

14423

No. _____

Supreme Court of Illinois

City of Chicago

vs.

Wright

STATE OF ILLINOIS,
SUPREME COURT,
Third Grand Division

No. 162

City of Chicago

vs

Chicago

1863

14423

THE
SUPREME COURT OF ILLINOIS;
THIRD GRAND DIVISION,
APRIL TERM, A. D., 1863.

THE CITY OF CHICAGO,

VS

TIMOTHY WRIGHT, ET AL.

} Error to the Superior Court of Chicago.

BRIEF FOR PLAINTIFF IN ERROR.

This was a special proceeding on the part of the city of Chicago, to collect an assessment for the improvement of Wells street.

The record shows that the objections filed by the defendants in the court below to the application for judgment, were sustained. It does not specify the particular objection which the court regarded as fatal, and it will, therefore, be necessa-

ry to notice them all, which I shall proceed to do in their order, and with as much brevity as the nature of the case will permit.

The first three objections are not sustained by any evidence in the case. They were not insisted upon in the argument in the court below, and will not, probably, be urged here. An inspection of pages 33 to 35, of the record, will be all that is necessary to dispose of these objections.

The fourth objection is understood to be the one which the court below considered fatal to the assessment. It is, that the assessment roll is defective in not showing damages as well as benefits, as required by Sec. 28, of the Act of Feb. 18th, 1861, amendatory of the City Charter.

A critical examination of the act referred to must satisfy the court, that the 28th section has no application to an improvement of this kind. There are two distinct classes of public improvements authorized to be undertaken by the city and required to be paid for by a special assessment. The first class comprises all improvements requiring the condemnation of land, such as the opening and widening of streets and public grounds, the widening of the river, etc. The other class embraces improvements made upon streets already laid out, such as filling, grading, paving and macadamizing. In the charter of 1851, this distinction is kept clearly in view.

The provisions in the two cases are widely different, and separate chapters are devoted to each. See Charter of 1851, chapters 6 and 7.

Where land was condemned for public use, the commissioners were required by that act to assess the damage and recompense due the owners upon the real estate of persons benefited. Among other provisions relating to this class of assessments was the following :

“SEC. 8. If the damage to any person be greater than the benefit received, or if the benefit be greater than the damage, in either case the commissioners shall strike a balance, and carry the difference forward to another column, so that the assessment may show what amount is to be received or paid by such owners respectively, and the difference only shall in any case be collectable of them, or paid to them.”

In the case of assessments made for grading or paving existing streets, there was no such provision. The commissioners were required to “assess the amount directed by the common council to be assessed, on the real estate by them deemed benefited by any such improvement, in proportion to the benefit resulting thereto, as nearly as may be.” They were also required to “briefly describe in the assessment roll to be made by them, the real estate in respect to which any assessment is made, and the value thereof.” See *Section 4, Chap. 7 of Charter of 1851.*

Section 28 of the amendatory act of 1861, (which is the section referred to in the objection now under consideration), is almost a literal transcript of section 8, of chapter 6 of the charter of 1851, above recited. The only change in the phraseology is in the first and second lines; the section, as re-enacted, reading as follows :

“SEC. 28. If the damage to any person *by reason of any*

public improvement be greater than the benefit received, or if" &c.

The six sections immediately succeeding the 28th section, relate exclusively to improvements requiring the condemnation of land; and the 28th section, as it stood in the charter of 1851, from which it was adopted into the act of 1861, had also exclusive reference to the same description of improvements.

The act of 1861 contains numerous indications of its having been very hastily prepared, and the distinction between the two classes of public improvements above mentioned does not appear, it must be admitted, to have been at all times very clearly observed. But it is apparent from the context, as well as the provisions of the section itself, and their original scope and meaning when first enacted, that the 28th section of the act of 1861, was not intended to apply to assessments like the one in question.

There is still another and more conclusive reason why the extended application sought to be given to this section cannot be admitted. It would produce a direct conflict with the 17th section of the same act. That section provides that the "damages, costs and expenses of making such improvements (the grading, paving and repairing of streets) shall be assessed on the lot, sub-lot, piece or parcel of land fronting, bounding or abutting thereon, and shall be in proportion to the number of front feet of the said lot, sub-lot, piece or parcel of land, so bounding, abutting or fronting on such improvement."

The word "damages" is used in this section, it is true, but not in the sense of recompense for an injury sustained by the owner of land fronting on the street to be improved. If this meaning be attached to it, the whole provision will be-

come impracticable and absurd. It is obviously used as synonymous with costs and expenses. It is used in the same way in the 16th section, which relates to sidewalk assessments. The object of both sections was to make the lots fronting on any proposed improvement of the kind, chargeable for the expense in proportion to the number of front feet of each lot. They provide that each lot shall sustain its share of the expense, which of course would not be the case if the owner of one or more of them, instead of being assessed for benefits, were awarded compensation for a supposed injury. The word "damages" is doubtless used there improperly, but the inadvertent use of a word will not prevent the court from construing a statute reasonably and according to the obvious intention of its framers.

This court has already had occasion, in the case of *Lill vs. The City of Chicago*, (decided last fall and not yet reported,) to consider the effect of this 17th section. In that case the court say :

"That section has limited the cost of this character of improvement to the adjoining lots, and requires it to be levied in proportion to the number of front feet of each adjoining lot. This act is the only warrant for the action of the commissioners, and in making an assessment they must conform to its requirements. It has provided that the assessment shall be made upon the lots which adjoin the street to be improved, and in proportion to the number of front feet of the lot. If made on other property, or on a different rule it cannot be sustained, as the exercise of the power must strictly pursue the statutory authority."

If this be the true construction of this section—and it seems impossible to give it any other—it is certain that the commissioners would have no power to award damages to the

owner of any lot in any case of this kind. The requirements of the 28th section could not be followed in this class of assessments; nor can they be held applicable to a case of this kind without producing an irreconcilable conflict between the different provisions of the statute.

It may be added to the foregoing observations, that the law does not recognize the right of any owner of city lots to recover consequential damages resulting to his property from public improvements of this character. He has no legal claim for compensation in such a case, and it is not to be supposed that the legislature intended by the 28th section of the act of 1861, to change the general rule of law on this subject, without more evidence of that intention than the section itself furnishes.

It is, therefore, respectfully submitted that this objection is clearly untenable. But be that as it may, the defendants are, by the express terms of the statute, (section 26 of the act of 1861), precluded from interposing it in this proceeding.

The case shows that no objections were made by the defendants to the confirmation of the assessment, and no appeal was taken. The statute provides that the assessment when confirmed by the common council "shall be final and conclusive to all parties interested therein," unless an appeal be taken.

The effect of this provision was considered by this court in the case of *Lill vs. The City of Chicago* above cited. In that case the court say, if "it had appeared that the assessment had been made on the front feet of adjoining lots to the street to be improved, no matter how unjust it might have been, the order confirming the report would have been conclusive, unless upon an appeal prosecuted in the mode prescribed."

The previous cases of *Pease vs. Chicago*, 21 Ills. 500) and

Chicago vs. Burtice (24 Ills. 489), do not conflict with the later opinion, for the decision in those cases is put upon the ground that a similar provision in the charter of 1851 had been in effect repealed by the act of 1857.

The *fifth* objection requires no particular comment. The decision in *Lill vs. The City of Chicago*, disposes of this question.

The *sixth* objection is too vague and indefinite to be considered by the court. It points to no supposed defect in the proceedings and, therefore, calls for no answer.

The *seventh* objection is not sustained by the evidence.—The record shows that the improvement was ordered by a vote of sixteen aldermen, out of twenty—more than three-fourths of the whole number elected.

The *eighth* objection raises a question as to the sufficiency of the notice given by the Board of Public Works of their intention to apply to the Common Council for a confirmation of the assessment.

The statutory provision upon this subject is as follows :

“ When any assessment shall have been completed by the
 “ Board of Public Works, and the assessment roll shall have
 “ been made up, a copy of the same shall be filed in the office
 “ of said Board, and a duplicate thereof shall be filed in the
 “ office of the city clerk, signed by the acting president of
 “ said Board of Public Works, and six days’ notice shall be
 “ given by said commissioners, by publication in the corpora-
 “ tion newspaper, of the filing of such copy of such assessment
 “ roll in the office of the city clerk ; and that at the next reg-
 “ ular meeting of the Common Council after the expiration
 “ of said publication, the said commissioners will apply to the
 “ Common Council for a confirmation of such assessment. All
 “ parties interested in said assessment shall have the right to
 “ be heard at such meeting of the Common Council, both for
 “ and against such assessment. All parties objecting to such
 “ assessment, shall file their objections to the same in writing,
 “ in the office of the city clerk, at least two days prior to such
 “ meeting of the Common Council, and the Council shall have
 “ power to adjourn such hearing from time to time, and shall
 “ have the power in their discretion to revise and correct the
 “ assessment, and confirm or annul the same, and direct a new
 “ assessment to be made. Said assessment, when confirmed
 “ by the Common Council, *shall be final and conclusive* to all
 “ parties interested therein, except as is hereinafter provided ;
 “ and when said assessment is confirmed by the Common Coun-
 “ cil, and no appeal is taken, as herein provided, a warrant
 “ shall issue for the collection of the same, signed by the may-
 “ or and clerk.”

The facts respecting the notice in this case, as shown by the record, are these :

The assessment roll was completed by the Board of Public

Works and filed in their office, and a duplicate thereof in the office of the city clerk, on the first day of September, 1862.

A notice of the fact, in the usual form, and that the Board would apply to the Common Council at its next regular meeting, to be held on Monday, the 8th day of September, 1862, at 7½ o'clock, P. M., for a confirmation of the assessment, was published by the commissioners six days consecutively, in the corporation newspaper, as required by law.

The time designated in the notice, was the appointed time for a regular meeting of the Common Council; but no quorum appeared at that meeting, and no business could be transacted.

The next regular meeting was held on the evening of September 22d, at which meeting the assessment was confirmed, no objections thereto having been filed in the clerk's office.

It is urged that the assessment is invalid because no new notice was published by the Board of Public Works, that they would apply to the Council for a confirmation of the assessment at the meeting to be held on the 22d of September.

The question thus raised can be determined only by reference to the statute. The statute points out the requisite steps to be taken, and if its requirements have been strictly observed the assessment will be sustained. Now the statute requires but one notice of the application for confirmation, and the case shows that this notice was given. All parties interested were duly notified as the law requires, and had an opportunity to file their objections to the assessment. They could have attended the meetings of the council until the assessment was acted upon had they deemed it important.

But this question is by no means a new one in this State. It has been passed upon several times by this court and uniformly decided in the same way. The following cases are in point:

Ottawa vs. Fisher, 20 Ills. 422.

McAuley vs. Chicago. 22 Ills. 563.

Ottawa vs. Chicago & Rock Island R. R. Co., 25 Ills. 43.

The *ninth* objection is in substance as follows: That the ordinance directing the improvement in question is void because it was not passed in conformity to the requirements of section 2 of the act of Feb. 16th, 1857, amendatory of the city charter.

The following is the section referred to:

“SEC. 2. All ordinances, petitions and communications to the Common Council shall, unless by unanimous consent, be referred to appropriate committees, and only acted on by the Council at a subsequent meeting on the report of the committee having the same in charge; and any report of a committee of the Council shall be deferred to the next regular meeting of the same, and the publication of the said report in the corporation paper may be required, by the request of any two aldermen present.”

It appears that the ordinance in question was first presented to the common council, with a report from the Board of Public Works recommending its passage, at a regular meeting of the board, held on the 28th of July, 1862, and that it was taken up and passed at the same meeting without a formal reference to a committee. The journal of the council proceedings does not state that a reference was dispensed with by unanimous consent, nor does the law require that this fact should be entered in the journal. In such a case the court will presume there was unanimous consent, unless the journal

affirmatively shows that some member objected.

See *Supervisors of Schuyler County vs. the People*, 25 Illinois, 183.

But it further appears; that at a previous meeting of the common council the subject of improving Wells street had been under consideration, and that an ordinance directing it to be *macadamized* was presented and referred to the appropriate committee. This committee reported at the meeting held on the 28th of July, in favor of the passage of the ordinance sent in that evening from the Board of Public Works, thus substituting the ordinance in question for the one which had been previously referred to them. The record shows that this ordinance was then passed; and the clerk testifies, that it was acted upon by unanimous consent.

The point attempted to be made is, that the committee having reported in favor of this ordinance, it was necessary to defer any further action upon it until the next regular meeting, and the last clause of the section above cited is referred to as conclusive upon this question.

The answer is, first, that the statute does not fairly admit of the construction sought to be put upon it. Its obvious meaning is that any report of a committee shall be deferred, *upon the request of any two aldermen present*. The concluding words qualify the whole clause and not merely that portion of it relating to the publication of the report. It is impossible to believe that the legislature intended to provide that any measure might by unanimous consent be acted upon by the council without being referred to a committee at all, and yet when the same measure had been investigated and reported on by a committee, that the council should not act upon it though there should be the like consent, until a subsequent meeting. Such a provision would be most singular and extra-

ordinary. It could be so easily evaded that no useful purpose could possibly be subserved by it, while a rigid observance of it might in numerous instances lead to results very prejudicial to the public interests. The court will give to every statute a reasonable construction if it be susceptible of one.— This rule certainly cannot be satisfied by adopting the construction of this statute which is contended for by the defendants.

In the second place, this statute is not imperative but merely directory; such, at least, is the character of the last clause of the section which is now under consideration.

No negative words are used, nor does the statute declare that the proceedings of the Council shall be invalid if they do not conform to the rule. Upon this point the court are referred to the following authorities.

Elmendorf vs. the Mayor, 25 *Wend.* 693.

Striker vs. Kelly, 7 *Hill*, 9.

Doughty vs. Hope, 3 *Denio*, 252.

The People vs. Supervisors of Chenango, 4 *Seld.* 328.

Burrows vs. Supervisors of Orange, 27 *Barb.* 575.

Holland vs. Osgood, 8 *Vermont*, 280.

Cortiss vs. Cortiss, 8 *Vermont*, 290.

People vs. Cook, 14 *Barb.* 259.

People vs. Cook, 4 *Seld.* 84 to 92.

Wheeler vs. Chicago, 24 *Ills.* 107.

Coles County vs. Addison, 23 *Ills.* 438.

Lastly, it is respectfully insisted that the last clause of the section referred to, does not apply to this case. The ordinance in question was never referred to any committee, but was sent in from the Board of Public Works to the Common Council on the same evening it was passed. It was acted upon by unanimous consent at that meeting. The fact that one

of the committees of the council, to whom this particular ordinance had never been referred, chose to adopt it as a substitute for one which had been previously referred, could not deprive the council of the right expressly given them to act upon it at that time by unanimous consent.

The *tenth* and *eleventh* objections are subject to the same observations as the *sixth*. They are too indefinite to require an answer.

The *twelfth* objection, made by the defendant Mc Connell alone, is not sustained by any evidence in the case, and therefore calls for no discussion.

B. F. AYRE,
Counsel for Plaintiff in error.

119 162
City of Chicago
v.
Timothy Wright

Plaintiff's Brief

Filed May 27 1863
L. L. Lane
clerk

IN THE SUPREME COURT OF ILLINOIS.

THIRD GRAND DIVISION.

APRIL TERM, A. D., 1863.

THE CITY OF CHICAGO,

vs

TIMOTHY WRIGHT,
WILLIAM F. TURNER,
ESTATE OF PETER SAUERWEINE,
JEW CHURCH, AND
EDWARD McCONNELL.

Error to the Superior Court
of Chicago.

This is a writ of error from a judgment upon a Special Assessment Warrant, No. 360—South, for curbing, filling and paving with Nicholson pavement, Wells street from Madison street to the North line of Adams street, and McAdamizing Wells street from the North line of Adams street to the roadway of Van Buren street, dated Oct. 4, 1862.

ABSTRACT OF RECORD.

The report and petition for judgment by the City Collector, filed in the Superior Court, February 2d, 1863, sets forth that the collection warrant was delivered to him on the 9th day of October, 1862, that he made due publication of notice that he had received said warrant, and had also published the requisite notice of his intention to apply to said Court for judgment, and that the annexed schedule is a correct list of the lands, lots, &c., on which the assessments are not paid, and that the amounts of the assessment, damages and costs due thereon are correctly stated therein; praying for judgment, &c,

SCHOOL SECTION ADDITION TO CHICAGO.

| Names. | Part of Lot Land. | Sub Lots. | Lot. | Block. | Valua'n. | | | Am't of Ass't | | Damages. | | Remarks. |
|-----------------------|-------------------|-----------|------|--------|----------|--------|------|---------------|------|----------|------|----------|
| | | | | | Dollars. | Dolls. | Cts. | Dolls. | Cts. | Dolls. | Cts. | |
| Timothy Wright. | | | 5 | 93 | 9,000 | 1,521 | 23 | 27 | 37 | | | |
| William F. Turner. | | | 5 | 94 | 12,500 | 1,534 | 66 | 27 | 61 | | | |
| J. P. Clarkson, Ag't. | | 9 | 1&2 | 95 | 1,500 | 184 | 44 | 3 | 31 | | | |
| Do. | | 10 | do | do | 1,300 | 152 | 76 | 2 | 74 | | | |
| The Jew Church. | S 40 feet. | | 8 | 96 | 3,500 | 354 | 72 | 6 | 48 | | | |
| Edward McConnell. | | | 6 | 97 | 5,600 | 117 | 46 | 2 | 11 | | | |
| Do. | | | 7 | 97 | 3,200 | 117 | 46 | 2 | 11 | | | |

The foregoing is all of said schedule relating to the defendants in this case. Objections to said application for judgment having been filed by the defendants, a decision was rendered February 10th, 1863, sustaining said objections and refusing judgment against the property therein set forth; to which decision the plaintiff then and there excepted.

The defendant's objections were as follows:

1. The order for said improvement was not made in pursuance of the 17th Section of the City Charter and is, therefore, void.
2. The Board of Public Works did not prior to the passage of the order by the Common Council report a plan or profile of the work, with an estimate of the expense.
3. The order directing the improvement requires the same to be done according to plans and specifications to be furnished by the Board of Public Works, contrary to the Charter.

- That Wells street from Madison street to the north line of A. S.
5. Because said assessment was made on lots fronting on Wells street

in proportion to the number of front feet, instead of upon property benefited, contrary to the 46th section of the Charter.

6. Said assessment is in other respects illegal, informal and insufficient.

7. Said improvement was not petitioned for by the owners of three-fourths of the property to be assessed, nor ordered by three-fourths of all the aldermen elected.

8. No notice was given as required by Sec. 26 of the act amendatory of the Charter, but the Commissioners did give notice that they would apply to the Council for a confirmation of the assessment at a regular meeting to be held Sept. 8th, and no action was then taken on said assessment, and the same was confirmed Sept. 22d, although no new notice of an application at that time was given, and no meeting of the Council was held Sept. 8th.

9. The ordinance directing the work was void, and was not passed in conformity to section 2 of the act of Feb. 16th, 1857, amendatory of the City Charter.

31 10. Said assessment was not levied according to law.

11. The requisites for the recovery of judgment have not been complied with.

12. And said McConnell further objects that his lots are assessed for paving said street with Nicholson pavement, whereas they should have been assessed only for the cost of McAdamizing the street in front of said lots.

EVIDENCE.

33 Report from the Board of Public Works dated July 28th, 1862, to the Common Council, recommending the improvement of Wells street from Madison street to Van Buren street in the manner defined in the ordinance annexed thereto, sets forth that the work is not asked for by the owners of three-fourths of the property to be assessed therefor, and submits a plan or profile of the work to be done, together with an estimate of expense as follows:

| | | | |
|----|--|-----------|------------|
| 35 | Curb Walls, | - - - - - | \$3,354 12 |
| | Filling and Grading, | - - - - - | \$2,645 64 |
| | Paving with Nicholson pavement (Madison to Adams), | - - - - - | \$7,245 64 |
| | McAdamizing (Adams to Van Buren), | - - - - - | \$4,299 39 |
| | Sundry costs and expenses, | - - - - - | \$200 00 |

The ordinance is as follows:

"Be it ordained, &c.:

SEC. 1. That Wells street from Madison street to the north line of Adams street be, and is hereby ordered curbed, filled and paved with Nichol-

son pavement, and that said Wells street from the north line of Adams street to the roadway of Van Buren street be, and is hereby ordered gravelled and McAdamized. Said work to be done under the superintendence of the Board of Public Works, and in accordance with the plan or profile hereto annexed, and at an expense named in their estimate for the same."

36 Passed by the Common Council July 28th, 1862, and approved by the Mayor July 31st, 1862.

37 Evidence was introduced showing that at a meeting of the Council on the 2d of June, 1862, a previous report, accompanied by a proper ordinance, was presented from the Board of Public Works, recommending the *graveling* of said Wells street from Madison to Van Buren street, which was referred by the Council to the standing committee on streets and alleys of the South Division. At a subsequent meeting of the Council held July 28th, 1862, that committee made a report.

The record of the Council proceedings in relation to the matter is as follows :

39 "The Committee on streets and alleys S. D., to whom was referred report and ordinance for improving South Wells street, reported in favor of the passage of the ordinance as follows:"

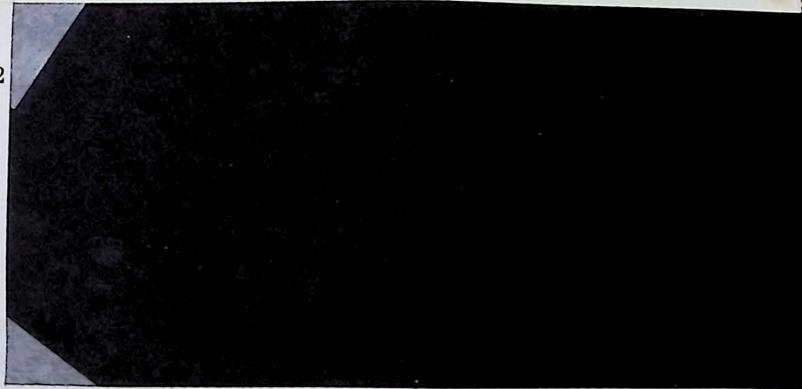
[Here follows a copy *verbatim* of the ordinance above recited, as recommended by the Board of Public Works in their report of July 28th, 1862.]

"The report was accepted and the ordinance passed by the following vote:"

[Here follows a list of the ayes and noes—16 Aldermen voting in the affirmative and one in the negative.]

The ordinance was approved by the Mayor July 31st, 1862.

The assessment roll was then introduced, a portion of which, sufficiently indicating its general character, is as follows :



OFFICE OF THE BOARD OF PUBLIC WORKS,
CHICAGO, August 26th, 1862.

The Board of Public Works of the City of Chicago hereby certifies that it has completed the assessment roll for the curbing, filling and paving with Nicholson pavement Wells street from Madison street to the north line of Adams street, and macadamizing Wells street from the north line of Adams street to the roadway of Van Buren street.

That before proceeding to make such assessment, the Commissioners of said Board, in accordance with law, published a notice of the time and place of their meeting, for the purpose of making said assessment, in the Corporation newspaper of the City of Chicago, for the period of six consecutive days previous to such meeting—a certificate of which publication is hereunto attached; that they were present at the time and place, and for the purpose designated in said notice, that they adjourned until the 26th day of August, 1862, when they were present, and having first fixed a valuation on the real estate described and set forth in the proper column of the foregoing Assessment Roll, did then and there, and do hereby assess the respective amounts set opposite to each lot or parcel of ground in the foregoing Assessment Roll mentioned in their appropriate columns, as the damages and benefits resulting to such lots or parcels of ground respectively, by reason of the doing of such work, and the making of such contemplated improvement, and such assessment is made on each of said lots or parcels of land in proportion to the number of front feet of the same, bounding, abutting or fronting on said improvement. All of which is respectfully submitted.

B. CARPENTER,

President of the Board of Public Works.

Subjoined to said assessment roll is a notice given by the Board of Public Works of the time and place of meeting to make said assessment, and a certificate of the due publication thereof in the corporation newspaper.

47 Also a certificate by the city clerk that the assessment roll was returned and filed in his office the 1st day of September, 1862.

Also a notice (with a certificate of the due publication thereof,) dated Sept. 2d, 1862, that the Board of Public Works had completed said assessment roll and filed a copy thereof in the office of the city clerk, and that they would apply to the Common Council at its next regular meeting to be held on Monday the 8th of September inst. at 7½ o'clock P. M., for a confirmation of said assessment.

Also a formal application by the Board of Public Works, dated Sept. 8, 1862, to the Common Council, for a confirmation of the assessment.

Also an order of confirmation (setting forth that no objections had been made) passed by the Common Council Sept. 22d, 1862, and approved by the mayor.

48 Andrew J. Marble, city clerk, being duly sworn as a witness, testified, that he was present at the meeting of the common council July 28th, 1862, and that the ordinance in question was taken up and acted upon at that meeting by unanimous consent, no alderman objecting. That no record of this fact was made and that it was not his custom to make a record of such a fact in any case—that the vote on the final passage of the ordinance was taken by ayes and noes, as shown by the record, and the same was passed by a vote of 16 to 1.

49 [The evidence of said Marble as to the action of the council being by unanimous consent, and that no alderman objected, was objected to by the counsel for objectors and the objection overruled, to which defendants excepted.]

Said Marble further testified that said assessment roll was filed in the city clerk's office, on the 1st day of Sept., 1862, that Monday Sept., 8th, 1862, at 7½ o'clock, P. M., was one of the appointed times for a regular meeting of the common council; that a few aldermen attended said meeting, but no quorum was present, and the Board adjourned without doing any business.

That Monday evening, Sept. 22d, 1862, was the appointed time for the next regular meeting of the council; that a quorum was then present, and said assessment roll was then taken up and confirmed, as shown by the record, and that the same was afterwards approved by the mayor; that no
50 objections to the assessment were ever filed in his office; that a warrant for the collection of the assessment was issued in the usual form, Oct. 4, 1862, and delivered to the city collector.

It was admitted by all parties that a copy of the assessment roll was filed in the office of the Board of Public Works, according to law, and that the foregoing evidence shows all the proceedings of the Board of Public Works and Common Council, touching the subject of said assessment.

This was all the evidence introduced, and, thereupon, it was considered and ordered by the court that the said objections be sustained, and judgment against the said parcels of land was then and there refused; to which
51 decision, the said city of Chicago, then and there excepted.

52 Annexed to the record is a stipulation signed by the defendants' counsel, that a writ of error may be taken by the city from the aforesaid judgment to the Supreme Court at the present April term, 1863; that all the defend-

53 ants above named may be named defendants in said suit, as above described, and that no advantage shall be taken or objection interposed in consequence thereof. That said defendants shall appear and join in error at said April Term, and that the judgment of said Supreme Court shall have the same force and effect as if the same were rendered on separate writs of error brought against the said defendants severally. Service of said writ of error waived.

ERRORS ASSIGNED.

1. The Court below erred in sustaining the objections filed by said defendants.
2. The Court erred in refusing to render judgment against the said lots and parcels of land in said objections set forth.
3. The judgment in favor of the said defendants was contrary to the law and evidence, and should have been for the plaintiff.

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City of Chicago
v.
Timothy Wright et al.

Abstract of Record.

Filed Apr 27, 1843

J Selman
M

Chicago April 20. 1863

L. Deland Esq.

Dear Sir,

Please enter on your docket the following suits - taken up by writ of error:

The City of Chicago v. Timothy Wright,

William F. Furner

Estate of Peter Sauerwein

The Jew Church, &

Edward Mc. Connell.

I send herewith the record with the assignment of errors annexed and stipulation signed by defendants to appear at this term. The defendants have also joined in error, so that no process need be issued -

I am having the abstracts printed
here and will send down the
printed copies this week -

Yours very truly
B. F. Ayer

A. B. Your fees you will please
charge to the City
B. F. A.

SUPREME COURT OF ILLINOIS,

THIRD GRAND DIVISION.

APRIL TERM THEREOF, A. D. 1863.

THE CITY OF CHICAGO }
vs. } *Error to Superior Court of Chicago.*
TIMOTHY WRIGHT et al. }

POINTS OF DEFENDANTS.

This was a proceeding on the part of the City of Chicago to collect an assessment for curbing, filling and paving with Nicholson pavement (and McAdamizing a part) South Wells street in said city.

It is to be regretted, that before any decision of this Court can ever become a precedent, the Legislature deems it necessary to change the organic laws of the city.

This case arises under the act of February 1861, amendatory of the charter of said city, and if the Legislature had not (as usual every two years) amended the city charter in Feb. 1863, the decision of this case might settle some useful points in cases of special assessments.

I.

There were twelve objections filed by defendants in error to the application of the city collector for judgment, and the record shows that judgment was refused against the lots and pieces of land claimed by the defendants in error.

We deem it necessary to refer to but few of the objections, and that more in reply to the brief of plaintiff in error, than to sustain the objection.

We do not know upon what particular objection the Court below refused judgment, whether upon the fourth or any *one* of the objections; nor should the 4th objection be considered as the one that the Court below decided this case upon, as there are several others equally as good and valid.

The 4th objection is founded upon the *express* and *very clear* requirements of the 28th section of act of Feb. 1861, which section is as follows:

“If the damage to any person, *by reason of any public improvement*, be greater than the benefit received, or if the benefit be greater than the damage, in either case the commissioners shall strike a balance and carry the difference forward to another column, so that the assessment roll may show what amount is to be received or paid by such owners respectively, and the difference only, in any case, shall be collected of them, or paid to them.”

Private Laws Illinois, 1861, p. 127.

In this case the assessment roll contained a column for “benefits,” but none for “damages,” nor any for “balance” between benefit and damage.

There is nothing to show that the damages were considered by the commissioners, and the assessment roll is not in the form required by section 28.

The rule of law is well established:

“That summary proceedings, without personal service (there was none in this case) to take away a man’s property and estate against his consent, must be strictly pursued, and *this must appear on the face of the proceedings.*”

City of Chicago *vs.* Rock I. R. R. 20 Ill. 286.
 Rex *vs.* Croke, 1 Cowper, 26. 3 Scam. 325.
 14 Ill. 225.
 3 Allen, 535.
 4 Hill, 86.
 3 John. Cases, 107.

And, “That without a valid assessment, *the* subsequent proceedings necessarily fail for the want of a basis upon which to rest.”

14 Ill. 225.

But the attorney for the plaintiff in error admits that this (4th) objection is fatal if applicable to this class of public improvement, but takes the ground that Sec. 28 does not apply to the filling, &c., of streets.

The plaintiff argues that by the act the city is authorized to undertake two classes of public improvements (to be paid by special assessments.) 1st, improvements requiring the condemnation of land. 2d, improvements upon streets already made—and

That under the act of "1851" the provisions in two cases are widely different, "and separate chapters are devoted to each;" and that in the chapter devoted to public improvements requiring the condemnation of land there is a section [No. 8] which is similar to section 28 of the new law in all respects except that section 28 has the words "If the damage to any person, *by reason of any public improvement*, be greater, &c., the italicised words being the only difference between the two sections. The counsel therefore argues that the Legislature, in the present new act of 1861, did not intend to extend the operations of this section 28 to all public improvements, but did intend to restrict it in its application as in the old law.

It appears to us that he has furnished and irresistible argument in favor of our position.

In the new act of 1861, *separate chapters* are not devoted to each class of improvements, and the section 28 does not follow or particularly refer to the sections treating of improvements requiring the condemnation of land. Why, if the Legislature did not intend to extend this requirement as to the assessment roll to all cases of public improvement, did they amend the old, by inserting the words, *by reason of any public improvement*, and these words only?

The new law is clear and unambiguous—is positive. The old law did not embrace all, but was amended so as to make the new law embrace all public improvements; yet (the plaintiff argues) the Legislature did not intend to extend the application of that section (28) to all public improvements!

The plaintiff further argues that because the 6 sections immediately *succeeding* section 28, relate to the condemnation of land, therefore Sec. 28 relates to same! It is very seldom that an argument can be based upon what *succeeds* a section in a law, and very often that an argument is based upon what precedes the section.

Certainly the best argument in this case is upon what precedes section 28, and the Court will see that the *six sections immediately preceding section 28 are general* in their application, and relate (as does section 28) to the duties of the board of public works.

Again, counsel for city says that to follow the plain language of section 28 and construe it as it reads, would bring it in conflict with a preceding section—No. 17—because section 17 provides “that the damages, costs and expenses of making such improvement [grading, paving, filling, &c., of streets] shall be assessed upon the lot abutting, &c., and then proceeds to argue that “the word damages is doubtless used there improperly,” and that “the inadvertant use of a word will not prevent a Court giving a reasonable,” &c., “interpretation to the statute,” &c.

If the word is *improperly* and *inadvertantly* used by the Legislature, there is a conflict, *if it is not, there is no conflict.* The argument is, that the Legislature used the word “damages” and words “by reason of any public improvement” improperly and inadvertently, and never intended what is expressed in perfectly clear and intelligible language.

Sec. 17 also requires that “the board of public works shall proceed to make an assessment of *the benefits and damages*, costs and expenses of doing such work” [the grading, filling, &c., of streets.] Here the Legislature “inadvertantly and improperly” used the word damages again in the same section!

Can the Court judicially know that there are no damages in a work of this kind? Can the Court judicially know that the grading down of a street in front of a persons lot or house 20 feet, will cause no damages, or that the filling of it up 20 feet will cause no damage to him?

It is easy to suppose a case in which there would be damages; that those damages would be much less than the benefits. But how is the Court to know that the commissioners considered the damages at all, unless the assessment roll shows a column for damages, and that “the balance was carried forward to another column,” as required by Sec. 28.

Sec. 28, in as clear and unambiguous words as the English language contains, requires this to be done, and shall the Court decide that it is not necessary?

The Legislature may have desired nothing more *than to have uniformity in all the assessment rolls.*

The Supreme Court of this State, in construing a statute of this State, say: "The reason of this precision we are not at liberty to inquire into, nor what the supposed necessity may have been in the opinion of the Legislature for its adoption." It is sufficient that it does not comply with the act, &c.

1 Scam. 325.

See also to same point:

12 Vermont, 677.
3 Mass. 432.
3 New Hamp. 103.

The rules for the construction of an act like this, are:

"That the intention of the legislature is only to be judged from the words used."

In point:

The Queen vs. Inhabitants, &c., 14 Adol. & E. 340, (78 E. C. L. 342)

"Where the words are plain and unambiguous, an apparent absurdity is no excuse for disregarding the same." "To do so is to legislate."
Abley vs. Dale, 2d J. Scott, 390, (73 E. C. L. 391.)

We are not precluded from taking advantage of this objection (not having objected before the common council to the confirmation of the assessment) any more than we would be precluded from making any other objection *which appears upon the face of the proceedings*.

It might as well be said that we could not make any defense in an action of debt upon a judgment which appears upon the face of the judgment record, as to contend that we may not make this objection in this case.

The Court will observe that section 35, act of 1861, provides, that "The payment of such special assessment may be enforced by said city at the same time and in the same manner as is now provided by law for the collection of the general tax, levied on said city." This is the only clause contained in act of 1861 referring to the collection of assessments by suit.

The time and manner of collecting the general tax, and the jurisdiction given to the Courts to hear the application for judgment, defining the power and duty of the Courts upon such applications, are contained in *the act of 1857*.

Which act makes it "the duty of the Court, upon calling the docket of said term, if any defense be offered by any owner," &c., "to hear and

determine the same in a summary way," &c., "and if no defense be made, &c., the said Court shall pronounce judgment," &c. This refers to the *general tax* and the special assessment warrants.

Laws of Illinois, 1857, p. 901, 902, 903.

The Court is particularly referred to the decision in 24 Illinois, *Chicago vs. Burtice*, 489.

It is made the duty of the Court to hear and the power is given the Court to hear defences. This power and jurisdiction is nowhere taken away by the express words of the act of 1861, and the rule is well settled that "nothing short of express words will deprive a superior Court of its jurisdiction."

12 Ill. 241.
13 Ill. 728.
1 Penn. 335.
3 Hal. 305.
2 Caines R. 179.
3 Green. N. J. 322.

It appears to us that all the proceedings in regard to these assessments, are before the Court upon this application, and that, although the statute may have intended to cut off the defences which it only allows in cases of appeal, to-wit: as to whether the valuation is the true valuation, and whether the assessment is fair and impartial, (see section 26, act of 1861,) and that all objections appearing upon the face of the proceedings which show the requisitions of the law were not complied with, are admissible upon the application for judgment; otherwise there would appear to be necessity of an application to or a hearing by the Court, and the clerk could record the payment without the necessity of any hearing by the Court.

II

The next objection we shall consider, is the 8th, which is in substance:

That no sufficient notice was given of the application of the Board to the common council for the confirmation of the assessment.

The statute, sec. 26, act of 1861, requires, that upon completion of the assessment, a duplicate of the assessment roll shall be filed in the office of the city clerk, signed, &c., "and *six* days notice shall be given by the said commissioners by publication in the corporation newspaper, of the filing of such copy of such assessment roll in the office of the city clerk; and that at the next regular meeting of the common council, after the expiration of said publication, the said commissioners will apply to the common council for a confirmation of such assessment."

The assessment roll was filed 1st of September, and notice given that on *the 8th day of September* the application for a confirmation would be made.

There was no necessity for designating the *day of the month*, and the notice should have followed the language of sec. 26: *that at the next regular meeting after the expiration of the notice* or after a date certain, application would be made, &c.

It would then have been obligatory upon owners of lands to attend until there was a regular meeting; but here the commissioners give no such notice, but choose to designate a day certain upon which they will make their application.

No quorum of the council met on the 8th September, no meeting of the council was held upon that day, and the assessment was not confirmed until the 22d of September, and this without notice.

There being no notice, as required by the statute, the confirmation was void, and the warrant issued thereon of no validity.

The cases cited by plaintiff upon this objection are not to the point. In *Ottawa vs. Fisher*, 20 Ill. 422, notice was given of the application, and on the day named in the notice the council took the assessment up for consideration, but did not finally dispose of it, and the Court held that they were not bound to dispose of it at that meeting.

McAuley vs. Chicago, 22 Ills. 563, merely decides "that an additional notice is not required where an assessment is postponed from one meeting of the council to another."

In this case, the council did not meet, and there could have been no application made for confirmation, nor any postponement.

In *Ottawa vs. Chicago & R. I. R. R.* 25 Ill. p. 43, the question did not arise; the notice in that case of meeting of the commissioners was for 22d March, and they met on that day and adjourned, which the Court held they had power to do. In this case there was no meeting whatever on the day specified in the notice.

III.

The 9th objection is, that the ordinance for the making of this improvement, was not passed in conformity to the requirements of section 2 of the act of 1857, Laws of 1857, p. 892, which section reads: "all ordinances, petitions and communications to the common council, shall, unless by unanimous consent, be referred to appropriate committees, and only acted on by the council at a subsequent meeting, on the report of the committee having the same in charge; *and any report of a committee of the council shall be deferred to the next regular meeting of the same*, and the publication of the said report in the corporation paper may be required by the request of any two aldermen present."

We hold that this section was intended to prevent the passage without due deliberation of ordinances reported by committees.

The usual way of procuring the passage of bad and corrupt laws or ordinances has been to introduce an unobjectionable one, move to refer to committee, and then have the committee substitute or amend so as to entirely change the act and effect the corrupt purpose desired, then to make report of the committee in favor of the passage of the ordinance or law, and have the report concurred in. Any one who knows anything of legislation, knows that this is the usual way to effect the passage of a corrupt act. It was this very evil the legislature intended to correct by requiring *all* reports of committees to be deferred to the next regular meeting of the council.

In this very case the Court will see the necessity of the rule. The property owners either petition for or have notice that the city propose to *macadamise* or to *gravel* south Wells street, and on the *2d day of June, 1861*, a recommendation of the Board and ordinance for the *graveling of South Wells street*, p. 37 of Record, is introduced into the common council and referred to a committee. The property owners are satisfied

they desire it ; or they discover that it will be an economical work—that of *gravelling*—and make no objection ; outside influences are brought to bear upon the committee in all probability, and the committee change the work from *gravelling* to Nicholson pavement and McAdam—the pavement costing ten dollars, probably where the *gravelling* costs one, and then, having done this in the secrecy of the committee room, report as follows : “ Your committee on streets and alleys of S. D., to whom was referred by the board *an ordinance for the improvement of Wells street, from Madison to Van Buren streets, having had the same under advisement, beg leave to report, that we have carefully examined the subject and are decidedly of opinion that the improvement is much needed, and the best interest of the city demands that the work be done without delay. Therefore, your committee report in favor of the passage of the ordinance.*”

Signed, &c.

The report was accepted. Now it will be borne in mind, that the ordinance referred was as to *gravelling* the street. The improvement that was much needed was the *gravelling*, and the committee report in favor of the passage of *the ordinance*—(that of *gravelling*)—the council and outsiders are to presume, as no other was ever referred ; but upon investigation it turns out that the committee have secretly changed the improvement and reported in favor of the passage of an entire new ordinance.

This very case shows that there may have been some chicanery in the passage of this ordinance, and that it is an absolute necessity *in order* to protect *the rights of citizens*, that reports of committees should be deferred one week.

It is true that the council may, by unanimous consent, act upon an ordinance the same evening that it is presented, but in that case there is no chance for the juggling and swindling of committees.

The plaintiff attempts to give a forced construction to the section, that it means that it shall be deferred upon the request of any two aldermen present, but it appears to us that the request *only relates to the publication*, that is to say, that *it must be deferred and may be published* (if any two aldermen desire it.)

The plaintiff is driven to that common and worst of all methods to get rid of the positive requirement of the statute, by saying that it is directory and not imperative.

When the requirements of the law are plain and positive, the Courts are not called upon to give reasons why it was enacted.

Judge Davis, in *Mayhew vs. Davis*, says, in commenting upon the requirements of the revenue law of Illinois: "It is said some of the requirements of the legislature are only directory, and may be dispensed with. Upon this it may be remarked, that a judge should rarely if ever take upon himself to say that what the legislature required is *unnecessary*. He may not see the necessity of it, still it is unsafe to assume that the legislature did not have a reason for it; perhaps it only aimed at uniformity." "It may safely be affirmed that it can never be directory where the act or the omission can by any possibility work advantage or injury, however slight, to any one affected by it. In such case, it never can be omitted."

4 McLean, 221.
Reeds vs. Morton, 9 Missouri, 878.

Where property is to be affected, the requirements of the act must be strictly followed, the performance is the *condition* upon which the property is divested, and it is not for the Court to inquire whether or not it is reasonable or may not be dispensed with without injury to the owner of the land, but whether or not the requirements have been complied with. And when a forced sale of property is made under statutes, all formalities which have the semblance of benefit to the owner, should be strictly complied with.

Culver vs. Hayden, 1 Vermont, 359.
McDonough vs. Gravier, 9 Lou. R. 546.
4 Hill, 99.
3 Barbour S. C. R. 343.
3 Coms. 401.
20 Wend. 211.

The following cases are also referred to as showing that the requirements of sec. 2, act of 1857, should be held to be imperative and not directory.

22 Vermont, 388.
8, Vermont, 419.
6 Wheaton, 119.
21 Pick. 64.
1 Cowper, 26.
3 John. Cases, 107.
Breece, 31.
5 Mass. 657.

We consider that there are other objections which are well taken, but inasmuch as the plaintiff has not thought proper to contest others than those above mentioned, we shall not discuss them.

BARKER & TULEY,
Attorneys for defendants.

119 162

The City of Chicago
183

Trico. Wright & Otis

Defts. Ponds

Filed May 14th 183

L. L. Linn
CLK

UNITED STATES OF AMERICA,

STATE OF ILLINOIS, COUNTY OF COOK, SS.

Pleas, before the Honorable, the Judges of the Superior Court of Chicago, within and for the County of Cook and State of Illinois, at a regular Term of said Superior Court of Chicago, begun and holden at the Court House, in the City of Chicago, in said County and State, on the first Monday, being the Second day of February in the year of our Lord One Thousand Eight Hundred and Sixty Three and of the Independence of the United States of America the Eighty Seventh

Present, The Honorable John M. Wilson Chief Justice of the }
Superior Court of Chicago. }

Wm H. Higgins }
and Grant Goodrich } Judges.

Joseph Hurt Prosecuting Attorney.

David S. Hammond Sheriff of Cook County.

Attest, Thomas B. Carter Clerk.

Be it remembered, that heretofore, to-wit: on the Second day of February in the year of our Lord one Thousand Eight hundred and Sixty Three, the same being one of the days of the February Term of the said Superior Court of Chicago, the City Collector of the City of Chicago in said County of Cook and State of Illinois, filed in the office of the Clerk of the said Superior Court of Chicago his report and petition for judgment, in the words and figures following, to-wit:

(2)

Warrant, No 360 S.

State of Illinois }
City of Chicago }
County of Cook, ss

Superior Court of Chicago
February Term AD 1863

To the Honorable John M Wilson
Grant Goodrich and Van H Higgins
Judges of the Superior Court of Chicago
The report of Frederick Manning City
Collector of the City of Chicago in said
County of Cook, respectfully represents
that a special warrant, in due form of
law, issued for the collection of a
special assessment duly made for
Curbing filling and paving with Nicholson
pavement Wells street from Madison
street to the North line of Adams street
and Macadamizing Wells street from
the North line of Adams street to the
roadway of Van Buren street and
signed by the Mayor and Clerk of
said City of Chicago and countersigned
by the City Comptroller, with the corporate
seal of said City thereto attached, which
said warrant is known and design-
ated as Number 360 South and
dated the fourth day of October AD

1862, was delivered to him, the said City Collector, before the second Tuesday of October AD 1862, vizt on the ninth day of October AD 1862.

That forthwith after the delivery of the said warrant to him he published in the Chicago Times, the corporation newspaper of said City, a notice that he had received said warrant for collection, describing the same by number and date and time when received; 'the amount to be collected; the purpose for which collected; and the property assessed, by general description, and requesting all persons forthwith to make payment thereof at his office, and that in default of such payment the said assessment would be collected at the cost and expense of the persons liable for the payment thereof; which said notice was published in said corporation newspaper for ten days, the first publication thereof being on the tenth day of October AD 1862 a copy of which said notice, together with a certificate of the due publication thereof from the publisher of

2

(4)
said Corporation newspaper
is filed with this report and referred
to for a more full and particular
description of the contents thereof.

That he has given ten days notice
before the first day of the February
term A.D. 1863 of this Court, by publi-
cation in the said Corporation
newspaper, of his intention to apply
to said Court on the first day of
the said February term A.D. 1863
for judgment against the lands lots
and parcels of land specified in
said warrant, for the amount of
the assessment, interest, damages
and costs, respectively due thereon,
in which said notice he briefly
specified the nature of said warrant
and requested all persons interested
therein to attend at said term; -
a copy of which said notice is here
with filed, together with a certificate
of the due publication thereof from
the publisher of said Corporation news-
paper, and the same are hereby
referred to for a more full and
particular description.

That the annexed Schedule is
a correct list of the lands lots and

parcels of land specified in said warrant, on which the assessments are not paid; and that the amounts of the assessment, interest, damages and costs, due on the said lands, lots and parcels of land respectively, are therein correctly stated and set forth.

Wherefore your said petitioner prays that judgment may be rendered according to the force of the statutes in such case made and provided

I Mehning
City Collector.

State of Illinois }
County of Cook } p.

J. Frederick Mehning
City Collector, in and for the City of Chicago, do solemnly swear, that the foregoing report by me made is true, according to the best of my knowledge and belief, and the annexed Schedule is a true and correct list of the delinquent lands, lots, and parcels of land specified in the special warrant mentioned in said report, upon which I have been unable to collect the assessment as required by law, and that the amounts due

upon the said lands, lots and parcel of land are therein correctly set forth.

Submitted and sworn to before me this 2nd day of February A.D. 1863.

F. Mehring
City Collector

W. B. Carter Clerk

Certificate of Publication - This certifies that the appended Collector's notice has been published in the Chicago Times the Corporation newspaper of the City of Chicago County of Cook and State of Illinois ten days consecutively commencing with October 10th 1862.

Strey & Norden
Publishers

CITY COLLECTOR'S NOTICE.
 CITY COLLECTOR'S OFFICE,
 CHICAGO, Ill., Oct. 9, 1862.

Public notice is hereby given that the following warrants for special assessments are now in my hands for collection, to-wit:

WARRANT NO. 359 SOUTH, dated Oct. 4th, 1862, and received Oct. 9, 1862, for the sum of fourteen thousand six hundred dollars (\$14,600), assessed on lots and lands, of which the following is a general description: Whereas lots three (3), four (4), five (5), and six (6), in the original town of Chicago, South Division. All of the sub-lots, pieces and parcels of land within the boundaries of the lots numbered three (3), four (4), five (5), and six (6), in each of blocks sixteen (16), thirty-six (36), thirty-seven (37), and fifty-eight (58), in the original town of Chicago. All the sub-lots, pieces, and parcels of land within the boundaries of lots numbered one (1), two (2), seven (7), and eight (8), in each of blocks seventeen (17), thirty-five (35), thirty-eight (38), and fifty-seven (57), in the original town of Chicago.

Lots two (2) to seven (7) inclusive in block one hundred nineteen (119), lots two (2) to four (4) inclusive in block one hundred twenty (120), lots one (1) to three (3) inclusive in block one hundred forty-one (141) and lots nine (9) to thirty (30) inclusive in block one hundred forty-two (142) in School Section Addition to Chicago, at the west end of Dearborn street in and six feet from the south line of Madison street to the centre of block one hundred and nineteen (119) of School Section Addition to Chicago to the north of Eighty feet.

WARRANT NO. 229 SOUTH, dated Oct. 5, 1862, and received Oct. 9, 1862, for the sum of seventeen thousand six hundred sixty-six dollars and fourteen cents (\$17,666.14), assessed on lots and lands, of which the following is a general description: All of the sub-lots, lots, pieces, or parcels of land that front, rear, or abut on Wells street, between Madison street and Van Buren street, and situate in blocks 91, 92, 93, 94, 95, 96, 97, and 98, of School Section Addition to Chicago, for cutting, filling, and paving with Nicholson pavement. We in street from Madison street to the north line of Adams street, and in adjoining Wells street from the north line of Adams street to the roadway of Van Buren street.

All persons interested are requested to make payment forthwith, at my office, Court House, Room No. 14. In case of default of such payment, the said assessments will be collected at the cost and expense of the persons liable for the payment thereof.

FREDERICK MEHRING,
 City Collector.

Certificate of Publication - This certifies that the appended Notice of the City Collector has been published in the Chicago Times the Co-operative Newspaper of the City of Chicago County of Cook, and State of Illinois, ten days consecutively commencing with January 15th 1863
 Chicago January 31. 1863
 Storey & Warden
 Publisher

TAX COLLECTOR'S NOTICE.
 State of Illinois, Cook County, Ill.
 CITY COLLECTOR'S OFFICE,
 CHICAGO, January 14th, 1863.

Public notice is hereby given that on the first Monday in February, being the second day of February, 1863, at a regular term of the Superior Court of Chicago, to be begun and holden at the Court House in said city of Chicago, on the last aforesaid day, I shall report to said Superior Court of Chicago all the lands and parcels of lands on which the taxes and assessments, charged in the Collector's warrants hereinafter more particularly described, have not been collected or paid, for judgment against said lands, lots and parcels of land for the amount of taxes, assessments, damages, and costs respectively due thereon, to-wit:

The warrant for the collection of taxes for general and special purposes, assessed by said city for the municipal year 1862, said warrant being dated the fourth day of October, 1862.

SPECIAL WARRANTS.

WARRANT NO. 349, SOUTH, dated the 24 day of May, 1862, for curbing, filling, grading, and macadamizing Market street from Madison street to Van Buren street.

WARRANT NO. 357, SOUTH, dated the 24 day of June, 1862, for repaving Clark street from Lake street to the Chicago River.

WARRANT NO. 368, SOUTH, dated the 31th day of August, 1862, for paving South Water street from Franklin street to Lake street.

WARRANT NO. 359, SOUTH, dated the 4th day of October, 1862, for the widening of Dearborn street from Madison street to the centre of block 119, School Section Addition to Chicago.

WARRANT NO. 650 SOUTH, dated the 4th day of October, 1862, for curbing, filling, and paving with Nicholson pavement Wells street, from Madison street to Adams street, and macadamizing Wells street from Adams street to Van Buren street.

WARRANT NO. 361, SOUTH, dated the 4th day of October, 1862, for filling and paving Lake street from State street to Lake street Bridge.

WARRANT NO. 362, SOUTH, dated the 4th day of October, 1862, for filling, walling, curbing, and paving State street from Madison street to Twelfth street.

WARRANT NO. 363, SOUTH, dated the 4th day of October, 1862, for grading, curbing, and paving River street and a part of South Water street.

WARRANT NO. 364, SOUTH, dated the 4th day of October, 1862, for walling, filling, and paving Clark street from Madison street to Polk street.

WARRANT NO. 365, SOUTH, dated the 4th day of October, 1862, for macadamizing Old street from State street to Canal street.

WARRANT NO. 366, SOUTH, dated the 4th day of October, 1862, for filling, walling, and paving Wells street from Randolph street to Madison street.

WARRANT NO. 367, SOUTH, dated the 4th day of October, 1862, for filling, walling, and grading Market street from Washington street to Madison street.

WARRANT NO. 368, SOUTH, dated the 4th day of October, 1862, for grading, curbing, and graveling State street from Twelfth street to the Archer road.

WARRANT NO. 369, SOUTH, dated the 4th day of October, 1862, for grading South street from State street to the Archer road.

All persons interested are requested to attend at the aforesaid term of said Superior Court of Chicago.

FREDERICK MERRING, City Collector.

N.B. Property owners wishing to pay taxes in the Court should pay them immediately to the City Collector, No. 12 Dearborn House 26132022.

City Collector's Report and Petition for Judgment for Special Assessments

| Names | Part of Lot or land | Sub Lot | Lot | Block | Valuation | | amt of assessment | | Damages | | Remarks |
|---|---------------------|---------|-----|-------|-----------|-------|-------------------|-------|---------|-----|---------|
| | | | | | Dollars | Cents | dollars | Cents | doll | cts | |
| <i>School Section Addition to Chicago</i> | | | | | | | | | | | |
| C Walker | | | 1 | 8 1/2 | 91 | 1400 | 53 | 39 | | 95 | |
| " | | | 2 | " | " | 1300 | 53 | 39 | | 95 | |
| " | | | 3 | " | " | 1300 | 53 | 39 | | 95 | |
| " | N 1/2 | | 4 | " | " | 680 | 26 | 69 | | 47 | |
| Chs Walker | | | 8 | " | " | 1200 | 53 | 39 | | 95 | |
| " | | | 9 | " | " | 1200 | 53 | 39 | | 95 | |
| " | | | 10 | " | " | 1200 | 53 | 39 | | 95 | |
| " | | | 11 | " | " | 1200 | 53 | 39 | | 95 | |
| " | | | 12 | " | " | 1200 | 53 | 39 | | 95 | |
| " | N 1/2 | | 13 | " | " | 600 | 26 | 69 | | 47 | |
| Lafine & Loomis | S 1/2 | | " | " | " | 600 | 26 | 70 | | 47 | |
| " | | | 14 | " | " | 1200 | 53 | 39 | | 95 | |
| " | | | 15 | " | " | 1200 | 53 | 39 | | 95 | |
| " | | | 16 | " | " | 1600 | 49 | 79 | | 89 | |
| Ogden & Leo | | | | | 92 | 44000 | 704 | 75 | 12 | 65 | |
| R A Williams | | | 1 | 4 | 93 | 2200 | 243 | 97 | 4 | 37 | |
| " | | | 2 | " | " | 1800 | 162 | 43 | 2 | 91 | |
| " | | | 3 | " | " | 1700 | 162 | 43 | 2 | 91 | |
| " | | | 4 | " | " | 1700 | 162 | 43 | 2 | 91 | |
| " | | | 5 | " | " | 1000 | 162 | 43 | 2 | 91 | |
| " | | | 6 | " | " | 900 | 147 | 66 | 2 | 65 | |

| | | | | | | | | |
|------------------|--------------------------------|-----|-----|----|-------|-------|----|-------|
| R A Williams | | 7 | 4 | 93 | 900 | 147 | 66 | 2 65 |
| " | | 8 | " | " | 1400 | 147 | 66 | 2 65 |
| " | | 9 | " | " | 1100 | 187 | 53 | 3 37 |
| J Wright | | 5 | " | " | 9000 | 1521 | 23 | 27 37 |
| | S. 20 ft | 4 | 94 | | 1450 | 184 | 44 | 3 31 |
| Nugent | N 20 ft of S. 40 ft | " | " | " | 1550 | 152 | 76 | 2 82 |
| H J Dickey | N 20 ft " " 60 ft | " | " | " | 1450 | 152 | 76 | 2 82 |
| F Bassett | N 20 " " 80 ft of E 6 1/2 | " | " | " | 1550 | 152 | 76 | 2 82 |
| C Steigwald | N 20 ft of S 100 ft of E 6 1/2 | " | " | " | 1700 | 152 | 76 | 2 82 |
| J High first | E 1/2 of N 80 ft | " | " | " | 4450 | 611 | 04 | 10 99 |
| | S 9 ft of N 89 ft of E 3 1/4 | " | " | " | 550 | 68 | 74 | 1 23 |
| W F Turner | | 5 | " | " | 12500 | 1524 | 66 | 27 61 |
| H Miller | | 748 | 144 | 95 | 7000 | 42200 | | 7 59 |
| J P Clarkson apt | | 9 | " | " | 1500 | 184 | 44 | 3 31 |
| " | | 10 | " | " | 1300 | 152 | 76 | 2 74 |
| W H Bradley | | 11 | " | " | 1200 | 152 | 76 | 2 74 |
| " | | 12 | " | " | 1300 | 176 | 81 | 3 17 |
| John Green | | 6 | 748 | " | 1500 | 152 | 76 | 2 74 |
| W Valente | | 7 | " | " | 1600 | 154 | 14 | 2 77 |
| E Burton | | 11 | " | " | 1500 | 152 | 76 | 2 74 |
| J N Staples | | 12 | " | " | 1500 | 152 | 76 | 2 74 |
| C J H Miller | | 13 | " | " | 1650 | 21500 | | 3 87 |
| Knight Ward | | 1 | 1 | 96 | 3200 | 829 | 43 | 14 93 |
| L G Sinclair | | 5 | " | " | 1600 | 179 | 34 | 3 18 |
| Jos Spright | | 6 | " | " | 1400 | 147 | 66 | 2 65 |
| Mary Lebor | | 7 | " | " | 1400 | 147 | 66 | 2 65 |
| Wm Sporlein | | 8 | " | " | 1500 | 204 | 44 | 3 67 |
| J Bassett | N 35 ft | 8 | " | " | 3200 | 290 | 08 | 5 22 |

(10)

| | | | | | | | | |
|-------------|-------------------|----|-------|------|------|----|----|----|
| 6 Kaly | 20ft Stay N 25 ft | " | " | 1400 | 147 | 66 | 2 | 65 |
| L Hettig | 24" " " " 105 " | " | " | 1500 | 105 | 50 | 1 | 89 |
| J H Foster | 24" " " " 129 " | " | " | 1400 | 177 | 19 | 3 | 19 |
| Jew Church | S 210 ft | " | " | 3500 | 354 | 72 | 6 | 48 |
| E McCannell | | 6 | 97 | 5600 | 117 | 46 | 2 | 11 |
| " | | 7 | " | 3200 | 117 | 46 | 2 | 11 |
| J Taylor | | 8 | " | 3000 | 117 | 46 | 2 | 11 |
| J C Loomis | | 9 | " | 3100 | 117 | 46 | 2 | 11 |
| J Corbridge | | 1 | 10411 | " | 1200 | 46 | 98 | 84 |
| J C Loomis | | 2 | " | " | 1200 | 46 | 98 | 84 |
| J Corbridge | | 3 | " | " | 1200 | 46 | 98 | 84 |
| " | | 4 | " | " | 1200 | 46 | 98 | 84 |
| " | | 5 | " | " | 1300 | 46 | 98 | 84 |
| M O Walker | | 17 | 98 | 2200 | 108 | 22 | 1 | 94 |
| " | | 18 | " | 2000 | 108 | 22 | 1 | 94 |
| " | | 19 | " | 2100 | 108 | 22 | 1 | 94 |
| " | | 20 | " | 2200 | 108 | 22 | 1 | 94 |
| J H Foster | | 21 | " | 2200 | 108 | 22 | 1 | 94 |
| Evans | S 20 ft | 22 | " | 1000 | 48 | 30 | 8 | 1 |
| L Kline | N. 23 ft | " | " | 1100 | 49 | 80 | 8 | 8 |
| C C Henson | | 23 | " | 2000 | 108 | 22 | 1 | 94 |
| P Shaw | | 24 | " | 4000 | 108 | 22 | 1 | 94 |

And thereupon afterwards to wit. on
the tenth day of February in the year
of our Lord one thousand Eight hundred
and sixty three. the same being
one of the days of the February Term
of the said Superior Court of Chicago.
the following among other proceedings
was had and entered of record to wit.

(12)

Warrant, No. 860 S.

State of Illinois }
City of Chicago }
County of Cook } p.

Superior Court of Chicago
February Term A D 1863

To the Honorable John M. Wilson
Grant Goodrich and Van Higgins Judges
of the Superior Court of Chicago...

The report of Frederick M. King City Collector
of the City of Chicago, in said County of
Cook, respectfully represents, that a special
warrant, in due form of law, issued
for the collection of a special assessment
duly made for curbing filling and
paving with Nicholson pavement Wells
street from Madison street to the North
line of Adams street and Macadamizing
Wells street from the North line of
Adams street to the roadway of Van
Buren street, and signed by the Mayor
and Clerk of said City of Chicago and
countersigned by the City Comptroller
with the corporate seal of said City
thereto attached, which said warrant
is known and designated as Number
860 South and dated the fourth day
of October, A D 1862. ~~But on the~~
was delivered to him the said City Collector before
the second Tuesday of October A D 1862. ~~But on the~~

(13)

tenth day of October A.D. 1862.

That forthwith after the delivery of the said warrant to him, he published in the Chicago Times, the corporation newspaper of said City, a notice that he had received said warrant for collection, describing the same by number and date, and time when received, 'the amount to be collected, the purpose for which collected, and the property assessed, by general description, and requesting all persons forthwith to make payment thereof at his office, and that in default of such payment, the said assessment would be collected at the cost and expense of the persons liable for the payment thereof; which said notice was published in said corporation newspaper for ten days, the first publication thereof being on the tenth day of October A.D. 1862, a copy of which said notice, together with a certificate of the due publication thereof from the publisher of said Corporation newspaper, is filed with this report and referred to for a more full and particular description of the contents thereof

(14)

22
(14)

That he has given ten days notice before the first day of the February Term A.D. 1863 of this Court, by publication in the said Corporation newspaper, of his intention to apply to said Court on the first day of the said February Term A.D. 1863, for judgment against the lands, lots and parcels of land specified in said warrant, for the amount of the assessment, interest, damages and costs, respectively due thereon; in which said notice he briefly specified the nature of said warrant and requested all persons interested therein to attend at said term; - a copy of which said notice is herewith filed, together with a certificate of the due publication thereof from the publisher of said Corporation newspaper, and the same are hereby referred to for a more full and particular description.

That the annexed Schedule is a correct list of the lands, lots and parcels of land specified in said warrant, which the assessments are not paid; and that the amounts of the assessment, interest, damages and costs, due

on the said lands, lots and parcels of land respectively are therein correctly stated and set forth. Wherefore your said petitioners pray that judgment may be rendered according to the form of the statute in such case made and provided.

F. Mehring
City Collector

State of Illinois }
County of Cook } ss.

I Frederick Mehring City Collector, in and for the City of Chicago, do solemnly swear, that the foregoing report by me made is true according to the best of my knowledge and belief, and the annexed Schedule is a true and correct list of the delinquent lands, lots and parcels of land specified in the special warrant mentioned in said report, upon which I have been unable to collect the assessment as required by law, and that the amounts due upon the said lands, lots and parcels of land are therein correctly set forth.

F. Mehring
Subscribed and Sworn to } City Collector
before me this 2^d day of February A.D. 1863)
W. B. Carter Clerk

(16)

Certificate of Publication.

This certifies that the appended collector's notice has been published in the Chicago Times the corporation newspaper of the City of Chicago County of Cook, and State of Illinois ten days consecutively commencing with October 10th 1892 Chicago, January 31, 1893.

Stoney & Warden
Publishers.

CITY COLLECTOR'S NOTICE.
 CITY COLLECTOR'S OFFICE,
 CHICAGO, ILL., Oct. 9, 1892.

Public notice is hereby given that the following warrants for special assessments are now in my hands for collection, to-wit:

WARRANT NO. 559 SOUTH, dated Oct. 4th, 1892, and received Oct. 9, 1892, for the sum of fourteen thousand six hundred dollars (\$14,600), assessed on lots and lands, of which the following is a general description: Whiting lots three (3), four (4), five (5), and six (6), in the original town of Chicago, South Division. All of the sub-lots, pieces and parcels of land within the boundaries of the lots numbered three (3), four (4), five (5), and six (6), in each of blocks sixteen (16), thirty-six (36), thirty-seven (37), and fifty-eight (58), in the original town of Chicago. All the sub-lots, pieces, and parcels of land within the boundaries of lots numbered one (1), two (2), seven (7), and eight (8), in each of blocks seventeen (17), thirty-five (35), thirty-eight (38), and fifty-seven (57), in the original town of Chicago.

Lots two (2) to seven (7) inclusive in block one hundred nineteen (119), lots two (2) to four (4) inclusive in block one hundred twenty (120), lots one (1) to three (3) inclusive in block one hundred forty-one (141) and lots one (1) to thirty (30) inclusive in block one hundred forty-two (142) in School Section Addition to Chicago; for the widening of Dearborn street in said city from the south line of Madison street to the center of block one hundred and nineteen (119) of School Section Addition to Chicago to the width of eighty feet.

WARRANT NO. 560 SOUTH, dated Oct. 4, 1892, and received Oct. 9, 1892, for the sum of seventeen thousand six hundred eighty-six dollars and four cents (\$17,686.14), assessed on lots and lands, of which the following is a general description: All of the sub-lots, pieces, or parcels of land that front, bound, or abut on Wells street, between Madison street and Van Buren street, and situate in blocks 91, 92, 93, 94, 95, 96, 97, and 98, of School Section Addition to Chicago, for widening said street, with Nicholson pavement, Wells street from Madison street to the north line of Adams street, and the widening of Wells street from the north line of Adams street to the east line of Van Buren street.

All persons interested are requested to make payment forthwith at the City Court-house, Room No. 14. In case of a default in such payments, the said assessments will be collected at the cost and expense of the persons liable for the payment thereof.

FREDERICK MERRING,
 City Collector.

oct92:104

Certificate of publication.

This certifies, that the appended notice of the City Collector has been published in the Chicago Times the Corporation Newspaper of the City of Chicago, County of Cook and State of Illinois, ten days consecutively commencing with January 15th 1863 Chicago January 11. 1863

Stacey & Woodson
Publishers

TAX COLLECTOR'S NOTICE.
 State of Illinois, Cook County, Ill.
 City Collector's Office,
 CHICAGO, January 14th, 1863.

Public notice is hereby given that on the first Monday in February, being the second day of February, 1863, at a regular term of the Superior Court of Chicago, to be begun and holden at the Court House in said city of Chicago, on the last aforesaid day, I shall report to said Superior Court of Chicago all the lands and parcels of lands on which the taxes and assessments, charged in the Collector's warrants hereinafter more particularly described, have not been collected or paid, for judgment against said lands, lots and parcels of land for the amount of taxes, assessments, damages, and costs respectively due thereon, to-wit:

The warrant for the collection of taxes for general and special purposes, assessed by said city for the municipal year 1862, said warrant being dated the fourth day of October, 1862.

SPECIAL WARRANTS.

WARRANT NO. 356, SOUTH, dated the 2d day of May, 1862, for curbing, filling, grading, and macadamizing Market street from Madison street to Van Buren street.

WARRANT NO. 357, SOUTH, dated the 3d day of June, 1862, for repairing Clark street from Lake street to the Chicago River.

WARRANT NO. 358, SOUTH, dated the 8th day of August, 1862, for paving South Water street from Franklin street to Lake street.

WARRANT NO. 359, SOUTH, dated the 4th day of October, 1862, for the widening of Dearborn street from Madison street to the corner of block 11th, School Section Addition to Chicago.

WARRANT NO. 360, SOUTH, dated the 4th day of October, 1862, for curbing, filling, and paving with Nicholson pavement Wells street from Madison street to Adams street, and macadamizing Wells street from Adams street to Van Buren street.

WARRANT NO. 361, SOUTH, dated the 4th day of October, 1862, for filling and paving Lake street from State street to Lake Street Bridge.

WARRANT NO. 362, SOUTH, dated the 4th day of October, 1862, for filling, walling, curbing, and paving Oak street from Madison street to Twelfth street.

WARRANT NO. 363, SOUTH, dated the 4th day of October, 1862, for grading, curbing, and paving River street and a part of South Water street.

WARRANT NO. 364, SOUTH, dated the 4th day of October, 1862, for walling, filling, and paving Clark street from Madison street to Polk street.

WARRANT NO. 365, SOUTH, dated the 4th day of October, 1862, for macadamizing Old street from State street to Canal street.

WARRANT NO. 366, SOUTH, dated the 4th day of October, 1862, for filling, walling, and paving Wells street from Randolph street to Madison street.

WARRANT NO. 367, SOUTH, dated the 4th day of October, 1862, for filling, walling, and graveling Market street from Washington street to Madison street.

WARRANT NO. 368, SOUTH, dated the 4th day of October, 1862, for grading, curbing, and graveling State street from Twelfth street to the Archer road.

WARRANT NO. 369, SOUTH, dated the 4th day of October, 1862, for grading South street from State street to the Archer road.

All persons interested are requested to attend at the second term of said Superior Court of Chicago, to-wit: FRANKLIN WERRING, City Collector.

N. B. Property owners wishing to save costs in the court should pay their taxes immediately to the City Collector, No. 14, Court House. Jan 14 1863.

(18)

The City of Chicago vs C Walker & others } Suit for assessment on warrant
 for curbing, filling and paving with
 Nicholson pavement Wells Street
 from Madison street to the North
 line of Adams street and Mandaminjig Wells
 street from the North line of Adams street to the
 roadway of VanBuren street

| Names | Part of Lot or Land | Sub Lot | Lot | Block | valuation | | Suit of assessment | | Damages | | Costs | | Suit of judgment | | Remarks |
|------------------------------------|---------------------|---------|-----|-------|-----------|-------|--------------------|-------|---------|-------|---------|-------|------------------|-------|---------|
| | | | | | Dollars | Cents | Dollars | Cents | Dollars | Cents | Dollars | Cents | Dollars | Cents | |
| School Section Addition to Chicago | | | | | | | | | | | | | | | |
| C Walker | | | 1 | 91 | 8 1/2 | 1400 | 53 | 39 | 95 | 54 | 34 | | | | |
| " | | | 2 | " | | 1100 | 53 | 39 | 95 | 54 | 34 | | | | |
| " | | | 3 | " | | 1300 | 53 | 39 | 95 | 54 | 34 | | | | |
| " | N 1/2 | | 4 | " | | 600 | 26 | 69 | 47 | 27 | 16 | | | | |
| Chs Walker | | | 8 | " | | 1200 | 53 | 39 | 95 | 54 | 34 | | | | |
| " | | | 9 | " | | 1200 | 53 | 39 | 95 | 54 | 34 | | | | |
| " | | | 10 | " | | 1200 | 53 | 39 | 95 | 54 | 34 | | | | |
| " | | | 11 | " | | 1200 | 53 | 39 | 95 | 54 | 34 | | | | |
| " | | | 12 | " | | 1200 | 53 | 39 | 95 | 54 | 34 | | | | |
| " | N 1/2 | | 13 | " | | 600 | 26 | 69 | 47 | 27 | 16 | | | | |
| Captain & Cousins | S 1/2 | | " | " | | 600 | 26 | 70 | 47 | 27 | 17 | | | | |
| " | | | 14 | " | | 1200 | 53 | 39 | 95 | 54 | 34 | | | | |
| " | | | 15 | " | | 1200 | 53 | 39 | 95 | 54 | 34 | | | | |
| " | | | 16 | " | | 1600 | 49 | 79 | 89 | 50 | 68 | | | | |
| Agden & Co | | | 92 | | | 14000 | 704 | 75 | 12 | 65 | 717 | 40 | | | |

| | | | | | | | | | | |
|------------------|-------------------------------|-----|-----|----|-------|---------|----|----|-----|----|
| R A Williams | | 1 | 4 | 93 | 2200 | 243.97 | 4 | 37 | 248 | 34 |
| " | | 2 | " | " | 1800 | 162.43 | 2 | 91 | 165 | 34 |
| " | | 3 | " | " | 1700 | 162.43 | 2 | 91 | 165 | 34 |
| " | | 4 | " | " | 1700 | 162.43 | 2 | 91 | 165 | 34 |
| " | | 5 | " | " | 1000 | 162.43 | 2 | 91 | 165 | 34 |
| " | | 6 | " | " | 900 | 147.66 | 2 | 65 | 150 | 31 |
| " | | 7 | " | " | 900 | 147.66 | 2 | 65 | 150 | 31 |
| " | | 8 | " | " | 1400 | 147.66 | 2 | 65 | 150 | 31 |
| " | | 9 | " | " | 1100 | 187.53 | 3 | 37 | 190 | 90 |
| J Wright | | 5 | " | " | 9000 | 1521.23 | 17 | 37 | | |
| | S 20 ft | 4 | 94 | | 1450 | 184.44 | 3 | 31 | 187 | 75 |
| Rugent | N. 20 ft of S 40 ft | " | " | " | 1550 | 152.76 | 2 | 82 | 155 | 58 |
| H J Dickey | N. 20 ft " " 60 ft | " | " | " | 1450 | 152.76 | 2 | 82 | 155 | 58 |
| F Bassett | N. 20 " " " 80 ft of E 6 1/2 | " | " | " | 1550 | 152.76 | 2 | 82 | 155 | 58 |
| C Steigwald | N. 20 of S 100 ft of E. 6 1/2 | " | " | " | 1700 | 152.76 | 2 | 82 | 155 | 58 |
| J High four | E 1/2 of N. 80 ft | " | " | " | 4450 | 611.04 | 10 | 99 | 622 | 03 |
| | S. 9 ft of N. 89 ft of E 3/4 | " | " | " | 550 | 68.74 | 1 | 23 | 69 | 97 |
| W F Turner | | 5 | " | " | 12500 | 1534.66 | 27 | 61 | | |
| H Miller | | 748 | 142 | 95 | 7000 | 422.00 | 7 | 59 | 429 | 59 |
| J P Clarkson apt | | 9 | " | " | 1500 | 184.44 | 3 | 31 | | |
| " | | 10 | " | " | 1300 | 152.76 | 2 | 74 | | |
| W H Bradley | | 11 | " | " | 1200 | 152.76 | 2 | 74 | 155 | 50 |
| " | | 12 | " | " | 1300 | 176.81 | 3 | 17 | 179 | 98 |
| John Green | | 6 | 748 | " | 1500 | 152.76 | 2 | 74 | 155 | 50 |
| W Valente | | 7 | " | " | 1600 | 154.14 | 2 | 77 | 156 | 91 |
| E Burton | | 11 | " | " | 1500 | 152.76 | 2 | 74 | 155 | 50 |
| J N Staples | | 12 | " | " | 1500 | 152.76 | 2 | 74 | 155 | 50 |
| C J Hillier | | 13 | " | " | 1650 | 215.00 | 3 | 87 | 218 | 87 |

(72)

| | | | | | | | | | | | |
|---------------|-----------------------|----|-----|----|------|-----|----|----|----|-----|----|
| Knight Howard | | 1 | 1 | 96 | 3200 | 829 | 43 | 14 | 93 | 844 | 36 |
| L G Sinclair | | 5 | " | " | 1600 | 179 | 34 | 3 | 18 | 182 | 52 |
| Jed Spright | | 6 | " | " | 1400 | 147 | 66 | 2 | 65 | 150 | 31 |
| Mary Lebor | | 7 | " | " | 1400 | 147 | 66 | 2 | 65 | 150 | 31 |
| Wm Sporkin | | 8 | " | " | 1500 | 204 | 44 | 3 | 67 | 208 | 11 |
| J Bassett | N 35 ft | 8 | " | " | 3200 | 290 | 08 | 5 | 22 | 295 | 30 |
| W Holz | 20 ft S 35 ft N 35 ft | " | " | " | 1400 | 147 | 66 | 2 | 65 | 150 | 31 |
| L Ketting | 24 " " " " 105 " | " | " | " | 1500 | 105 | 50 | 1 | 89 | 107 | 39 |
| J H Foster | 24 " " " " 129 " | " | " | " | 1400 | 177 | 19 | 3 | 19 | 180 | 38 |
| Jew Church | S. 40 ft | " | " | " | 3500 | 354 | 72 | 6 | 48 | | |
| E McConnell | | 6 | 97 | | 5600 | 117 | 46 | 2 | 11 | | |
| " | | 7 | " | | 3200 | 117 | 46 | 2 | 11 | | |
| J Taylor | | 8 | " | | 3000 | 117 | 46 | 2 | 11 | 119 | 57 |
| J C Lewis | | 9 | " | | 3100 | 117 | 46 | 2 | 11 | 119 | 57 |
| J Kerbridge | | 1 | 104 | 11 | 1200 | 46 | 98 | | 84 | 47 | 82 |
| J C Lewis | | 2 | " | " | 1200 | 46 | 98 | | 84 | 47 | 82 |
| J Kerbridge | | 3 | " | " | 1200 | 46 | 98 | | 84 | 47 | 82 |
| " | | 4 | " | " | 1200 | 46 | 98 | | 84 | 47 | 82 |
| " | | 5 | " | " | 1300 | 46 | 98 | | 84 | 47 | 82 |
| M O Walker | | 17 | 98 | | 2200 | 108 | 22 | 1 | 94 | 110 | 16 |
| " | | 18 | " | | 2000 | 108 | 22 | 1 | 94 | 110 | 16 |
| " | | 19 | " | | 2100 | 108 | 22 | 1 | 94 | 110 | 16 |
| " | | 20 | " | | 2200 | 108 | 22 | 1 | 94 | 110 | 16 |
| J H Foster | | 21 | " | | 2200 | 108 | 22 | 1 | 94 | 110 | 16 |
| Evans | S 20 ft | 22 | " | | 1000 | 43 | 30 | | 81 | 44 | 11 |
| L Klive | N 20 ft | " | " | | 1100 | 49 | 80 | | 88 | 50 | 68 |
| C C Hudson | | 23 | " | | 2000 | 108 | 22 | 1 | 94 | 110 | 16 |
| P Shaw | | 24 | " | | 4000 | 108 | 22 | 1 | 94 | 110 | 16 |

State of Illinois }
Cook County }
City of Chicago }.

Whereas Frederick Mehnig City Collector of the said City of Chicago, reported to the Superior Court of Chicago in said County of Cook on the second day of February AD 1863. the foregoing lots, sub lots, pieces or parcels of land as having been assessed by the Commissioners of the Board of Public Works of the said City of Chicago for benefits resulting from the special improvements in said City as mentioned; and a special warrant in due form of law having been duly issued by the said City of Chicago for the collection of the sums of money so assessed upon and due from the said several lots sublots, pieces or parcels of land respectively and that the several sums of money so assessed remain due and unpaid on the day of the date of said Collector's report and that he has been unable to collect the same or any part thereof as required by law on the lots, pieces or parcels of land hereinbefore described -

And now on this tenth day of February

(22)

A.D. Eighteen hundred and sixty three comes the said City of Chicago by George A. Meek City attorney and due notice of the intended application for a judgment against said lands in said report described having been given, and objections to taking of judgment being filed by Edward McCoull as the owner of lots six and seven (6 & 7) in Block Ninety seven (97), by William F. Turner as owner of lot five (5) in Block Ninety four (94), Timothy Wright as owner of lot five (5) in Block Ninety three (93), by Estate of Peter Sauers owner of sub Lots (9) nine and ten (10) in lots (1 & 2) block ninety five (95) and by the Free Church as owner of South 40 feet of Lot Eight (8) Block Ninety six (96) all in the School section addition to Chicago, and mentioned and described in said report, and counsel being heard on said objections and the Court being fully advised of and concerning said objections, it is considered and ordered by the Court, that the objections to taking of judgment against the several lots in said objections set forth, as aforesaid, be and the same are hereby sustained and judgment on the several lots lands

pieces of land, and other real estate in said objections set forth, and hereinbefore described, for assessments thereon he and is hereby refused, at costs of said City of Chicago, and no other owner or owners, of the remaining lots, pieces or parcels of land and other real estate in said report, not objected to, as aforesaid and to which objections have not been filed having appeared, and made any good legal or sufficient defence, or shown any legal or proper cause, why judgment against such remaining lots, pieces or parcels of land, not objected to and to which objections are not filed, should not be entered for the sums of money assessed against them respectively as aforesaid.

Therefore it is considered by the Court, that judgment in the name of the City of Chicago, he and is hereby entered against all the remaining lots, pieces or parcels of land and other real estate in the said report described to which objections have not been filed as aforesaid for the sums of money annexed to each lot, subplot, piece or parcel of land in said Collector's report

or return described respectively and for the amount of damages prescribed by law. Court damages at the rate of one per centum per month upon the said several sums aforesaid to be computed from the tenth day of December AD 1862 to the date of said judgment and costs, which said several sums are extended and particularly specified in the foregoing list of said delinquent real Estate.

And it is further ordered by the Court, that the said remaining Lots Sublots. pieces or parcels of land and other real estate, in said report described to which objections have not been filed, or so much thereof as shall be sufficient of each of them to satisfy the amount of the assessment assessed to them severally, and also other damages respectively due thereon as aforesaid be sold as the law directs.

John M. Wilson }
 Grant Goodrich } Judges of
 the Superior
 Court of
 Chicago

And afterwards writ on the nineteenth
of March in the year aforesaid. The
said Act of Chicago by George A. Meek
its attorney filed in the office of the
Clerk of the said Court its certain
bill of Exceptions in the words
and figures following writ:

State of Illinois }
 County of Cook } ss.

Superior Court of Chicago
 February Term, 1863.

City of Chicago

Matthew Wright
 William F Turner
 Estate of Peter Sauerwein
 The Jew Church &
 Edward McCannell }

Suit for assessment
 on warrant for curbing, filling and
 paving with Nicholson pavement Wells
 street from Madison street to the North
 line of Adams street, and macadamizing
 Wells street from the North line of
 Adams street to the roadway of Van
 Buren street.

Bill of Exceptions.

Be it remembered that on the filing
 of the City Collector's report for judgment
 in this cause, in the Superior Court
 of Chicago, on the second day of
 February A.D. 1863, the following named
 persons owners respectively of the premises

described and set opposite their respective names. Deut.:

| School Section Addition to Chicago | | | | |
|------------------------------------|---------------------|---------|-------|-------|
| | Part of Lot or Land | Sub Lot | Lot | Block |
| Timothy Wright | | | 5 | 93 |
| William F Turner | | | 5 | 94 |
| Estate of Peter Saucovina | | 9 & 10 | 1 & 2 | 95 |
| The Sew Church | S 40 ft | | 8 | 96 |
| Edward McCannell | | | 6 & 7 | 97 |

made and filed the following objections and defenses to said application for judgment against the above described lots, pieces and parcels of land. Deut.:

First. Because the ordinances of the common council of the City of Chicago directing and ordering said public improvement was not made in pursuance of the 17th section of the Charter of said City and is therefore void -

Second. Because the board of public works of said City did not prior to passing said ordinance by the common council report as by law required a

plan or profile of said work with an estimate of the expense of doing the same, and therefore the order passed by said Common Council was and is a nullity.

Third - Because the ordinance directing the Board of Public works to make said improvement, orders the same to be done in accordance with plans and specifications to be furnished by said Board contrary to the Charter in such case made and provided.

Fourth - Because the assessment roll is defective in not showing damages as well as benefits to property owners as required by the 28th section of the act amendatory of the City Charter of February 18th 1861 and because no balance is struck and carried forward on said assessment as required by said section 28. and no sufficient assessment roll was ever filed with the City Clerk as required by section 20 of said act.

Fifth. Because said assessment was made upon lots fronting on said Wells street in proportion to the number of front feet instead of assessing upon property benefited by said improvement and according to the value of the property benefited contrary to the 46th section of said City Charter.

Sixth. Because said assessment roll is in other respects illegal, informal and insufficient

Seventh. Said improvement was not petitioned for by the owners of three fourths of the property so to be assessed nor was said improvement ordered by three fourths of all the aldermen elected

Eighth. Because no notice was given as required by section 26 of the act of the General Assembly of this State amendatory of the City Charter and because the said Commissioners did give notice that said Board of Public Works would apply to the

Common Council of said City for a confirmation of said assessment" at the next regular meeting to be holden on the 8th day of September next (meaning next after date of said notice, to wit August 29th 1862) and said assessment as appears by the proceedings of said Council was not confirmed on the said 8th of September, nor was any action taken in regard to said assessment, but said assessment was confirmed on the 22^d of September AD 1862 and no new notice was given of any application for confirmation of said assessment at that date, and because no meeting of said Council was had or held on said 8th day of September

Ninth. Because the ordinance of said City directing the said work (or improvement) to be done, was null and void and was not passed in conformity to the act amendatory of the City Charter of date February 16, 1857, section 2, and the action of said City Council

in the passing of the ordinance directing said improvement to be made and concerning said assessment and the confirmation thereof is without the authority of law.

Tenth. Because said assessment was not levied according to law.

Eleventh. Because the requisites for the recovery of judgment by said City have not been complied with.

And the said Edward McConnell further objects that his said lots are assessed for the paving of said street with Nicholson pavement from Adams to Madison street whereas the said lots should only have been assessed for their equal share of the cost of macadamizing said street in front of said lots.

Barker & Juley

attys for James McConnell

Harmer Perk attys for Wright

Clarkson & Jee attys for Estate of Peter Lawrence

And on the Trial of said cause at the February Term of this Court A.D. 1863. the said objectors to maintain the issue on their part and in support of their said objections. gave in evidence to the Court the following reports from the Board of Public Works to the Common Council with the accompanying ordinance and the certificates endorsed thereon.

REPORT AND ORDINANCE FOR IMPROVEMENT OF STREETS.

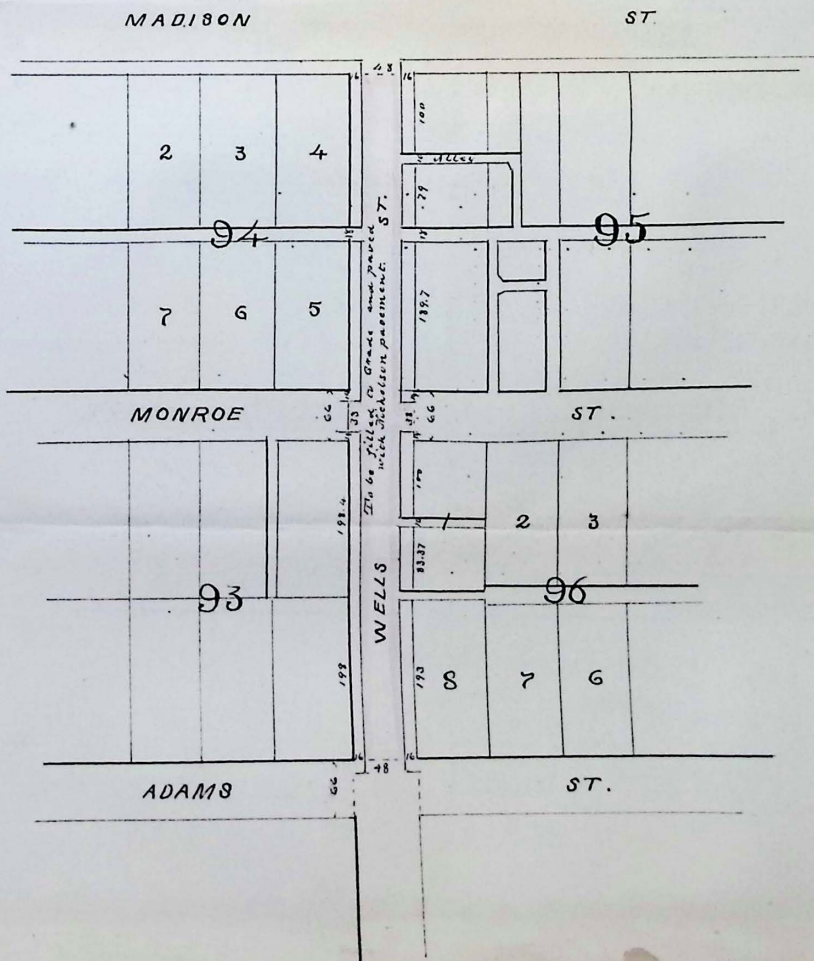
TO THE MAYOR AND ALDERMEN OF THE CITY OF CHICAGO, IN COMMON COUNCIL ASSEMBLED:

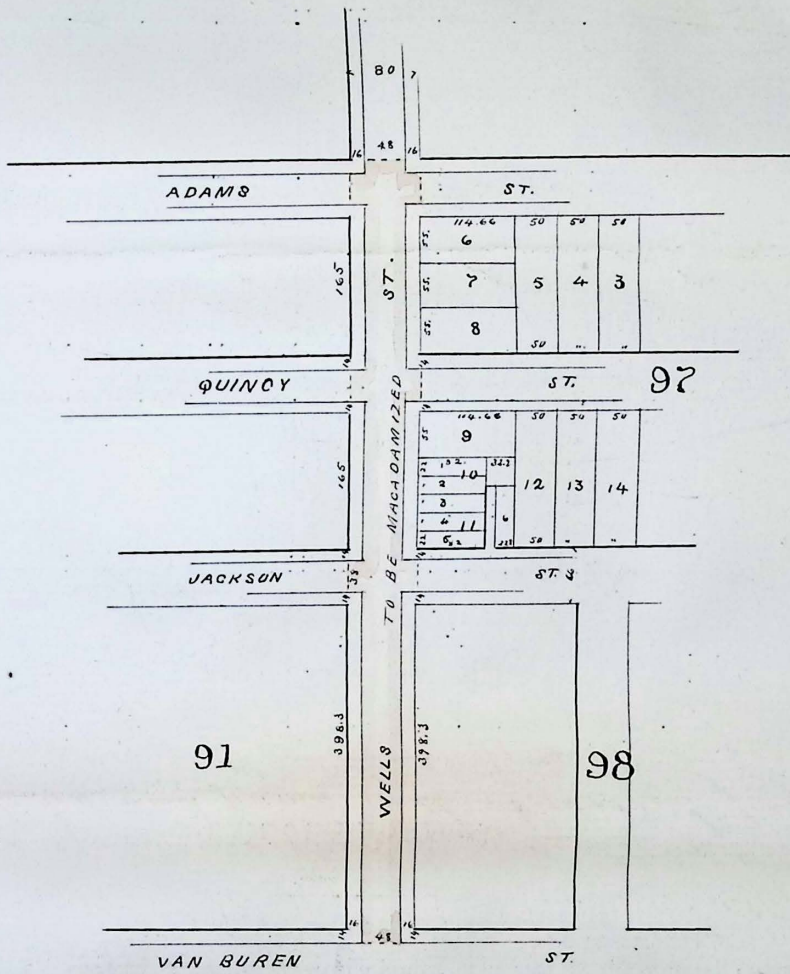
THE BOARD OF PUBLIC WORKS recommend to your honorable body the improvement of Wells street from Madison street to Van Buren street in the manner defined in the ordinance hereto annexed

The said improvement is not asked for by the petition of the owners of three-fourths of the property to be assessed for the doing of such work.

We herewith submit a plan or profile of the work to be done, together with an estimate of the expense for the doing of the same, accompanied with a proper ordinance for the ordering of such work.

PLAN OR PROFILE.





357
ESTIMATE.

| | | |
|-----------------------------------|---|--------------|
| Curb | | \$ 3,354.12 |
| Asse Walls, | | \$ 2,645.64 |
| Filling and Grading, | | \$ 7,245.64 |
| Paving with Nicholson pavement | } | \$ 4,299.39 |
| (Madison to Adams) | | \$ 7,245.64 |
| Macadamizing (Adams to Van Buren) | | \$ 4,299.39 |
| Engineering and Superintendenc, | | \$ |
| Advertising, | | \$ |
| Sundry Costs and Expenses, | | \$ 200.00 |
| Total Estimate of Expense, | | \$ 17,753.79 |

ORDINANCE.

BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF CHICAGO:

SECTION 1. That Wells street from Madison street to the North line of Adams street be and is hereby ordered curbed, filled, and paved with Nicholson pavement; ~~be and is hereby ordered~~ and that said Wells street from the North line of Adams street to the roadway of Van Buren street be and is hereby ordered graveled and macadamized

Said work to be done under the superintendence of the Board of Public Works, and in accordance with the plan or profile hereto annexed, and at an expense named in their estimate for the same.

Respectfully submitted.

B. Carpenter
Fred. Letz
J. G. Gindels

} Board of Public Works of the City of Chicago

Secretary

CHICAGO, July 28th 1867.

REPORT AND ORDINANCE

For

.....

.....

.....

Ordinance passed

July 28th 1862.

A. J. Maule
Clerk

Presented to the Mayor for
his approval July 31. 1862

A. J. Maule Clerk

Approved July 31. 1862

F. C. Sherman

Mayor

Evidence was then introduced showing; that at a regular meeting of the Common Council held on the 2nd day of June. 1862. a previous report and recommendation, accompanied by an ordinance for that purpose, from the Board of Public Works, for the improvement of Wells street from the roadway of Madison street to the roadway of VanBuren street by graveling the same with folist gravel, was presented to said Common Council, and by them referred to the Standing Committee on Streets and alleys of the South Division; that at a subsequent regular meeting of the Common Council, held on the 28th of July 1862. the report from the Board of Public Works first above cited, with the ordinance annexed thereto, was presented; and the Committee on Streets and alleys of the South Division, to whom the previous report and ordinance from the board of public works for the improvement of Wells street had been referred, at the same meeting made a report as follows:

"To the Mayor and Aldermen of the City of Chicago, in Common Council

assembled:

Your committee on streets and alleys of S. D. Dechano was referred by the Board an ordinance for the improvement of Wells street from Madison to Van Buren streets. having had the same under advisement, we have to report that we have carefully examined the subject and are decidedly of opinion that the improvement is much needed and the best interest of the city demands that the work be done without delay. Therefore your committee report in favor of the passage of the ordinance

Wm Baragwanath } Committee
 J A Baker } of Sts & Alleys
 John J. Edwards } South Division

The record of the proceedings of the common Council at said meeting held on the said 28th day of July, 1862, so far as the same related to the report of said Committee and the passage of the ordinance for the improvement in question was then given in Evidence of which the

following is a correct transcript.
to wit:

"The Committee on Streets and alleys, S. D. Deane was referred report and ordinance for improving South Wells street, reported in favor of the passage of the ordinance as follows:

Be it ordained by the Common Council of the City of Chicago:

Section 1. That wells street from Madison street to the North line of Adams street, be and is hereby ordered curbed filled and paved with Nicholson pavement, and that said Wells street from the North line of Adams street to the roadway of Van Buren street, be and is hereby ordered, graded and macadamized, said work to be done under the superintendence of the Board of Public Works, and in accordance with the plan or profile hereto annexed, and at an expense named in their estimate for the same.

The report was accepted and the ordinance passed by the following vote:

Ayes: Aldermen Batsford, Edwards

Mayr. Titsworth. Hahn. Baragwanath
 Schall. Halden. Salomon. Brown
 Hawey. Coulau. White. Woodman.
 Shufeldt and Sheridan.
No - Alderman "Canniskey"

Evidence was then introduced showing that said ordinance was presented to the Mayor for his approval July 31st 1862, and that it was approved by him on the same day.

The said objectors then introduced in evidence the assessment roll and accompanying certificates, which are as follows. To wit:

IN THE MATTER OF

In Common Council, the 186

ASSESSMENT ROLL

FOR

Levying, Filling and Paving with Nicholson
 Pavement, Wells street from Madison street
 to the North line of Adams street, and
 macadamizing Wells street from the North
 line of Adams street to the roadway of
 Van Buren street

42
School Section Addition to Chicago

| Name of Owner. | Part of Lot or Land. | Sub-Lot. | Lot. | Block. | Assessment Of Benefits. | |
|----------------|----------------------|----------|------|--------|-------------------------|-----------------|
| | | | | | Valuation. Dollars. | Dollars. Cents. |
| C Walker | | | 1 | 8 1/2 | 1400 | 53 39 |
| " | | | 2 | " | 1300 | 53 39 |
| " | | | 3 | " | 1300 | 53 39 |
| " | N 1/2 | | 4 | " | 680 | 26 69 |
| W H Brown | S 1/2 | | " | " | 680 | 26 70 |
| " | | | 5 | " | 1300 | 53 39 |
| " | | | 6 | " | 1200 | 53 39 |
| " | | | 7 | " | 1200 | 53 39 |
| Chas Walker | | | 8 | " | 1200 | 53 39 |
| " | | | 9 | " | 1200 | 53 39 |
| " | | | 10 | " | 1200 | 53 39 |
| " | | | 11 | " | 1200 | 53 39 |
| " | | | 12 | " | 1200 | 53 39 |
| " | N 1/2 | | 13 | " | 600 | 26 69 |
| Lafine Hoar | S 1/2 | | " | " | 600 | 26 70 |
| " | | | 14 | " | 1200 | 53 39 |
| " | | | 15 | " | 1200 | 53 39 |
| " | | | 16 | " | 1600 | 49 79 |
| Agden Ho | | | | 92 | 4400 | 704 75 |
| R A Williams | | | 1 | 4 93 | 2200 | 243 47 |
| " | | | 2 | " " | 1800 | 162 43 |
| " | | | 3 | " " | 1700 | 162 43 |
| " | | | 4 | " " | 1700 | 162 43 |
| " | | | 5 | " " | 1000 | 162 43 |
| " | | | 6 | " " | 900 | 147 66 |
| " | | | 7 | " " | 900 | 147 66 |
| " | | | 8 | " " | 1400 | 147 66 |
| " | | | 9 | " " | 1100 | 187 50 |

School Section Additions to Chicago

| Name of Owner. | Part of Lot or Land. | Sub-Lot. | Lot. | Block. | Valuation. | | Assessment Of Benefits. | |
|------------------|-------------------------------------|----------|------|--------|------------|----------|----------------------------|--------|
| | | | | | Dollars. | Dollars. | Dollars. | Cents. |
| J Wright | | | 5 | 93 | 9000 | 1521 | 23 | |
| | S. 20 ft | | 4 | 94 | 1450 | 154 | 44 | |
| August | N 20 ft of S. 40 ft | | " | " | 1550 | 152 | 76 | |
| W J. Dickey | N 20 ft of S. 60 ft | | " | " | 1450 | 152 | 76 | |
| J. Bapett | N 20 ft of S. 80 ft of E. 6 1/2 ft | | " | " | 1550 | 152 | 76 | |
| C Stegenwald | N 20 ft of S. 100 ft of E. 6 1/2 ft | | " | " | 1700 | 152 | 76 | |
| J High Jr | E 1/2 of N 80 ft | | " | " | 4450 | 611 | 04 | |
| | S. 9 ft of N 89 ft of E 1/4 | | " | " | 550 | 68 | 74 | |
| W F Turner | | | 5 | " | 12500 | 1534 | 66 | |
| W Miller | | | 748 | 142 | 95 | 7000 | 422 | |
| J P Clarkson apt | | | 9 | " | " | 1500 | 154 | 44 |
| " | | | 10 | " | " | 1300 | 152 | 76 |
| W H Bradley | | | 11 | " | " | 1200 | 152 | 76 |
| " | | | 12 | " | " | 1300 | 176 | 81 |
| J Cole | | | 5 | 748 | " | 2700 | 250 | 35 |
| Jos Green | | | 6 | " | " | 1500 | 152 | 76 |
| W Walenta | | | 7 | " | " | 1600 | 154 | 14 |
| J. B King | | | 8 | " | " | 1200 | 152 | 76 |
| " | | | 9 | " | " | 1500 | 152 | 76 |
| J Roberg | | | 10 | " | " | 1500 | 152 | 76 |
| E Burton | | | 11 | " | " | 1500 | 152 | 76 |
| J N Staples | | | 12 | " | " | 1500 | 152 | 76 |
| C H J Miller | | | 13 | " | " | 1650 | 215 | |
| Knight & Ward | | | 1 | 1 | 96 | 3200 | 829 | 43 |
| L G Sinclair | | | 5 | " | " | 1600 | 179 | 34 |
| Jos Spright | | | 6 | " | " | 1400 | 147 | 66 |

44
School Section Additions to Chicago

| Name of Owner. | Part of Lot or Land. | Sub-Lot. | Lot. | Block. | Assessment Of Benefits. | | |
|----------------|-----------------------|----------|------|--------|-------------------------|----------|--------|
| | | | | | Valuation. Dollars. | Dollars. | Cents. |
| Mary Schor | | 7 | 1 | 96 | 1400 | 147 | 66 |
| W. Shorsin | | 8 | " | " | 1500 | 204 | 44 |
| Thos Bassett | N 55 ft | 8 | " | " | 3200 | 290 | 08 |
| C Koltz | 20 ft S. side N 55 ft | " | " | " | 1400 | 147 | 66 |
| A. F. Otto | 50 " " " " 55 " | " | " | " | 3200 | 260 | 15 |
| L. Kettig | 24 " " " " 105 " | " | " | " | 1500 | 105 | 50 |
| J. H. Foster | 24 " " " " 129 " | " | " | " | 1400 | 177 | 19 |
| Jew Church | S. 40 ft | " | " | " | 3500 | 254 | 72 |
| E. M. Cunnell | | 6 | 97 | | 5600 | 117 | 46 |
| " | | 7 | " | " | 3200 | 117 | 46 |
| J. Taylor | | 8 | " | " | 3000 | 117 | 46 |
| J. C. Louiss | | 9 | " | " | 3100 | 117 | 46 |
| J. Corbridge | | 1 | 104 | " | 1200 | 46 | 98 |
| J. Voice | | 2 | " | " | 1200 | 46 | 98 |
| J. Corbridge | | 3 | " | " | 1200 | 46 | 98 |
| " | | 4 | " | " | 1200 | 46 | 98 |
| " | | 5 | " | " | 1300 | 46 | 98 |
| M. O. Walker | | 17 | 98 | | 2200 | 108 | 22 |
| " | | 18 | " | " | 2000 | 108 | 22 |
| " | | 19 | " | " | 2100 | 108 | 22 |
| " | | 20 | " | " | 2200 | 108 | 22 |
| J. H. Foster | | 21 | " | " | 2200 | 108 | 22 |
| Evans | S. 20 ft | 22 | " | " | 1000 | 43 | 30 |
| L. Klein | N. 23 ft | " | " | " | 1100 | 49 | 80 |
| C. C. Newlow | | 23 | " | " | 2000 | 108 | 22 |
| P. Shaw | | 24 | " | " | 4000 | 108 | 22 |

| Name of Owner. | Part of Lot or Land. | Sub-Lot. | Lot. | Block. | Valuation. | Assessment Of Benefits. | | |
|-----------------|--|----------|------|--------|------------|-------------------------|----------------|----|
| | | | | | Dollars. | Dollars. | Cents. | |
| City of Chicago | Intersections of St. Valleys from S. line Mad ^{son} St. to N. line Adams St. | | | | | | 1792 | 75 |
| | Intersections of St. Valleys from N. line Adams St. to Van Buren St. | | | | | | 1238 | 62 |
| | | | | | | | <hr/> 17666 14 | |

Office of the Board of Public Works,

Chicago, August 26th 1862

THE BOARD OF PUBLIC WORKS of the City of Chicago hereby certifies that it has completed the assessment roll for the *curbing, filling and paving with Nicholson pavement Wells street from Madison street to the north line of Adams street, and widening Wells street from the north line of Adams street to the roadway of Van Buren Street.*

That before proceeding to make such assessment, the Commissioners of said Board, in accordance with law, published a notice of the time and place of their meeting, for the purpose of making said assessment, in the Corporation newspaper of the City of Chicago, for the period of six consecutive days previous to such meeting—a certificate of which publication is hereunto attached; that they were present *that they adjourned until the twenty sixth day of August, 1862, when they were present* at the time and place, and for the purpose designated in said notice, and having first fixed a valuation on the real estate described and set forth in the proper column of the foregoing Assessment Roll, did then and there, and do hereby assess the respective amounts set opposite to each lot or parcel of ground in the foregoing Assessment Roll mentioned in their appropriate columns, as the damages and benefits resulting to such lots or parcels of ground respectively, by reason of the doing of such work, and the making of such contemplated improvement, *and such assessment is made on each of said lots or parcels of land in proportion to the number of front feet of the same, bounding, abutting or fronting on said improvement.* All of which is respectfully submitted.

B. Carpenter

President of the Board of Public Works.

COMMISSIONERS' NOTICE.

OFFICE OF THE BOARD OF PUBLIC WORKS,
Chicago, August 26, 1862

Public notice is hereby given that the Common Council of the City of Chicago has ordered that Wells street, from Madison street to the north line of Adams street, be curbed, filled, and paved with Nicholson pavement, and that the said Wells street, from the north line of Adams street to the roadway of Van Buren street, be widened and macadamized, in conformity to specifications to be furnished by the Board of Public Works.

Now, therefore, notice is hereby given to all persons interested that the Commissioners of the Board of Public Works will meet at Room No. 11 in the Court House, in said city, on the fourteenth day of August, A. D. 1862, at the hour of 10 o'clock A. M. to make an assessment of the benefits and damages, cost, and expenses of the doing of such work, and the making of such contemplated improvement. The amount of said assessment will be \$117,219, as shown by us.

A general description of the premises to be assessed is: all of the lots, lots, pieces or parcels of land that front, bound, or abut on said Wells street, between Madison street and Van Buren street, and situate in Blocks 11, 12, 13, 14, 15, 16, 17 and 18 of Section 12, Township 36 North, Range 10 East, 3d E. of 3d N. of Chicago.

B. CARPENTER,
FRED LETZ,
J. G. BURNETT,
Commissioners of the Board of Public Works.

This Certifies, that the appended notice

Commissioners' Notice

has been published in the *Chicago Times* the Corporation newspaper of the City of Chicago, County of Cook, and State of Illinois, six days consecutively, commencing with *August 27th* 1862.

CHICAGO, *August 14th* 1862.*Storey & Woodson*

PUBLISHER.

STATE OF ILLINOIS, }
City of Chicago. } SS.

I do hereby certify that the foregoing Assessment Roll was returned to me and filed in my office by the Board of Public Works, this first day of September 1867.

A. J. Marble

City Clerk.

Certificate of Publication.

ASSESSMENT NOTICE.
OFFICE OF THE BOARD OF PUBLIC WORKS, }
CHICAGO, Sept. 2, 1867. }

Public notice is hereby given to all persons interested, that the Board of Public Works of the city of Chicago has made and completed the Assessment Roll for the curbing, filling, and paving, with Nicholson pavement, Wells street, from the north line of Adams street to Madison street, and macadamizing and graveling Wells street from the north line of Adams street to the roadway of Van Buren street, and a duplicate of such Assessment Roll has been filed in the office of the City Clerk. The Board of Public Works will apply to the Common Council of said city at its next regular meeting to be held on Monday, the 8th day of September, inst., at 7 1/2 o'clock, P. M. for a confirmation of such assessment, at which time all parties interested will have the right to be heard. All persons wishing to object to said assessment must file their objections to the same in writing in the office of the City Clerk, at least two days prior to such meeting of the Common Council.

B. CARPENTER,
FRED. LEtz,
J. G. GINDELE,
Commissioners of the Board of Public Works.

This Certifies, that the appended notice.....
assessment Notice

has been published in the Chicago Times the Corporation newspaper of the City of Chicago, County of Cook, and State of Illinois, six days consecutively, commencing with September 3rd 1867

CHICAGO, Sept 8th 1867.

Strey & Woodson PUBLISHER.

Application for Confirmation.

Chicago, September 8th 1867.

To the Mayor and Aldermen of the City of Chicago, in Common Council assembled:

The undersigned, Commissioners of the Board of Public Works of the City of Chicago, hereby apply to your honorable body for a confirmation of the foregoing Assessment Roll.

B. Carpenter
Fred. Letz
J. G. Gindele

Commissioners of the Board of Public Works.

Order of Confirmation.

In Common Council, Sept 12 1867.

WHEREAS, due notice has been given by the Commissioners of the Board of Public Works of their filing with the City Clerk the foregoing Assessment Roll, and whereas the said Commissioners have applied to the Common Council for confirmation of said Assessment, and no objections thereto having been made it is therefore ORDERED that the said Assessment, as revised _____ by the Common Council, be and the same is hereby CONFIRMED. It is further ordered, that a warrant be issued for the collection thereof.

PASSED:

A. J. Marble

City Clerk.

MEM.—Warrant issued Oct 4 1867

approved
F. C. Sherman Mayor

Andrew J. Marble was then sworn as a witness, and testified that he was and for more than a year past had been City Clerk of Chicago. - that as such Clerk he attended the meetings and kept a record of the proceedings of the Common Council.

The said record was then introduced showing the facts hereinbefore stated respecting the action of the Common Council in relation to said improvement.

The said Andrew J. Marble being further interrogated testified, that he was present at the meeting of the Common Council on the 28th of July, 1862, and that the ordinance for the improvement of Wells street (hereinbefore recited at length) was taken up, ^{and put upon at that meeting} by unanimous consent, no alderman objecting. That no record was made of this fact, and that it was not his custom to make any record of such a fact in any case - that the vote on the final passage of said ordinance was taken by "eyes and noses," as shown by the record, and the same was passed by a vote of


16 in the affirmative to one in the negative (The Evidence of said Marble as to action of said Council being by unanimous consent and that no Alderman objected, was objected to by counsel for objectors and objection overruled & defendants excepted). The said Marble further testified that the assessment roll in this case was filed in the City Clerk's office on the first day of September 1862 - that Monday September 8th 1862. at 7 1/2 o'clock P.M. was one of the appointed times for a regular meeting of the common Council. That a few aldermen attended said meeting, but no quorum was present and the Board adjourned without transacting any business. That Monday ensuing September 22nd 1862. was the appointed time for the next regular meeting - That a quorum was present at that meeting and the said assessment roll was then taken up and confirmed as shown by the record of proceedings, and the same was afterwards approved by the Mayor - That no objec-

otions to the said assessment were at any time filed by any party interested in his office - That a collection warrant for the collection of said assessment was issued in the usual form and manner on the 4th day of October, 1862, and placed in the hands of the City Collector.

It was admitted by both parties that a copy of the aforesaid assessment roll was filed in the office of the Board of Public Works, according to law; and that the foregoing evidence shows all of the proceedings of said Board of Public Works and of said Common Council touching the subject of said assessment -

The foregoing was all the evidence introduced in the case on either side; and it was then and there considered and ordered by the Court that the said objections to the taking of judgment against the several parcels of land in said objections set forth, be sustained, and judgment against the said several parcels of land was then and there refused -

Whereupon the said City of Chicago made its exception thereto and there to the said decision of said Court and the Counsel for the said City prayed that said Court would set their hands and seals to this bill of Exceptions, which is done accordingly.

Grant Goodrich 

And afterwards went on the Twentieth day of March in the year aforesaid the said parties filed in the office of the Clerk of the said Court their certain stipulation in the words and figures following, to wit:

State of Illinois }
 County of Cook } ss.

Superior Court of Chicago
 February Term AD 1863.

City of Chicago

vs
 Timothy Wright
 William F. Turner
 Estate of Peter Sauerwein
 The Jew Church &
 Edward McCannell

Suit for assess-
 ment on warrant for curbing
 filling and paving with Nicholson
 pavement Wells Street from Madison
 street to the North line of Adams
 street, and macadamizing Wells
 street from the North line of Adams
 street to the roadway of Van Buren
 street

The parties to the above suit hereby
 stipulate and agree as follows:
 That a writ of Error may be
 taken by the City of Chicago from
 the judgment rendered in favor of
 the objectors in this case to the

Supreme Court at the ensuing April Term of said Court. That all the defendants above named may be named defendants in said writ of Error as they are above described, and that no advantage shall be taken or objection interposed in consequence thereof. It is further agreed that said defendants shall appear and join in error at the said April Term of the Supreme Court, and that the judgment of said Supreme Court shall have the same force and effect as if the same were rendered on separate writs of error brought against the said defendants severally.

Service of the said writ of error upon the said defendants is hereby waived

Barker & Sulz. attys for E
 M'Connell & for the Jew
 Church and Williams & Turner
 and for Timothy Wright
 Clarkson & Lee attys for
 Sauerwein
 Hosmer & Beck attys for
 J. Wright.

State of Illinois }
County of Cook } p.

I Thomas B Carter
Clerk of the Superior Court of Chicago
within and for the County and State
aforesaid do hereby certify that the
foregoing is a full true and complete
transcript of the report and petition for
judgment, and the orders and judgment
entered of record in said Court thereon,
and the Bill of Exceptions and the
stipulation of the parties, in a
certain case wherein the City of Chicago
was plaintiff and E M Cornell,
Timothy Wright, William F. Turner,
the Estate of Peter Lawrence and the
Jew Church were defendants

In testimony whereof I have
hereunto set my hand and
affixed the seal of said
Court at Chicago in said
County, this Seventy sixth day
of March A.D. 1863

Thomas B. Carter

Clerk



Supreme Court of Illinois.
Third Grand Division.
April Term, A. D. 1863.

| | |
|---|--|
| The City of Chicago. | } Error to the Superior Court of Chicago. |
| v. | |
| Timothy Wright, | |
| William F. Turner, | |
| Estate of Peter Sauerwein The Jew Church, and Edward Mc Connell | |

And now comes the said plaintiff, the City of Chicago, by B. F. Ayer its attorney, and says that in the record and proceedings aforesaid, and also rendering the judgment aforesaid, there is manifest error. And it states among other grounds of error therein the following:

First. The Court erred in deciding to sustain the objections filed by the said defendants.

Second. The Court erred in refusing to render judgment against the said lots and parcels of land in said objections set forth.

Third. The judgment in favor of

The said defendants was contrary to the law and evidence, and should have been for the plaintiff.

Wherefore the said plaintiff prays that the said judgment may be reversed, annulled and held for nothing, and that it may be restored to all things it has lost by reason thereof.

B. F. Alger

Attorney for Plaintiff

in error -

And the said Timothy Wright, William F. Turner, Estate of Peter Saucerman, The Jew Church, and Edward Mc Cormell now come and say that there is no error, either in the record and proceedings aforesaid, or in giving the judgment aforesaid; and, therefore, they pray that the said judgment may be affirmed and that their costs may be adjudged to them, &c.

Clarkson & Coe
Attys for P. Saucerman

Barker & Tuley attys for
Turner - The Jew Church &
Edw'd M^c Cormel -
Hosmer & Coe Attys
for Tim. Wright

119 182
City of Chicago

v.

Timothy Wright et al.

Recd.

Filed April 21st 1863
L. Leland
Clerk