

# PROCEEDINGS OF COMMON COUNCIL.

REGULAR SESSION—APRIL 18, 1881.

The Common Council of the City of Indianapolis met in the Council Chamber on Monday evening, April 18th, A. D. 1881, at half-past seven o'clock, in regular session.

**PRESENT**—Hon. John Caven, Mayor, and, *ex officio*, President of the Common Council, in the chair, and 22 members, viz.: Councilmen Bedford, Bernhamer, Bryce, Caylor, Dean, Dowling, Downey, Harrold, Kahn, Koller, Lamb, Morrison, McKay, O'Connor, Pearson, Prier, Pritchard, Shilling, Thalman, VanVorhis, White and Yoke.

**ABSENT**—Councilmen Fultz, Lang and Mauer—3.

The Proceedings of the Common Council, for the regular session held on April 4th, 1881, having been printed, and placed on the desks of the Councilmen, said Journals were approved as published.

Sealed proposals for making the below described street improvement, and fire cistern, were opened, read, and referred to the Committee on Contracts.

(S. O. 151, 1880.) For grading and graveling Hill avenue, from Darwin street to the intersection of Baltimore avenue.

For building one 1200 barrel cistern at, or near the corner of Ellsworth street and Vermont street. Work to be done according to the plans and specifications on file in the office of the City Civil Engineer of said city.

## REPORT FROM COMMITTEE ON CONTRACTS.

The Committee on Contracts, through Councilman Thalman, submitted the following report; which was concurred in, and the several contracts awarded as recommended:

To the Mayor, Common Council and Board of Aldermen:

*Gentlemen*:—The Committee on Contracts, to whom was referred certain proposals presented to the Common Council on Monday evening, April 4th, 1881, have examined the same, and find them to be as follows:

1st. For erecting lamp-posts, lamps and fixtures (complete to burn gas, except the service pipes), on California street, from Indiana avenue to First street.

No proposals were presented for above work, and your committee are informed by the Clerk that the Board of Aldermen have reconsidered their vote on the passage of the above entitled ordinance. We therefore recommend that no further action be taken at present.

2d. For grading and graveling the first alley north of Home avenue, from Park avenue to Broadway street.

Henry Clay, 29 cents per lineal foot front on each side.

John Schier, 27 cents per lineal foot front on each side.

J. T. Murphy, 25 cents per lineal foot front on each side.

R. H. Patterson, 23 cents per lineal foot front on each side.

Charles S. Roney, 19 cents per lineal foot front on each side.

Charles S. Roney being the lowest and best bidder, we recommend he be awarded the contract.

3d. For grading and graveling the west sidewalk of Shelby street, from Pleasant Run to the U. R. R. T. and S. Y. Co.'s tracks.

James Mahoney, 25 cents per lineal foot front.

C. T. Langhorne, 22 cents per lineal foot front.

Richter and Bro. & Henry Burke, 21 cents per lineal foot front.

John Schier, 18 cents per lineal foot front.

F. J. Blume, 17 cents per lineal foot front.

Michael Flaherty, 16 cents per lineal foot front.

Michael Flaherty being the lowest and best bidder, we recommend he be awarded the contract.

4th. For grading and graveling the first alley west of Virginia avenue, from the first alley south of Dougherty street to Coburn street.

Henry Clay, 27 cents per lineal foot front on each side.

James Mahoney, 25 cents per lineal foot front on each side.

Michael Flaherty, 20 cents per lineal foot front on each side.

Richter and Bro. & Henry Burke, 18 cents per lineal foot front on each side.

C. T. Langhorne, 17 cents per lineal foot front on each side.

C. T. Langhorne being the lowest and best bidder, we recommend he be awarded the contract.

5th. For grading and paving with brick (where not already paved) the sidewalks of Plum street, from Massachusetts avenue to Christian avenue.

John A. Whitsit, 55 cents per lineal foot front on each side.

J. T. Murphy, 45 cents per lineal foot front on each side.

Twiname, Amos & Co. 42 cents per lineal foot front on each side.

John Schier, 42 cents per lineal foot front on each side.

F. J. Blume, 39 cents per lineal foot front on each side.

T. Hanway & Co., 39 cents per lineal foot front on each side.

C. S. Roney, 39 cents per lineal foot front on each side.

J. W. Smith, 37½ cents per lineal foot front on each side.

S. W. Patterson, 37 cents per lineal foot front on each side.

Samuel W. Patterson being the lowest and best bidder, we recommend he be awarded the contract.

Respectfully submitted,

Isaac Thalman,

James A. Pritchard,

E. H. Koller,

Committee on Contracts.

#### COMMUNICATIONS, ETC., FROM THE MAYOR.

His Honor, Mayor Caven, submitted the following report, which was received:

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

*Gentlemen:*—The amount of Mayor's fees collected by me during the month of March, 1881, was \$160.40; the amount of policemen's witness fees, \$170.23; the amount due the City Treasury was \$6.35; and the amount due the Home for Friendless Women, collected in January, February and March, was \$299.20; being a total of \$636.18; which amounts I have paid to the City Treasurer, and filed his receipt with the City Clerk.

Respectfully submitted,

J. CAVEN, Mayor.

#### REPORTS, ETC., FROM CITY OFFICERS.

The City Attorney submitted the following report; which was received, and the several recommendations concurred in:

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

*Gentlemen:*—I beg leave to report that the case of Ephraim M. Fowler vs. The City has been tried in the Superior Court, and resulted in a finding and judgment against the city for \$420. This was an action based on a resolution of the Common Council, passed in January 1866, offering a reward of \$400 to persons enlisting in the service of the United States and causing themselves to be credited to the city. The plaintiff enlisted in February, 1865, and was credited to the city before her quota was full. On the day of his enlistment he made a demand for his money, but was not paid. The court allows the principal of the claim and interest from the commencement of the action, June 1st, 1880, but refusing interest from the date of the first demand, thus saving the city from the payment of about \$400. The case has been prepared for an appeal, should you so direct. Under the decisions of the Supreme Court, should they be adhered to, I do not think the result would be changed.

In the case of Amelda K. Mortland, administratrix, vs. The City, the Superior Court in general term has affirmed the verdict of the special term, wherein the plaintiff recovered \$500, on account of an accident to Alex M. Mortland, deceased, caused by the alleged negligence of the city in failing to place proper railings along the West Michigan street fill.

There is another action pending, wherein the administratrix of Mr. Mortland's estate seeks to recover damages to the estate. I do not think the latter action can be maintained, but the defense will be attended with expense. Mrs. Mortland proposes that if the city will pay the judgment and interest in the first case, \$500, she will dismiss the other case. The judgment rendered in this case was certainly very low, under all the circumstances, and in view of the probability that the Supreme Court would affirm the judgment, I recommend that the proposed compromise be accepted.

I would further report that I have collected the sum of \$5.40 fines in cases No. 660 and 701 Marion Circuit Court, which amount I have paid to the City Treasurer, and filed his receipt therefor with the City Clerk.

Respectfully submitted,

JOHN A. HENRY, City Attorney.

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

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

*Gentlemen:*—In accordance with your instructions, I have examined and herewith submit a report as to the security for the payment of the last instalment of rent for the Southern Park:

Since the making of the lease, the lessees, as also the surety, were adjudicated bankrupts; after which an action was commenced by the city to recover the possession of the park. Pending the action, a compromise was effected with Scott &

Co., the lessees, by which they agreed to pay the \$200 due at the expiration of the lease one year in advance, the city to abate interest at 8 per cent.

The city has no security for the payment of the rent, except the personal obligation of the lessees. This is probably sufficient, as in the event of non-payment the city could sue for possession.

Respectfully,  
JOHN A. HENRY, City Attorney.

The City Civil Engineer submitted the following report; which was concurred in, and the City Marshall instructed to notify the Railroad Companies to put in the culverts, as per report:

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

*Gentlemen*:—I present the following for your consideration and action thereon:

The improvement of South West street, by widening the sidewalks, necessitated the building of new culverts under the different railway tracks crossing said street. We therefore notified the different companies to construct said culverts, which all have done, except the Vandalia Company. It is necessary that said culverts should be built to prevent damage to the street and adjacent property by obstructed gutters.

Also, the bowldering of the gutters on Kentucky avenue, necessitated similar culverts under the C., I., St. L. & C. railroad companies tracks at the crossing of said avenue, of which due notice was given from this office, April 12th, 1881.

Respectfully submitted,

S. H. SHEARER, Ass't City Civil Engineer.

The City Civil Engineer submitted the following report; which was received, the contracts concurred in, and bonds approved.

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

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

Contract and bond of M. T. Clark, for erecting lamp-posts, lamps and fixtures (complete to burn gas, except service pipes) on Eddy street, from South street to Norwood street; seven lamp-posts to be erected on said line. Bond, \$250. Surety, Henry Wetzel.

Contract and bond of Charles S. Roney, for grading and graveling the first alley north of Home avenue, from Park avenue to Broadway street. Bond, \$300. Surety, Michael Faust.

Contract and bond of Charles S. Roney, for re-graveling Malott avenue, from Alvord street to Columbia avenue. Bond, \$1,000. Surety, Michael Faust.

Contract and bond of August Richter and Brother & Henry Burke, for grading and graveling the first alley west of Virginia avenue, from Buchanan street to Dougherty street. Bond, \$200. Surety, H. Horstmann.

Contract and bond of Michael Flaberty, for grading and graveling the west sidewalk of Shelby street, from Pleasant Run to the U. R. R. T. and S. Y. Co.'s tracks. Bond, \$500. Surety, George Logue.

Respectfully submitted,

R. M. PATTERSON, City Civil Engineer.

The City Clerk presented the following communication; which was referred to the Judiciary Committee:

Indianapolis, Ind., April 5th, 1881.

To the Honorable Common Council of the City of Indianapolis:

*Gentlemen*:—In the month of February last we presented to your honorable body, through one of your number, a claim of Thomas P. Miller, a citizen and

taxpayer, for damages to his property on Spring street, resulting from overflow occasioned by defective grading of said street, and praying an early adjustment of the same.

We have not yet been advised whether any action has been taken thereon. If not, we hope the board will at its next meeting act on the same, and grant the relief prayed for.

If not promptly done, we are instructed to institute suit against the city therefor.  
Very respectfully,

JULIAN & JULIAN.

REPORTS FROM THE BOARD OF HEALTH.

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

*Report of Deaths in the City of Indianapolis, from the 31st day of March to the 15th day of April, 1881—inclusive.*

|                      |           |
|----------------------|-----------|
| Under 1 year.....    | 18        |
| 1 to 2 years.....    | 5         |
| 2 to 5 ".....        | 6         |
| 5 to 10 ".....       | 1         |
| 10 to 15 ".....      | 3         |
| 15 to 20 ".....      | 3         |
| 20 to 25 ".....      | 5         |
| 25 to 30 ".....      | 5         |
| 30 to 40 ".....      | 9         |
| 40 to 50 ".....      | 7         |
| 50 to 60 ".....      | 6         |
| 60 to 70 ".....      | 4         |
| 70 to 80 ".....      | 4         |
| 80 to 90 ".....      | 0         |
| 90 to 100 ".....     | 0         |
| 100 and upwards..... | 0         |
| Unknown.....         | 0         |
| <b>Total.....</b>    | <b>76</b> |

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

The Board of Health submitted the following report; which was referred to the Committee on Public Health:

*Indianapolis, April 18th, 1881.*

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

*Gentlemen*:—Herewith please find the advance sheets of our annual report from January 1st, 1880, to January 1st, 1881. The report is not yet complete, but is in condition to go to the printers. Your board would respectfully request that you order an edition of at least five hundred copies of the report be printed, as we have on file now over one hundred requests from boards of the cities, besides the request from many of our own citizens.

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

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

Indianapolis, April 18th, 1881.

To the Honorable Mayor and Common Council of the city of Indianapolis, Indiana :

*Gentlemen* :—Herewith enclosed please find an ordinance regulating the sale of oleomargarine, and providing penalties for the violation thereof.

The Board of Health earnestly recommend the immediate passage of the ordinance, as surrounding cities and States have already passed similar ordinances, and the result has been to flood our markets with oleomargarine and other vile compounds of a similar character, which is being daily sold to our citizens as "Country Butter," "Indiana Butter," "Creamery Butter," and other names, indicating that it is pure butter, when chemical analyses prove conclusively that "it contains from 75 to 85 per cent. of fats other than butter." It is estimated that not less than fifty thousand pounds of this material has been made in our city within the last six months. How much of it has been, and is being, sold to our citizens, it is impossible to say. Merchants in New York estimate that the damage already done to American butter and cheese interests by the sale of this material amounts to sixty millions of dollars, and boards of health of many cities report sickness and death resulting from its use.

Very respectfully,

E. S. Elder, Pres.,  
W. E. Jeffries, Sec'y,  
William J. Elstun,  
Board of Health.

The Board of Health introduced the following entitled ordinance ; which was read the first time :

G. O. 12, 1881—An Ordinance defining Oleomargarine, regulating the sale thereof in the City of Indianapolis, and providing penalties.

Councilman Morrison moved that the rules be suspended for the purpose of placing the above ordinance (G. O. 12, 1881) on its final passage.

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

**AYES**, 18—viz. Councilmen Bedford, Bryce, Caylor, Dean, Dowling, Downey, Harrold, Kahn, Koller, Lang, Morrison, McKay, Pearson, Pritchard, Shilling, Thalman, Van Vorhis, and Yoke.

**NAYS**—None.

The above entitled ordinance (G. O. 12, 1881) was then read the second time.

Councilman Kahn moved to amend section five (5) by inserting the words, "not less than ten dollars nor to exceed one hundred dollars."

Which amendment was adopted; the ordinance then ordered engrossed as amended, read the third time, and passed by the following vote :

**AYES**, 18—viz. Councilmen Bedford, Bryce, Caylor, Dean, Dowling, Downey, Harrold, Kahn, Koller, Lang, Morrison, McKay, Pearson, Pritchard, Shilling, Thalman, Van Vorhis, and Yoke.

**NAYS**—None.

## REPORTS, ETC., FROM STANDING COMMITTEES.

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

Indianapolis, April 18th, 1881.

To His Honor, the Mayor, and Common Council of the City of Indianapolis:

*Gentlemen:*—Your Finance Committee, to whom was referred the reports of the City Clerk and Treasurer, for the month of March, beg leave to report that they have examined the same, found them correct and in proper form, showing a balance in hand of Treasurer of \$110,724.34.

Respectfully submitted,

Leon Kahn,  
James T. Dowling,  
M. H. McKay,  
E. H. Kollar,  
John R. Pearson,  
Finance Committee.

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

Indianapolis, April 18th, 1881.

To the Mayor and Common Council:

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

First is the petition of James G. Douglass, showing that at tax sale on the 12th day of February, 1877, he purchased lot No. two (2) in Theise's subdivision, in square No. twenty-one (21) in Johnson's heirs' addition to the city, paying for the same the sum of sixty-two dollars and seventy-nine cents (\$62.79). The sale is claimed to be erroneous, from the fact of a misdescription of lot. It should have been lot two in Fiscus' subdivision of square twenty-one, in Johnson's heirs' addition. Your committee recommend that the sixty-two dollars and seventy-nine cents be refunded to petitioner, without interest, and that the tax be carried to the proper description.

The second is the petition of James G. Douglass, showing that at tax sale on the 11th day of February, 1879, he purchased from City Treasurer lot forty four in Drake & Mayhew's first addition, paying for the same the sum of thirty-two dollars and nine cents. The sale was erroneous on account of \$800 personal property and poll of M. K. Fatout, for the year 1876, which was paid prior to the sale, to-wit: on August 20th, 1877. Your committee recommend that the sum of thirty-two dollars and nine cents be refunded to the petitioner without interest, and the proper amount of tax due on the lot be carried to the same.

The third is the petition of the Keystone Loan Company, by I L. Bloomer, attorney, showing that on the 12th day of February, 1879, it purchased at tax sale lot nine in Hendricks' subdivision of out lot ninety-nine, in city; sold for the years 1876, 1877 and 1878; that petitioner paid for the same the sum of \$14.53. The sale was erroneous from the fact that at tax sale on February 13th, 1878, this same lot was sold for taxes of same years, to-wit: the years 1876 and 1877. Your committee recommend that the sum of fourteen dollars and fifty-three cents be refunded to petitioner, without interest.

Respectfully submitted,

James A. Pritchard,  
William C. Lamb,  
Judiciary Committee.

JOHN A. HENRY, City Attorney.

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

To the Mayor and Common Council:

*Gentlemen*:—Your Committee on Streets and Alleys, to whom was referred the petition of Wm Gordon, and twelve others, praying to be caused to be laid out and opened West street, to the width of 100 feet, from First street to the canal, Have given the matter due consideration, and have procured a proposition from the President of the White River Gravel Road Company (who own, maintain and operate said street as a toll road, within the city limits), and we recommend that the city accept the proposition for the purchase of so much of said road as lies between First street and Sixth street, at \$1,000; and further recommend that the Committee on Accounts and Claims be directed to include the amount of \$1,000 in the next appropriation ordinance, for the purchase of said gravel road.

Respectfully submitted,  
 H. E. Drew,  
 Aldermanic Committee.

John T. Downey,  
 Wm. H. Morrison,  
 John A. Lang,  
 Council Committee

*Indianapolis*, April 2d, 1881.

Mr. A. Caylor, Member of Council, Fourth Ward:

We will sell to the city that portion of the White River gravel road from First street to Sixth street for the sum of one thousand dollars, or all up to Twelfth street for nineteen hundred dollars (\$1,900).

JOHN ARMSTRONG,  
 President White River Gravel Company.

Councilman Kahn moved to reconsider the vote by which the above report was concurred in.

Which motion failed of adoption by the following vote:

AYES 5—viz. Councilmen Dowling, Harrold, Kahn, Lang, and O'Connor.

NAYS, 15—viz. Councilmen Bedford, Bryce, Caylor, Dean, Downey, Koller, Morrison, McKay, Pearson, Prier, Pritchard, Shilling, Thalman, Van Vorhis, and Yoke.

#### REPORTS FROM SELECT COMMITTEES.

Councilman Pritchard, in behalf of a certain special committee on Bribery, submitted the following report, which was received:

*Indianapolis*, April 18th, 1881.

To the Mayor and Common Council:

*Gentlemen*:—Your special Committee appointed to investigate the charges made in connection with the ordinance for the improvement of North Meridian street, report thereon as follows:

Councilman VanVorhis stated to your committee that one S. G. VanGilder, of Pennsylvania, came to him in September, 1880, and told him if the block pavement ordinance passed, he would get the contract, and then he would place five hundred dollars in his hands to use in his canvass."

Mr. Wm. S. Hubbard states to your committee that Captain J. W. Hinckley, of this city, came to him, and said, "If he would sign petition for block pavement, he would make it to my interest; that it should not cost me anything more than gravel." He says, they further talked about the difference in the cost between block pavement and gravel, and they agreed that it would cost \$500 less to make gravel street along the front line of Mr. Hubbard's property. The proposition was to give Mr. Hubbard credit on his estimate to this amount if he petition for block pavement. This proposition Mr. Hubbard says he declined.

Mr. Wm. W. Herrod stated to your committee that Mr. Hinckley told him that he proposed to make the block pavement cost Mr. Hubbard no more than gravel, and that he told Mr. Hubbard what Mr. Hinckley said on this subject.

The committee presents here two letters, written by S. G. VanGilder to Col. A. C. Dewey on the subject of the Meridian street block pavement, marked "A" and "B."

## A.

Williamsport, Pa., March 16th, 1880.

Col. A. C. Dewey:

*My Old Friend*—I received your letter of the 12th to-day, and was very glad to hear from you. In reply to your inquiry concerning the pavement, will say that I sustain the same relationship to the control of different patents that I always did, and am just as ready to take hold of anything that may come up under the head of business in this line as I ever was, provided there is a prospect of work *actually being done*. If the people and the Council are ready and in earnest about doing anything, and have or will make the necessary appropriations for doing the work, you can count me in with a full hand. I judge from your letter that they are getting ready, from the fact of the ordinance having been introduced.

As regards the shape of the block given in your diagram, I can not understand wherein there is any practical utility in those scalloped corners. It may possibly be the idea of some persons that this oblong, octagon shape block will get around the patents on the round and irregular shape blocks, but both these are covered by full, clear, strong patents, and I do not believe that working out the block in this fancy shape is going to help them out. However, it will be just as well to say nothing about this until the true inwardness of the situation has been obtained, and we know all about who is engineering this scheme, and all the and so forths connected with it are understood. We have worked together long enough for you to understand thoroughly, so this needs no explanation from me. I should not come there as a stranger by a large majority. *In short*, if the city will lay a cedar block pavement at all, and you and I want the contract and start to get it *we can do it*. Give me all the particulars by return mail you can, for I am engaged now in making oil barrel staves and heading, and I am negotiating for another tract of timber which I want, if I do not come west to engage in this enterprise.

Business has greatly improved in the last year with us, and I suppose it is extending west in the same ratio of increase that it is maintaining here. I would have a nice thing in New York City now, in public work, if it was not for this Tammany split. In consequence of this rupture, there will not be anything done there this year only what is an actual necessity.

Please let me hear from you at your earliest convenience, as I am anxious to know what the prospect for actual business is, so I can govern myself accordingly in my other movements.

With my best wishes for your success in business. I remain very respectfully yours,

S. G. VANGILDER.

To Col. A. C. Dewey, Indianapolis, Indiana:

I enclose you a diagram of the irregular block that can be laid cheaper and better than any other style of pavement that I know of. You understand all this without further explanation, and the only thing for us to determine, in my judgment, is, "will there be any work done?"

Yours, etc.,

VAN.

STATE OF INDIANA, }  
Marion County, } ss: I, William W. Spencer, a Notary Public in and for said county and State, do hereby certify that the above and foregoing is a true copy of the original letter.

Witness my hand and notarial seal this 7th day of March, 1881.

[SEAL]

WILLIAM W. SPENCER, Notary Public.

## B.

Williamsport, Pa., March 28th, 1880.

Col. A. C. Dewey, Havana, Ill.:

*Dear Sir*—I received a letter from Mr. Graham telling me where you were at his writing. I want to say some things to you on paper that I would not to a stran-

ger not knowing all the circumstances of your present business connections. You can communicate to them what you see proper, or when I hear from you personally that everything is all regular, I will not hesitate to say what I would to you.

Mr. Graham tells me the Republicans are still in the ascendancy, and are quite likely to remain so after the charter election in May next. So far, so good. The most important for our consideration now is to get the right kind of a man in for City Engineer, and then on the eve of so important an election as will be this coming fall, I do not apprehend any trouble in our putting ourselves in a position to take a front rank in all the improvements to be done there; and, in fact, there has not been any chance since we were trying before to do the same thing that has offered an opportunity to do anything to so great a certainty as now.

"Firstly," business is reviving, and there must of necessity be something done. This will be good and sufficient reason for doing it; and our first move will be to get together and talk over all our plans, and take into consideration all the changes that have taken place in the past few years, and drop all the old worn out and superannuated parties who once held positions of influence (and claim to still), and form a sort of syndicate from both political parties that is able to carry any thing through that they take hold of. The Democrats will go almost solid for any thing of this kind, under an arrangement similar to our old one, provided the Republicans have a majority, for they will not be blamed for extravagant expenditures, etc.; and we want to put ourselves solid as contractors by making friends with both parties. This is simply a matter of business. I have found out since our last attempt that we mistook our man on the Democratic side before, and it was through the very man that we expected to carry our project that the one vote necessary was *ordered cast against us*, and this was done by an order from a man wielding such influence that our man had to cave in. We must figure now to take in the "Boss," and he is just as susceptible of certain influences as any of his subordinates, only he wants the orders to emanate from headquarters. I found out all this and lots more in New York City, all of which I will tell you when we meet. Our diplomacy in that last attempt was highly complimented, and was the cause of bringing certain parties to me which will make you laugh when we can have a good, square talk. I have heard that Mr. Thomas Morris was railroading again. If M. M. Defrees is there I suppose he would likely put in bids, but he would want it all too high-toned to be much in the way. I am fully persuaded that there is now an opening for us, and chance that we will be very foolish to let slip. I would not say a great deal about it, if I were in your place, until we meet, for I know I have some things very important for you to know. Keep an eye to any changes likely to occur: but I suppose the whole matter likely to rest until after the May election. There have been some great changes in some good men there, who are of course, to a certain extent, in the background—but this being an age of eternal progress, they are soon forgotten, and the active men are the ones who come to the front all the time.

I am anxious to come out through the Western States again, for I am confident that during the next three years there is where the business will be

Let me here from you, and how you are getting along in your present business, and any news you may have concerning any of our old acquaintances. Business is right good here now, but the general feeling among all the older business men in all three of the representative branches here is that coal, iron and lumber are all too high to remain healthy. They seem to be overdone.

Mr. Graham said he had forwarded to you my former letters, so you will have received them and know my position regarding work, etc.

Hoping to hear from you soon, I am yours truly,

S. G. VANGLDER.

STATE OF INDIANA, }  
 Marion County, } ss: I, Wm. W. Spencer, a Notary Public in and for said  
 county and State, do hereby certify that the above and  
 foregoing is a true copy of the original letter.

Witness my hand and notarial seal this 7th day of March, 1881.

[SEAL]

WILLIAM W. SPENCER, Notary Public.

This is all the testimony on the subject going to show improper conduct on the part of any one.

Captain J. W. Hinckley stated to your committee that after the first ordinance passed the Council he went and saw Mr. Wm. S. Hubbard. Mr. Hubbard asked him to state what the block pavement would cost. "I did not desire to expose what my bid would be, but told him perhaps I could tell him in a few days. I told him several days afterwards what the block pavement would cost him. He said my price was not so bad, and seemed to be pleased. I never used the language to him, 'that it should not cost him any more than gravel.' I never thought of offering Mr. Hubbard a bribe, and I am satisfied he did not so look at it at the time. I am a contractor, and intended to bid on the work if the ordinance passed. I am acquainted with Mr. VanGilder, of Pennsylvania. We were together and intended to bid together. I have no knowledge of any company being formed to do this work. I am satisfied there never was any company formed of which Mr. VanGilder was a member. I never heard of any plan to secure the election of a City Engineer. Colonel Dewey and Mr. Graham had no connection with Mr. VanGilder and myself, in our proposed bid on North Meridian street. I supposed when I talked with Mr. Hubbard, that the bids would be by the square yard. I afterwards learned that bids would have to be by front foot. Private property would have to pay more in this way of bidding, on account of the projections at street crossings. The price I gave Mr. Hubbard would be cheaper than the street could be built for in this way of bidding. I decline to state the price I gave Mr. Hubbard."

In justice to Mr. VanGilder, we will add that your committee have seen a letter from him to Captain Hinckley, dated April 16th, 1881, wherein he denies in toto the statement of Mr. VanVorhis.

We, therefore, your committee, submit this, all the testimony, without comment.

Respectfully submitted,

Jas. T. Dowling,  
Jas. A. Pritchard,  
C. T. Bedford,  
Committee.

#### MESSAGES AND PAPERS FROM THE BOARD OF ALDERMEN.

The following message was read :

To the Mayor and Common Council:

*Gentlemen*:—The Board of Aldermen, in regular session, held in the Aldermanic Chamber Wednesday evening, April 6th, 1881, non-concurred in your action recommending that the Judiciary Committee be instructed to procure an opinion in regard to the expiration of the terms of certain city officers elected by the Common Council and Board of Aldermen in joint convention.

At the same session the Board of Aldermen non-concurred in your action recommending that the following motion be referred to the Fire Board, with power to act:

"That the Fire Board be directed to paint the No. 5 Engine House, on Sixth street."

I submit the same for your consideration.

For the Board of Aldermen:

GEO. T. BREUNIG, Clerk.

On motion the Common Council receded from its former action on the matter as set forth in the foregoing message.

The following message was read :

To the Mayor and Common Council:

*Gentlemen*:—The Board of Aldermen, in regular session held in the Aldermanic Chamber, Wednesday evening, April 6th, 1881, recommended that the names of

streets be placed on frosted glass, the said glass to be set in tin; thereby non-concurring in your action recommending that the names of streets be made of malleable iron.

At the same session the following motion was adopted :

That the City Civil Engineer request the Indianapolis Gas Company to lay a service pipe in Garden street to Philip Dohn's factory, said pipe to be large enough to supply a street lamp, and said lamp post to be removed from some other portion of the ward and erected in Garden street, as Councilman Bryce may designate. The city to pay the expense of removal.

I submit the same for your consideration.

For the Board of Aldermen :

GEO. T. BREUNIG, Clerk.

On motion the Common Council adhered to its former action as to the street signs, and on further motion by Councilman VanVorhis a committee of conference was appointed, consisting of Councilmen VanVorhis, Bryce and White.

The motion locating a lamp post on Garden street was concurrently adopted.

By consent, Councilman VanVorhis presented the following petition ; which was referred to the above conference committee :

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

*Gentlemen:*—Your petitioner has the honor to represent that he is the sole owner of the street sign frame lamp as now displayed on the northwest corner of Pennsylvania and Washington streets, and respectfully asks your honorable bodies to examine into its worth and merits as a stationary, practical and economical design for its purpose before taking final action on any other.

Your petitioner would further represent that the same has been for some time in the Civil Engineer's office for your inspection, but through some inadvertence your attention has not been called till this late hour.

Your petitioner would further say that in so far as its economy is questioned it is the cheapest and best of any design ever offered for the purpose.

It is adopted and used in many cities.

Your petitioner has the honor to subscribe himself your obedient servant,

B. GIROUX,  
of Chicago, Ill.

Indianapolis, April 16th, 1881.

The following message was read :

To the Mayor and Common Council :

*Gentlemen:*—The Board of Aldermen, in regular session, held in the Aldermanic Chamber, Wednesday evening, April 6th, 1881, non-concurred in your action of April 4th, 1881, in awarding the contract for the following street improvement :

“For grading, bowldering the gutters, and curbing with stone, the sidewalks of Market street, from Missouri to Blackford street.”

I submit the same for your consideration.

For the Board of Aldermen :

GEO. T. BREUNIG, Clerk.

On motion the former action of the Common Council was adhered to.

The following message was read :

To the Mayor and Common Council :

*Gentlemen:*—The Board of Aldermen, in regular session, held in the Aldermanic Chamber, Wednesday evening, April 6th, 1881, failed to pass the following entitled ordinances:

- S. O. 39, 1879—An Ordinance to provide for the erection of lamp-posts, lamps and fixtures (complete to burn gas, except the service-pipes,) on Woodlawn avenue, from Dillon street to Reid street.
- S. O. 114, 1880—An Ordinance to provide for the erection of lamp-posts, lamps and fixtures (complete to burn gas, except the service-pipes,) on Garden street, between Meridian and Illinois streets.
- S. O. 120, 1880—An Ordinance to provide for the erection of lamp posts, lamps and fixtures (complete to burn gas, except the service-pipes,) on Woodlawn avenue, from Dillon street to Linden street.

I submit the same for your consideration.

For the Board of Aldermen:

GEO. T. BREUNIG, Clerk.

On motion the Common Council receded from its former action, and the ordinances S. O. 39, 1879, and S. O. 114 and 120, 1880, were stricken from the files.

By consent, Councilman Morrison introduced the following entitled ordinance; which was read the first time:

Ap. O. 24, 1881—An Ordinance appropriating the sum of \$101.60 for the payment of judgment and interest in the case of John F. Redmond vs. The City of Indianapolis.

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

AYES, 20—viz. Councilmen Bedford, Bryce, Caylor, Dean, Dowling, Downey, Harrold, Kahn, Koller, Lang, Morrison, McKay, O'Connor, Pearson, Prier, Pritchard, Shilling, Thalman, Van Vorhis, and Yoke.

NAYS—None.

Ap. O. 24, 1881, was then read the second time; ordered engrossed; read the third time, and passed by the following vote:

AYES, 20—viz. Councilmen Bedford, Bryce, Caylor, Dean, Dowling, Downey, Harrold, Kahn, Koller, Lang, Morrison, McKay, O'Connor, Pearson, Prier, Pritchard, Shilling, Thalman, Van Vorhis, and Yoke.

NAYS—None.

#### INTRODUCTION OF GENERAL AND SPECIAL ORDINANCES.

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

By Councilman Harrold:

S. O. 50, 1881—An Ordinance to provide for grading, paving with brick, and curbing with stone, the south sidewalk of Maryland street, from Missouri street to West street.

Councilman Kahn was excused for the remainder of this session.

By Councilman Lang :

S. O. 51, 1881—An Ordinance to provide for grading and graveling Mulberry street, from Wilkins street to Morris street.

The above entitled ordinance was accompanied by the following petition :

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

*Gentlemen* :—The undersigned, owners of real estate fronting on Mulberry street, between Wilkens street and Morris street, respectfully petition for the passage of an ordinance providing for grading and graveling (with good river or creek gravel) of Mulberry street, between Wilkens and Morris streets, according to stakes set by the Civil Engineer ; the drainage to be in the middle of the street.

And your petitioners will ever pray, &c.,

F. J. Bakemeyer, F. Reinacke, Fred. Miller, Joseph Easman, Charley Miller, Henry Becker.

Councilman Lang presented the following petitions ; which were referred to the Committee on Streets and Alleys :

*Indianapolis*, February 23d, 1881.

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

*Gentlemen* :—The undersigned, owners of real estate fronting on Union street, between Grant street and Palmer street, respectfully petition for the passage of an ordinance providing for the opening of Union street from said Palmer street to Grand street, the distance of one square.

And your petitioners will ever pray, &c.

John J. Cooper, 76 feet ; J. A. Rubush, 58 feet ; Mrs. Sophia Voigt, 42 feet ; Peter Zimmer, 260 feet.

*Indianapolis*, March 17th, 1881.

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

*Gentlemen* :—We the undersigned, residents of Union street, would most respectfully ask for the passage of an ordinance providing for the further opening of Union street, between Hill and Palmer streets, the same being for the benefit of the church going people of that locality, and public in general.

Wm. G. Wasson, Jas. Johnston, Fred. Risne, Thomas David, Louis Budz, Wm. Meyer, Alys Woerner, Frederick G. Bakemeyer, Fred. Miller, Wm. Olds, D. Koster, P. R. Stroupe, John Herd, Gevry Lowry, David Flynn, Joseph Furst, S. Reinerke, Christian Kerkhoff, John A. Lang, Edward Zapf, John Riwpf, James S. Lowry, W. H. Coburn, I. N. Norwood, W. B. Fesler, William Hartman, James W. Hudson, Isaiah Statt, Henry Reisner, Charles Kurmann, John Bause, John Reimer, John Rugentein, C. Roeder, Fred. Kottkamp, John T. Buchanan, Chas. W. Buchanan, J. A. Buchanan, Jacob Kawzell, Frank Koesters, P. F. Bergmeyer, Ernst Stienecker, Ernst Barman, Charles A. Simpson, Chas. J. Schmidt, Rubert Thomas, George Ohleyer, S. Koters, Henry Reinfels, Oliver Kersey, John Hillman, Jacob Kiefer, C. F. Wiese.

By Councilman McKay :

G. O. 13, 1881—An Ordinance to provide for the proper protection of Hatch-Ways and Passenger Elevators, in the City of Indianapolis.

The above entitled ordinance was accompanied by the following petition :

Indianapolis, April 18, 1881.

To the Indianapolis Fire Insurance Association :

*Gentlemen* :—Your Committee on Fire Department and water supply would call attention to the increased fire hazard in buildings arising from open hatchways and unclosed elevator openings; the same being not only a source of great peril and exposure to personal accident, but are also the means by which fire is rapidly spread throughout a building. Our city ordinances which relate to the safety and construction of buildings have no enactments providing for protection against these exposures. Your committee would therefore recommend that this association petition the legislative departments of our city to pass such ordinances as will provide suitable protection against the dangers arising from unclosed openings in the floors of buildings.

Most respectfully submitted,

I. C. Hays,  
Wm. Hadley,  
Committee,

By Councilman Morrison :

G. O. 14, 1881—An Ordinance granting Charles T. Gilmore permission to erect and maintain a veranda and balcony in front of Nos. 12 and 14 North Mississippi street.

By Councilman Pearson :

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

By Councilman Pritchard :

S. O. 53, 1881—An Ordinance to provide for grading and graveling Twelfth street, from Illinois street to Meridian street.

The above entitled ordinance was accompanied by the following petition :

Indianapolis, April 12, 1881.

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

*Gentlemen* :—The undersigned, owners of the real estate fronting on Twelfth, between Illinois street and Meridian street, respectfully petition for the passage of an ordinance providing for the grading and graveling of the same.

And your petitioners will ever pray, etc.

Elizabeth R. Parker; Wm. Bickford, by E. A. Parker,  
his attorney; Levi Ritter.

By Councilman Thalman :

S. O. 54, 1881—An Ordinance to provide for grading, paving with brick, and curbing with stone the sidewalks and bowldering the gutters (where not already paved, curbed or bowldered), of Ohio street, from Pennsylvania street to Delaware street.

By Councilman VanVorhis :

S. O. 55, 1881—An Ordinance to provide for grading, and paving with brick, the north sidewalk of St. Mary's street, from Alabama street to Central avenue.

The above entitled ordinance was accompanied by the following petition :

*Indianapolis, April 8, 1881.*

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

*Gentlemen* :—The undersigned, owners of the real estate fronting on St. Mary's street, between Alabama street and Central avenue, respectfully petition for the passage of an ordinance providing for a brick sidewalk, five feet wide, on the north side of said street, between the points above named.

And your petitioners will ever pray, etc.

James McMurry, Dan. Howe, 304 feet.

#### INTRODUCTION OF MISCELLANEOUS BUSINESS.

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

That the Street Commissioner be instructed to lay double stone crossings from Massachusetts to Christian avenue, on Plum street.

Councilman Bedford offered the following motion ; which was adopted :

That the Street Commissioner be instructed to place a load or more of gravel at each drinking fountain where not properly paved, as many of them are in such bad condition as to be inaccessible.

Councilman Dean offered the following motion ; which was referred to the Committee on Water :

That the City Civil Engineer be, and is hereby, directed to advertise for sealed proposals to furnish and erect a drinking fountain at the southeast corner of Downey street and Madison avenue.

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

That the Street Commissioner be instructed to place a double stone crossing on the east side of Madison street, at the intersection of Yeiser street.

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

That the Street Commissioner be, and is hereby, directed to repair the mouth of the first alley south of Louisiana street, on the east side of Tennessee street, and to fill the chuck holes, and repair Tennessee street, between Louisiana and South streets; also, South street, between Tennessee and Illinois streets.

Councilman Dowling offered the following motion ; which was adopted :

That the Finance Committee be, and are hereby, instructed to report at the next meeting of the Council, what amount, if any, the expenses of the city government—

exceeded the revenues, and to report back if this Council and the Council of 1879 and 1880 were not compelled to encroach upon and anticipate the revenues of the city.

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

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

*Gentlemen* :—Your petitioners respectfully show that they are the owners of lot 14, in Wishmeier & P. sub. of O. L. 49, in the City of Indianapolis; that the same was assessed for taxes for the year 1880, which taxes were paid by your petitioners.

The said property at the time the assessment was made was used for educational purposes, and therefore not liable to assessment.

Your petitioners therefore pray that said taxes may be refunded.

THE SISTERS OF PROVIDENCE.

Councilman Downey offered the following motion; which was adopted :

That the City Marshal be, and is hereby, instructed to notify the owners or agents of property Nos. 78, 84 and 86 North New Jersey street, to repair the sidewalk in front of their premises; and, if the work is not done within ten days, the Street Commissioner is hereby ordered to do the same at the expense of the owners.

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

That the Street Commissioner is hereby directed to at once lay four double stone crossings at the intersection of Delaware and Ohio streets. Said crossings are centrally located, in constant use, and in very bad condition.

That the Street Commissioner is hereby directed to clean Liberty street, from Washington street to New York street.

That the Street Commissioner be, and is hereby, directed to clean and put in passable condition Court street, from Alabama street to Noble street.

That the Street Commissioner is hereby directed to clean New Jersey street from Washington street to New York street.

Councilman Harrold offered the following motion; which was referred to the Board of Public Improvements, with power to act :

That the Street Commissioner be directed to repair and fill the chuck-hole on Ray street, West Indianapolis, near the river.

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

That the Street Commissioner be directed to lay a double stone-crossing on north side of Maryland, across Missouri.

Councilman Harrold offered the following motion; which was adopted :

That John Rupp be, and is hereby, allowed to perform the work contemplated in S. O. 4, 1881, viz : "Grading, bowldering and curbing the west gutter of West street, from Kentucky avenue to a point one hundred feet south of Kentucky avenue," at his own expense, under the direction and supervision of the City Civil Engineer.

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

That the Street Commissioner be, and is hereby, directed to fill chuck-holes on Morris street, between Meridian street and J., M. and I. railroad.

Councilman Morrison offered the following motions; which were adopted:

That the City Marshal be, and is hereby, directed to notify N. P. O'Haver to remove his street-sprinkling supply fountain, from Michigan street, between Mississippi street and the canal, as the same has become a public nuisance.

That when this Council do adjourn, it adjourn to meet on next Monday evening, April 25th, 1881, and transact any business that may come before said meeting, and that members of official boards and committees be requested to make reports on all matters referred to them, as near as possible.

Councilman Morrison presented the following petitions:

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

*Gentlemen* :—The undersigned, to whom was awarded the contract for bowldering and curbing the gutters of Ohio street, from Noble street to a point 222 feet east of Harvey street, respectfully ask for sixty days extension of time in which to complete their contract. In asking for such further time they say that they have used all usual diligence to perform the work, but on account of the unusual severity of the winter it was impossible.

MICHAEL FAUST & Co.

*State of Indiana, Marion County, ss:*

Michael Faust, of the firm of Michael Faust & Co., being duly sworn upon oath, says that the matters set forth in above petition are true.

MICHAEL FAUST.

Sworn to this 18th day of April, 1881.

[Seal.]

GEO. T. BREUNIG, Notary Public.

We have considered the above application and recommend that the prayer thereof be granted.

William H. Morrison,  
Edward H. Dean,  
Hiram Seibert,  
Board of Public Improvements.

To the Mayor, Common Council and Board of Aldermen:

*Gentlemen* :—On account of the extreme winter, the undersigned, contractor for bowldering and curbing the gutters of Ohio street, between East and Noble streets, has been unable to complete the above work: He therefore asks an extension of sixty days time to do the work.

MICHAEL FAUST.

*State of Indiana, Marion County, ss:*

Michael Faust, being duly sworn, says the above petition is true.

MICHAEL FAUST.

Sworn to this 18th day of April, 1881.

[Seal.]

GEO. T. BREUNIG, Notary Public.

We have considered the above petition, and recommend that the time be extended.

Wm. H. Morrison,  
Edward H. Dean,  
Board of Public Improvements.

On motion the prayer of the above petitioners were granted, and the time extended on the contracts, as shown above:

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

That the Street Commissioner be, and is hereby, directed to clean the west gutters of Bellefontaine avenue, from Seventh street to the State ditch; also, the gutters on Broadway, College avenue and Ash street, from Seventh street to Christian avenue.

Councilman McKay presented the following petition; which was referred to the Fire Board:

Indianapolis, April 18th, 1881.

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

*Gentlemen*:-In order to equip the Fire Department with means to more fully protect the property of our citizens from destruction by fire, your petitioners would respectfully ask your favorable consideration and action looking toward providing the department, at an early day, with a mounted chemical engine of not less than two hundred (200) gallons capacity.

Such an auxiliary is greatly needed to increase the efficiency of the fire service of the city.

Most respectfully submitted.

Indianapolis Fire Insurance Association, by E. Beard,  
(Sec.) composed of 24 city ins. agencies); S. A.  
Fletcher & Co., Stewart & Barry, Murphy, Hibben  
& Co., Hanson, Van Camp & Co., A. Kiefer, Geo.  
K. Share & Co., Eli Lilly & Co., L. S. Ayres & Co.,  
Charles Mayer & Co., Pettis, Ivers & Co., P.  
Gramling.

Councilman McKay presented the following petition; which was referred to the Committee on Streets and Alleys:

To the Honorable Board of Aldermen and Common Council of the City of Indianapolis, and the  
Committee on Improvements of Streets and Alleys:

*Gentlemen*:-Your petitioner respectfully represents that he filed before your honorable bodies a petition for the grading and graveling of East Pearl street, east of Benton street, in said city; that said petition was referred to the Committee on Improvements of Streets and Alleys; that a remonstrance was filed to said petition, and that the said committee have taken no action in the premises. Your petitioner further respectfully represents that the remonstrants to said improvements are property holders who do not live on said street, and are therefore opposed to the said improvement; that the residents upon said street and in the neighborhood thereof are all in favor of said improvements; that the said street is an old street, having been laid out several years ago, but that it has never been improved; that in its present condition it is absolutely *dangerous* and *unsafe* to both foot passengers and vehicles; that, during the past winter, several persons have fallen down the embankment on said street, and sustained severe injuries. Wherefore your petitioner prays that the Committee on Improvements of Streets and Alleys will take immediate action, and order the improvements made.

Respectfully submitted,

Herman Gates.

Councilman Prier offered the following motion:

That the former action of this body be rescinded in reference to the purchase of Pendelton pike.

Which was adopted by the following vote:

**AYES**, 10—viz. Councilmen Bedford, Bryce, Morrison, McKay, Pearson, Prier, Pritchard, Shilling, Van Vorhis, and Mayor Caven.

**NAYS**, 9—viz: Councilmen Caylor, Dean, Dowling, Harrold, Koller, Lang, O'Connor, Thalman, and Yoke.

Councilman Prier then moved that the report of the Board of Public Improvements (see page 821 *ante*) be concurred in.

Which motion failed of adoption, and the report not concurred in, by the following vote :

**AYES**, 8—viz. Councilmen Bedford, Bryce, Caylor, Morrison, McKay, Prier, Shilling, and Van Vorhis.

**NAYS**, 10—viz: Councilmen Dean, Dowling, Harrold, Koller, Lang, O'Connor, Pearson, Pritchard, Thalman, and Yoke.

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

That the Street Commissioner be instructed to clean the gutters on First and Second streets, from Meridian street to the canal.

Councilman Pearson offered the following motion ; which was referred to the Committee on Public Property :

That the Street Commissioner be, and is hereby directed, under the instructions of the Board of Public Improvements, to suitably fix up the old Floral Hall, at the Southern Park Grounds, for keeping of the stone yard prisoners, so that they can be taken there for the purpose of working and improving said grounds as soon as a plan of improvements shall be adopted by the Committee on Public Property, that the amount to be paid out of the amount allowed, for first year, of \$2,000, which has been authorized by this Council and Board of Aldermen

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

To the Honorable, the Mayor, and Common Council and

Board of Aldermen of the City of Indianapolis:

The petitioner, Sarah E. Milburn, represents that on the ...th day of January, 1880, she received a judgment against said city in the Marion Superior Court, for the sum of fifteen hundred dollars, on account of injuries sustained by her in accidentally falling into an unguarded and open cistern at the intersection of Sims and River streets, in said city ; and the petitioner further says that said cause was appealed by the defendant to the General Term of said Court, wherein said judgment was in all things affirmed, on the ...th day of October, 1880, a copy of the opinion of Hon. Byron K. Elliott, affirming said judgment, is filed herewith, and made a part of this petition.

The petitioner says that she is yet disabled and rendered a cripple, and incapacitated from hard labor, by reason of said injuries ; that on account thereof she is prevented from working and sustaining herself and family, as she otherwise might ; that her husband recently met with an accident which kept him from work, and on his recovery, found that his place had been given to another, and he is now unable to get any work to do, or even anything to support their family ; that petitioner has four children, none of them old enough to assist in gaining a living ; and in consequence of her husband's said sickness, and her own disabled condition, they have for some two or three weeks past been unable to get sufficient food for themselves and children to eat, or fuel to keep them from freezing ; and that petitioner has recently been compelled to obtain fuel from the township trustee in order

to prevent their children from freezing to death. The petitioner further represents that she is informed that the only question which the defendant's counsel ever pretended that said judgment could be reversed on, was upon the answers to certain interrogatories propounded to the jury by the defendant on the trial of the case at the Special Term, and to the ruling at the General Term. On that point she now asks your honors special attention, as it is set forth in the opinion aforesaid. The petitioner says further that she is informed that the attorneys of defendant have little or no expectation that said cause will be reversed even if appealed to the Supreme Court, but that such appeal, if taken, is meant to gain time and delay payment to her as long as possible. She says further, that she and her husband have done and are doing all they can to make a living and support themselves, and that notwithstanding petitioner's said injuries and disabilities, she has done everything she could, working when she was even unable to do so, to help support her said family. Wherefore the petitioner prays that the said judgment be paid to her and not appealed to the Supreme Court, for as much as such delay in payment is only adding unnecessary cost to the defendant, and working injustice and damage to the petitioner.

December, 1880.

SARAH E. MILBURN.

SARAH E. MILBURN,  
vs.

THE CITY OF INDIANAPOLIS,

} Appeal 453.

This is an action against the City of Indianapolis for injuries received by falling into a cistern, negligently permitted to remain open and unguarded by the corporate authorities. Verdict and judgment against the city.

The appellant affirms that the complaint is bad, because it does not allege that the plaintiff had no knowledge of the existence of the dangerous opening. I do not think it necessary for the plaintiff in cases of this class to specifically allege that he had no notice of the defect. The cases cited by the appellant bear upon a question of evidence, and not upon a question of pleading. The complaint contains the averment that there was no fault or negligence on the part of the plaintiff, and this the demurer admits. With this allegation taken as true, the appellant can not justly complain that the complaint was fatally defective.

It is also insisted that the second paragraph of the complaint is bad, because it shows that the hole or cistern into which the plaintiff fell was outside of the line of the street, therefore bad. Counsel do not, as I think, give the allegations of the complaint their just constructive effect. The paragraph in question not only charge knowledge, but also charges that the dangerous place was at the intersection of two streets of the city, and only ten inches from the line of the sidewalk. It is well settled—so well that it is unnecessary to cite authorities—that a municipal corporation is liable for negligently and knowingly permitting a dangerous place in close proximity to a public street to remain unprotected.

The counsel insist that there is such a conflict between the general verdict and the answers to interrogatories, that the former must yield. It is true that the jury find that the plaintiff could have seen the hole had she been looking in that direction, but this does not give us the right to infer, as against the general verdict, that she was negligent. We have, indeed, no right at all to make inferences for the purpose of overthrowing the general verdict; on the contrary, as was said in one case, "the general verdict should be sustained unless there is an irreconcilable conflict." The cases which hold that one about to cross a railway track must stop and use his eyes and ears, convey the doctrine of contributory negligence to its utmost verge, and I am, for my part, unwilling to apply it to a traveler walking upon a public street. It is now acknowledged law that a traveler has a right to presume that the corporate authorities have done their duty, and made the streets safe. We can not say, with a general verdict confronting us, that the omission to look in advance is in itself such negligence as will preclude a recovery. We have carefully examined the instructions, and think that they clearly and fairly express settled and familiar rules of law. I am for affirmance.

Howe concurs; Holman not voting.

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

That the Street Commissioner be directed to fill holes with gravel on Seventh street and Mill street, and clean the gutters on Seventh street from Railroad west to Canal.

That the street Commissioner be directed to clean gutters on Second street, from Railroad west to Canal.

Councilman Thalman offered the following resolution :

*Resolved by the Common Council and Board of Aldermen of the City of Indianapolis, That the following named places be, and the same are hereby, designated as the places for holding the election in the several wards of the City of Indianapolis, at the coming city election, to be held on Tuesday, the 3d day of May, 1881 :*

First Ward—Southwest corner of Home avenue and Yandes street.

Second Ward—No. 9 Engine House, corner of Ash and Seventh streets.

Third Ward—Sixth street Engine House, between Illinois and Tennessee streets.

Fourth Ward—No. 253 Indiana avenue.

Fifth Ward—Southeast corner of Illinois and First streets.

Sixth Ward—Bacon's Block, on Fort Wayne avenue, between Pratt and St. Joseph streets.

Seventh Ward—No. 2 Engine House, on Massachusetts avenue.

Eighth Ward—Northeast corner of New York and Davidson streets.

Ninth Ward—No. 34 North New Jersey street.

Tenth Ward—No. 92 Massachusetts avenue.

Eleventh Ward—Fire Department Headquarters, corner New York street and Massachusetts avenue.

Twelfth Ward—No. 1 Engine House, on Indiana avenue.

Thirteenth Ward—Church on Blackford street, between Michigan and North streets.

Fourteenth Ward—Southwest corner of Michigan and Blake streets.

Fifteenth Ward—Southwest corner of Maryland and California streets.

Sixteenth Ward—No. 52 Kentucky avenue.

Seventeenth Ward—No. 26 East South street.

Eighteenth Ward—No. 2 Hook and Ladder House, on East South street.

Nineteenth Ward—Southwest corner of Noble and Georgia streets.

Twentieth Ward—Butler Mission Church, on Fletcher avenue.

Twenty-first Ward—No. 23 Prospect street.

Twenty-second Ward—Northwest corner of Virginia avenue and Bradshaw street.

Twenty-third Ward—At Schilling's Hall, on East McCarty street.

Twenty-fourth Ward—No. 17 East McCarty street.

Twenty-fifth Ward—Northwest corner of Ray and Maple streets.

And it was adopted by the following vote :

**AYES** 19—viz. Councilmen Bedford, Bryce, Caylor, Dean, Dowling, Downey, Harrold, Koller, Lang, Morrison, McKay, O'Connor, Pearson, Prier, Pritchard, Shilling, Thalman, Van Vorhis, and Yoke.

**NAYS**—None.

Councilman Thalman offered the following resolution :

*Resolved by the Common Council and Board of Aldermen of the City of Indianapolis, That the following named persons be, and are hereby, appointed as Inspectors and Judges of Election at the general city election to be held on Tuesday, the 3d day of May, 1881 :*

First Ward—John F. Haneman, Inspector; John E. Watts and Samuel I. Craig, Judges.

Second Ward—Samuel Merrill, Inspector; Richard Carr and Charles W. Bridges, Judges.

Third Ward—William A. Pattison, Inspector; Jacob R. Raynor and Robert McQuat, Judges.

Fourth Ward—Amos Clifford, Inspector; Abel E. Davis and Dennis Sullivan, Judges.

Fifth Ward—Wm. S. R. Tarkington, Inspector; Stephen K. Fletcher and John Darby, Judges.

Sixth Ward—James McMurray, Inspector; Riley Foster and Thomas J. Reiley, Judges.

Seventh Ward—Thomas D. Amos, Inspector; John Rheinschild and Chauncey Aldrich, Judges.

Eighth Ward—Henry C. Buddenbaum, Inspector; Henry C. Zimmerman and John Schier, Judges.

Ninth Ward—George Anderson, Inspector; Isaac Kahn and Felix Deitch, Judges.

Tenth Ward—Arthur L. Wight, Inspector; John Reynolds and Wilmer F. Christian, Judges.

Eleventh Ward—Harvey L. Carey, Inspector; James C. Yohn and Samuel Delzell, Judges.

Twelfth Ward—John A. McGaw, Inspector; Ambrose F. Shortridge and Edward L. Palmer, Judges.

Thirteenth Ward—Henry C. Cox, Inspector; John W. Smithers and Samuel E. Perkins, Judges.

Fourteenth Ward—Moses Broyles, Inspector; Samuel Keers and Daniel Burton, Judges.

Fifteenth Ward—Theodore Buchter, Inspector; George Walters and John Rupp, Judges.

Sixteenth Ward—Adam Scott, Inspector; Albert Byrkit and James Renihan, Judges.

Seventeenth Ward—Benjamin F. Hetherington, Inspector; James Cummins and John Maloney, Judges.

Eighteenth Ward—Joseph W. Marsee, Inspector; John Minteith and O. H. P. Abbott, Judges.

Nineteenth Ward—Gottlob C. Krug, Inspector; George W. Buchanan and Daniel A. Kirk, Judges.

Twentieth Ward—Joseph Morris, Inspector; Wesley M. Adams and Peter Spitzfaden, Judges.

Twenty-first Ward—William F. Browder, Inspector; Samuel S. Rhodes, and Dennis Sullivan, Judges.

Twenty-second Ward—Daniel A. Chenoweth, Inspector; Davis Milner and Benjamin C. Shaw, Judges.

Twenty-third Ward—Michael Steinhauer, Inspector; Charles H. Rockwell and John F. Logan, Judges.

Twenty-fourth Ward—Peter R. Stroup, Inspector; Thomas Fesler and Charles Schmidt, Judges.

Twenty-fifth Ward—John Sourbeer, Inspector; Charles Schrader and George A. Foster, Judges.

And it was adopted by the following vote :

**AYES**, 21—viz. Councilmen Bedford, Bernhamer, Bryce, Caylor, Dean, Dowling, Downey, Harrold, Koller, Lang, Morrison, McKay, O'Connor, Pearson, Prier, Pritchard, Shilling, Thalman, Van Vorhis, White, and Yoke.

**NAYS**—None.

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

That the Street Commissioner be directed to fill chuck-holes and clean gutters on Ohio street, between Pennsylvania and Delaware streets.

That D. Ricketts have permission to put down a brick pavement in front of his property, on North Pennsylvania street, corner of North street. Said work to be done at his own expense, and under the direction of the City Civil Engineer.

That the Street Commissioner notify the property owner, southeast corner of Circle and Meridian streets, to raise the brick on the sidewalk, so that the water will run off, the same having sunk several inches below the curb. If the same be not done in ten days, that the Street Commissioner do the work and collect the cost from the property owner.

Councilman Thalman offered the following motion; which was adopted:

That the Committee on Ordinances and Committee on Sewers, with the City Attorney, be directed to examine and report to this Council what action is necessary to put in effect an ordinance creating sewer districts, as provided for by a bill recently passed by the Legislature.

By consent, Councilman Bryce offered the following motion; which was adopted:

That any new propositions that may be offered in regard to placing names on street corners and lamps shall be duly considered by the committee that this matter is referred to.

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

That the Street Commissioner be instructed to raise the stone-crossing across Delaware, on north side of Walnut street. The same being so low as to be of no use.

That the Street Commissioner be instructed to repair the gutters of Fort Wayne avenue, between Pennsylvania and Delaware streets.

Councilman VanVorhis offered the following motion; which was adopted, and the Finance Committee, City Attorney, and VanVorhis to report on the same:

WHEREAS, by the provisions of Senate bill No. 326, now a law of the State of Indiana, it is provided that if the city will build a sewer from New Jersey street, on Washington street, to the Indiana Reformatory for Women and Girls, that the State of Indiana will pay one-half the expense of said sewer; therefore,

*Moved,* That the City Attorney be instructed to prepare an ordinance for the purpose of carrying out the provisions of said law.

By consent, Councilman Pritchard offered the following report of the Judiciary Committee; which was concurred in:

*Indianapolis,* April 18th, 1881.

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

*Gentlemen:*—Your Judiciary Committee and City Attorney, to whom was referred a communication of J. J. Bingham, Secretary of the Board of School Commissioners, asking for the approval of a deed of certain real estate, would report thereon, that as the matter of the disposal of said real estate rests entirely in the judgment and discretion of the Board of School Commissioners, we recommend

that the deed be approved and that the Mayor be directed to execute the same in accordance with the wish of said Board.

Respectfully submitted,

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

JOHN A. HENRY, City Attorney.

Councilman Yoke offered the following motion; which was adopted:

That the Committee on Railroads be, and are hereby, directed to examine the railroad crossings at Virginia avenue, South New Jersey street and South East street and if advisable, to offer an ordinance or resolution changing one of the flagmen from either the New Jersey or East street crossing to the Virginia avenue crossing on the Union tracks.

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

Indianapolis, April 18th, 1881.

To the Mayor and Common Council:

*Gentlemen*:—I desire to call your immediate attention to the destruction of the city's property, the Southern Park grounds. The fences around said grounds are broken down in many places, and the boards taken away. Sand and gravel have been taken from the creek in such quantities that the race track, which was of great value, is being washed away. The lessees have not removed the fence at the south end of the grounds back thirty feet, as agreed to, but have cut down some fifteen or eighteen fine trees along said line, and the logs and wood have been hauled away, which should have remained on the ground. Other trees have been cut and the logs and wood taken from the grounds. The property is rapidly going to waste, and much damage to the grounds has been done by negligence upon the part of the lessees, and the cutting of the trees is a great loss to the city, as the timber was much needed on the premises.

Respectfully,

W. H. TUCKER,  
Chairman Aldermanic Committee Public Property.

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

That the Street Commissioner be directed to scrape the gutters on Buchanan street.

That the Street Commissioner fill chuck-hole at corner of Sullivan and Bismarck streets.

That the Street Commissioner be directed to make necessary repairs on Coburn street, between East street and Virginia avenue.

#### PENDING ORDINANCES.

The following entitled ordinance was read the second time:

G. O. 10, 1881—An Ordinance to divide the city of Indianapolis into Wards and Aldermanic Districts, and to establish the boundaries of the same, under and by virtue of an act of the General Assembly of the State of Indiana.

Councilman Dowling moved to amend the second section of the above entitled ordinance, by striking out the "Twenty-first ward" in the Fourth Aldermanic District, and inserting in lieu thereof the "Sixteenth ward," so as to read, "the Sixteenth, Seventeenth, Eighteenth, Nineteenth, and Twentieth, wards, shall constitute the Fourth Aldermanic District.

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

Which motion was adopted, and the amendment laid on the table, by the following vote:

**AYES** 15—viz. Councilmen Bedford, Bryce, Caylor, Dean, Downey, Lang, Morrison, McKay, Pearson, Prier, Pritchard, Shilling, Thalman, VanVorhis and Yoke.

**NAYS** 6—viz. Councilman Bernhamer, Dowling, Harrold, Koller, O'Connor, and White.

G. O. 10, 1881, was then ordered engrossed; read the third time, and passed, by the following vote:

**AYES**, 16—viz. Councilmen Bedford, Bryce, Caylor, Dean, Downey, Koller, Lang, Morrison, McKay, Pearson, Prier, Pritchard, Shilling, Thalman VanVorhis and Yoke.

**NAYS**, 5—viz. Councilmen Bernhamer, Dowling, Harrold, O'Connor and White.

On motion, the Common Council then adjourned.

*J. Learen*, Mayor,  
President of Common Council.

Attest: *J. Tuagun*, City Clerk.