should fix the maximum rates to private consumers and be subject to change from year to year within the discretion of the Board of Public Works. Even if the term of such a contract were to extend for the same period as is covered by the unexpired part of the company's franchise, it would be most desirable if, by such instrument, the city were able to get a better control over the question of rates to private consumers. Another clause should, of course, reserve the right already enjoyed by the city to purchase the plant of the company on a six months' notice.

2. The clause which has been incorporated in each of the several contracts heretofore made between the Water Company and the city, to-wit: That the contract should be in force for the term of years therein named, and "thereafter until a new contract shall be made," leaves it within the power of the Water Company, if it desires to continue in force any existing contract, to obstinately decline entering into a new one. The city is thus left at the company's mercy. This clause should, by all means, be retained in any new contract, but, if possible, it should be modified by adding thereto the following words: "*Provided further*, That this contract may be terminated by the Board of Public Works at any time after the expiration of the fixed term of years for which it is made, by the said Board giving to said company a written notice of thirty days."

3. The franchise of the Water Company provides for the fixing of rates to private consumers by agreement, if possible, between the city and said company, and if no such agreement can be reached, by arbitration. The maximum rates thus fixed are binding for one year and until a further adjustment is made by the same method. The committee, therefore, recommends that the Board of Public Works enter into an agreement with the Water Company by which the maximum rates to private consumers shall be fixed. A contract thus entered into by the Board of Public Works may be made a part of the contract providing for water for the city in its corporate capacity or it may be made a separate instrument altogether. If the Water Company consents and the Board of Public Works deem it wise to so agree, the provision covering the matter of maximum rates to private consumers may be made covering a period of more than one year.

Your committee further recommends that a copy of this report be forthwith transmitted by the City Clerk to the Board of Public Works, and that said Board shall indicate to the Common Council at its next regular meeting on March 21, the result of its efforts.

Very respectfully submitted,

P. J. RYAN,
Chairman.
CHAS. A. GAUSS,
H. F. HOLLORAN,
W. H. COOPER,
E. J. SHERER,
ROBT. C. MCGILL,
J. R. ALLEN,
Members of the Committee.

Which was read and concurred in.

Mr. Holloran, on behalf of the Committee on Fees and Salaries, to whom was referred G. O. No. 12, 1892, an ordinance fixing the pay of the Police Matron, asked for further time to report.

Which was granted.

Mr. Laut, on behalf of the Committee on Public Health, to whom was referred G. O. No. 6, 1892, an ordinance to repeal section 7 of an ordinance regulating the disposition of dead animals and animal offal and blood in the City of Indianapolis, and within two miles of the corporate limits of said city, and upon what is known as the Sellers' Farm, ordained August 20, 1878, made the following report:

Mr. President and Gentlemen of the Common Council:

Your Committee to whom was referred G. O. No. 6, have examined the same and recommend that it do not pass.

Respectfully,

H. W. Laut,
John B. McGuffin,
T. B. Linn.
Committee of Health.

Which was read and concurred in.

Mr. White, on behalf of the Committee on Public Morals, asked for further time to report on G. O. No. 9, 1892, an ordinance providing for the licensing of buyers of old rags, old iron and old clothes, etc. Providing a penalty for the violation thereof and repealing conflicting ordinances.

Which was granted.

Mr. Gauss, on behalf of the Committee on Railroads, to whom was referred G. O. No. 5, 1892, an ordinance requiring the Pittsburg, Cincinnati, Chicago & St Louis Railroad Company to place and maintain a flagman at the crossing of the tracks of the said Company at Phipps Street, in the City of Indianapolis, Indiana, made the following majority report:

Indianapolis, Ind., March 7, 1892.

Mr. President:

Your Committee on Railroads, to which was referred General Ordinance, No. 5, 1892, requiring the P., C., C. & St. L. Railroad Company, to place and maintain a flagman at the crossing of the tracks of said Company with Phipps Street, in the City of Indianapolis, Marion County, Indiana, would respectfully recommend that the same do pass.

C. A. Gauss,
Geo. R. Colter.

Mr. Cooper, on behalf of the minority of the Railroad Committee, made the following report:

MINORITY REPORT.

INDIANAPOLIS, March 7, 1892.

To the President and Common Council:

GENTLEMEN—Your Committee to whom was referred G. O. No. 5, an ordinance requiring the P., C., C. & St. L. Ry. Co. to place and maintain a flagman at the crossing at the tracks of said company at Phipps street, most respectfully recommend that the ordinance be not passed, for the reason that it is nothing but a 12-foot alley between Merrill and McCarty streets, and this alley is only one square long running from Pennsylvania street to Delaware street. Phipps street runs from Meridian street to Pennsylvania street.

Respectfully,

W. H. COOPER.

Mr. Cooper moved the adoption of the minority report.

Mr. Laut moved to refer G. O. No. 5, together with the majority and minority reports back to the Committee on Railroads, which motion was adopted by the following vote.

AYES 21—viz.: Councilmen Allen, Colter, Cooper, Costello, Gasper, Gauss, Holloran, Laut, Linn, McGill, McGuffin, Olsen, Puryear, Rassmann, Ryan, Schmidt, Schrader, Sherer, White, Young and President Murphy.

NAYS—None.

Mr. Costello, on behalf of the Committee on Sewers, Streets and Alleys, to whom was referred G. O. No. 13, 1892, an ordinance annexing certain territory therein described, to the territory constituting and forming the city of Indianapolis, Indiana, made the following majority report:

To the President and Members Common Council:

GENTLEMEN—Your Committee to whom was referred General Ordinance No. 13, annexing certain territory, recommend that the same be passed.

Respectfully submitted,

JAS. H. COSTELLO,
A. A. YOUNG.
Majority of Committee.

Mr. Schmidt made the following minority report on G. O. No. 13, 1892:

Mr. President:

Your Committee on Sewers, Streets and Alleys, to which was referred General Ordinance No. 13, 1892, have had the same under consideration, and the undersigned, a minority of said committee, would respectfully recommend that said ordinance be indefinitely postponed, and as reasons therefor begs leave to submit and make part hereof the attached remonstrance.

Respectfully submitted,

ANTON SCHMIDT.

To the Common Council of the City of Indianapolis:

The undersigned represent to your honorable body that they are the owners of the entire tract of land sought to be annexed to the city by the terms of Ordinance No. —, introduced by Councilman Young.

That said tract embraces twenty-five acres, upon which there are only three houses and one shanty.

That we respectfully remonstrate against the passage of such ordinance for the reason that the city can not afford to, and will not attempt, to give to us adequate fire, police and other protection in return for the burdens of increased taxation placed upon us, and for the further reason that it is manifestly unfair to annex contiguous territory when the residents of such territory are unanimously opposed thereto; and when it is impossible, as in this case, to give to such territory any of the advantages of city government.

We also respectfully show to your honorable body that it would be against the best interests of the city to annex such territory, for the following reasons:

First At present the three bridges over Fall Creek on Tennessee, Illinois and Meridian streets are controlled, maintained and kept in repair by the county.

If this ordinance is passed all the expense of maintaining such bridges will have to be borne by the city.

The Tennessee street bridge is old and out of repair, and will soon have to be rebuilt. Will it pay the city to assume here a burden of five or six thousand dollars for the paltry amount of taxes received in return?

Second. If annexed, would we not have the right to call for some of the benefits accorded to other citizens of the city?

Would it pay to extend water and gas mains and spend the necessary amount of money to give us adequate fire and police protection?

And would it be fair to impose upon us city taxation without city benefits or protection?

We also submit that there is but one argument that can be thought of to justify the annexation, and that is, that Mr. Fred. Kissel's place of business should be taken into the city. Is this claim, or so called argument, worthy of consideration by a dignified, deliberative body?

If Mr. Kissel kept a dairy or a grocery would there be any clamor that the city ought to assume these great liabilities in order that it might be annexed? If not, then we submit that there is neither reason or justice in the proposition to annex our property against our will.

All we ask is that you look at this question, as business men, from the standpoint of reason and justice, keeping in mind the best interests of the city and all others concerned.

If you do this we feel sure that the ordinance will receive no support.

G. H. Wright,
Wm. Selking,
C. F. Kissel.

Mr. Olsen moved to adopt the minority report.

Mr. Young moved to lay Mr. Olsen's motion to adopt the minority report on the table.

Which motion was adopted by the following vote:

Ayes 14—viz.: Councilmen Allen, Cooper, Costello, Gasper, Holloran, Linn, McGill, McGuffin, Puryear, Rassmann, Ryan, White, Young and President Murphy.

Nays 7—viz.: Councilmen Colter, Gauss, Laut, Olsen, Schmidt, Schrader and Sherer.

The question being on the adoption of the majority report, which was adopted by the following vote:

AYES 14—viz.: Councilmen Allen, Cooper, Costello, Gasper, Holloran, Linn, McGill, McGuffin, Puryear, Rassmann, Ryan, White, Young and President Murphy.

NAYS 7—viz.: Councilmen Colter, Gauss, Laut, Olsen, Schmidt, Schrader and Sherer.

INTRODUCTION OF GENERAL AND SPECIAL ORDINANCES.

Under this order of business the following entitled ordinances were introduced:

By Board of Public Works:

G. O. No. 14, 1892. An ordinance confirming a certain contract made and entered into on the 1st day of March, 1892, by and between the City of Indianapolis, and the Indianapolis and Broad Ripple Rapid Transit Company, wherein said Company is granted a certain right of way for the construction and maintenance of an electric street railway within the City of Indianapolis, and the operation of cars thereon, upon certain terms and conditions therein set forth.

Mr. Gasper moved to refer G. O. No. 14, 1892, to the Committee on Contracts and Franchises, with instructions to report at the next meeting of the Council.

Mr. Olsen moved to lay Mr. Gasper's motion on the table, which motion was lost by the following vote.

AYES 9—viz.: Councilmen Laut, McGill, Olsen, Rassmann, Ryan, Schmidt, Schrader, White.

NAYS 12—viz.: Councilmen Allen, Colter, Cooper, Costello, Gasper, Gauss, Holloran, Linn, McGuffin, Puryear, Sherer, Young and President Murphy.

By Gasper:

Appropriation Ordinance No. 1, 1892. An ordinance appropriating the sum of nine dollars and fifty cents for the purpose of paying certain claims of James Pierce and Frederick Dunmeyer.

Read first time and referred to the Committee on Finance.

MISCELLANEOUS BUSINESS.

Mr. Holloran offered the following resolution:

Resolved by the Common Council of the City of Indianapolis, That the rules governing the Clerk of this body read as follows:

It shall be the duty of the City Clerk to keep an accurate journal of the proceedings of the Common Council. He shall have said proceedings printed after each regular or special meeting, one copy of which shall be presented to each member, and at least fifty (50) copies of which shall be kept on file to be bound at the end of the term, which shall be the official journal of the Common Council of said city, and he shall also keep a proper file of all papers thereof.

Read and referred to the Committee on Rules.

Mr. Rassmann moved to adjourn.

Mr. Gasper and Mr. Young demanded the call of the roll, which resulted as follows:

AYES 15—viz.: Councilmen Allen, Colter, Costello, Gauss, Holloran, Laut, McGill, McGuffin, Olsen, Rassmann, Ryan, Schmidt, Schrader and Sherer.

NAYS 6—viz.: Councilmen Cooper, Gasper, Puryear, White, Young and President Murphy.

The Council adjourned at 9:25 P. M.

MARTIN J. MURPHY,
President.

ATTEST:

RANDALL J. ABRAMS,
City Clerk.