

*Law Department,
Office of the Counsel to the Corporation.
New York.* October 11, 1895.

B-H

Hon. William L. Strong,

Mayor.

S i r:-

I have to acknowledge a communication from Mess. William Moore, John Gallaher and John F. Moore referred to me by you for report, in which they state that Commissioners are about to be appointed in Webster Avenue; that such commissioners are very often impecunious politicians, anxious only for their salaries (\$10 per day) and needlessly prolong the proceedings for their personal gain to the loss and injury of the taxpayers, and, as representatives of the interested property holders, requesting that you limit the time for condemnation proceedings and fix a date for the filing of the report in such proceedings.

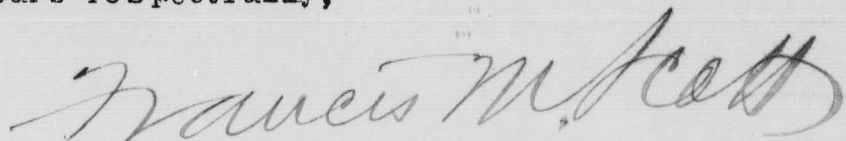
Neither the Mayor, nor the Board of Street Opening and Improvement has the power to limit the time to complete condemnation proceedings. The Board of Street Opening and Improvement decide what streets shall be opened and the subsequent steps in the proceeding are taken in Court, where all persons interested have a right to be heard.

The fees of Commissioners are six dollars for each meeting.

Section 974 of the Consolidation Act provides that the Commissioners shall complete their proceedings within six months from the time of their appointment, unless further time is allowed by the Supreme Court, and that if it should appear that the proceedings have been delayed by reason of their inattention or neglect the Court shall remove the commissioners and appoint others in their places.

The Commissioners appointed in the matter of opening Webster Avenue from the Mosholu Parkway to the Bronx River are the Hon. John DeWitt Warner, Hon. William H. McCarthy and Robert Kelley Prentice, Esq.

Yours respectfully,

A handwritten signature in cursive script, reading "Francis M. Scott". The signature is written in dark ink and is positioned above the typed name.

Counsel to the Corporation.

H. de F. B.

Communication.

— FROM —

COUNSEL TO THE CORPORATION.

62

DATED NEW YORK,

Oct. 11/95

*Law Department,
Office of the Counsel to the Corporation.*

R- O'R-

New York.

October 19th 1895

B. L. Burrows, Esq.,

Clerk to the Mayor.

S i r :-

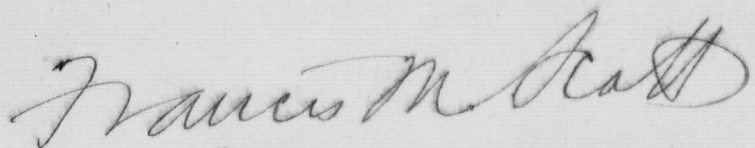
I have received your letter of 17th instant, enclosing by direction of the Mayor, resolution of the Board of Aldermen No. 881 for examination. Said resolution provides that permission be given to West & Lynch to keep their trucks on the sidewalk in front of their premises No. 618 and 622 Washington street, between 6 and 8 o'clock, A.M., and from 4 to 10 o'clock, P.M.

Subdivision 4 of Section 86 of the Consolidation Act provides that the Board of Aldermen "shall have no power to authorize the placing and continuing of any encroachment and obstruction upon said street and sidewalk, except the temporary occupation thereof during the erection or repair of a building on a lot opposite the same, but may authorize the temporary occupation of a portion of the street during the night time only, by trucks belonging to or habitually driven by actual residents of the city of New York. Such authorization may be given only by resolution approved by the Mayor, etc.,."

The resolution submitted to me is not authorized by the provisions of the Consolidation Act above quoted or otherwise. I therefore advise that such resolution is illegal.

I remain,

Yours respectfully,

A handwritten signature in cursive script, reading "Francis M. Pratt". The signature is written in dark ink and is positioned above the typed name.

Counsel to the Corporation.

Communication.

— FROM —

COUNSEL TO THE CORPORATION.

Trucks on
sidewalk

63

DATED NEW YORK,

Oct. 19

64

*Law Department,
Office of the Counsel to the Corporation.
New York.* October 26, 1895.

Hon. William L. Strong,
Mayor.

S i r :

I have received, from your Secretary, copy of a letter addressed to you by James Stikeman, calling your attention to the necessity for adequate police protection at certain premises No. 146 West Fiftieth street, which are at present vacant and which are said to have been frequently broken into by boys or other mischievous persons, who have used the same for the purpose of storing barrels, etc.

Mr. Stikeman suggests that one or two arrests of the people thus using the property would probably put an end to the annoyance.

I do not see that there is anything in the matter giving cause for action by this department, and would suggest that the matter be referred to the Police Department, who have authority in the premises.

Yours very truly,

Francis M. Scott

Counsel to the Corporation.

J.7. M.

*Law Department,
Office of the Counsel to the Corporation.*

S *New York,* October 31st 1895.

Hon. William L. Strong,
M a y o r.

S i r : -

I beg to acknowledge the receipt of your communication of the 23rd instant, enclosing a letter from Max Bayersdorfer, Attorney for the Harlem Atheneum, concerning a claim against the city for \$91.00, which Mr. Bayersdorfer requests that you should present to the Board of Apportionment with a recommendation for its payment. The facts of this claim are as stated in Mr. Bayersdorfer's communication.

On March 20, 1895, a license was granted by you to the claimant to open and keep open for three months, concerts at the Harlem Atheneum, and \$150.00 was paid by Mr. Bayersdorfer therefor.

Under the terms of the license as granted, it would expire June 20, 1895, but on April 30, 1895, the said license by your direction and in conformance with the statute hereinafter referred to, was terminated and in consequence the claimant insists that he is entitled to a rebate of \$91.00.

The law relative to the tenure and commutations incident to amusement licenses is explicit and mandatory.

Section 1999 of the Consolidation Act provides that

"The mayor of the City of New York is hereby authorized and empowered to grant such licenses (amusement), to continue in force to the first day of May next ensuing the grant thereof, on receiving for each license so granted and before the issuing thereof the sum of five hundred dollars."

And Section 2000 of the Consolidation Act further provides that

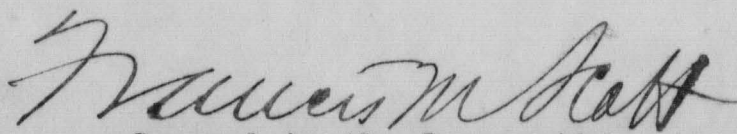
"The said mayor is hereby authorized to grant licenses for said exhibitions or performances for any term less than one year, and in any case where such license is for a term of three months or less, the said mayor is hereby authorized to commute for a sum less than five hundred dollars, but in no case less than two hundred and fifty dollars for a theatre or one hundred and fifty dollars for a circus, concert room, or other building or place whatsoever."

Under Section 1999 of the Consolidation Act the license in question could not extend beyond April 30, 1895 although the language of the license granted to the claimant stated that it was for three months, between March 20, 1895 and June 20, 1895.

In no event, under Section 2000 of the Consolidation Act, can there be any commutation, for any period, for such a license as the claimant had, of less than one hundred and fifty dollars, the sum paid by the claimant for his license originally.

I have, therefore, to advise you, that to recommend a rebate of \$91.00 or of any sum whatsoever, in view of the above section, would be in variance with a positive rule of law.

Yours respectfully,


Counsel to the Corporation.

Board of Estimate

Communication.

— FROM —

COUNSEL TO THE CORPORATION.

65

DATED NEW YORK,

Oct 31

66

City of New York
Law Department
Office of the Counsel to the Corporation

M.D.

NO 2 TRYON ROW.

November 6th 1895.

B. L. Burrows, Esq.,

Clerk, Mayor's Office.

S i r :-

I return herewith pending resolution, G. O. No. 995, to authorize the erection of a canopy of iron and glass at the entrance of the Public Art Galleries of the American Art Association, which has been transmitted to me by direction of the Mayor for examination and report.

The power of the Common Council to authorize the erection of such a structure has been affirmed by the Court of Appeals in Hoey vs. Gilroy, 129 N. Y. Rep. 132.

I therefore advise that the proposed resolution is within the power of the Board of Aldermen, and may be approved by the Mayor in his discretion.

I remain

Yours respectfully,

Francis M. Scott

Counsel to the Corporation.

*Law Department,
Office of the Counsel to the Corporation.
O'R-
New York.* December 2 1895.

msD

Hon. William L. Strong,

Mayor.

S i r :-

I beg to acknowledge the receipt from your Secretary, Mr. Burrows, of a resolution of the Board of Aldermen, now awaiting your signature, passed for the purpose of permitting store keepers, peddlers and others to stand on the sidewalk near the curb on all streets and avenues in the city of New York, with holiday goods, Christmas trees, etc., with the consent of the property owners, provided a full passage way be kept for pedestrians.

This resolution is transmitted for my examination, and accordingly, I return it to you, with the opinion frequently sent from this office, that such a resolution is beyond the power of the Board of Aldermen to pass, and that it should be vetoed.

I am,

Yours respectfully,

Francis M. Root

Counsel to the Corporation.

*Law Department,
Office of the Counsel to the Corporation.
New York.* December 31 1895.

Hon. William L. Strong,

Mayor.

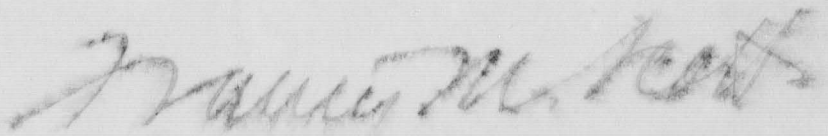
S i r:-

I have received a letter from your Secretary dated December 3rd, 1895, requesting me to furnish you a brief yet comprehensive statement of the condition of the office of Corporation Counsel on the 1st of January 1895, what has been accomplished during the present year, and any pertinent suggestions that I might have for the future.

In accordance with the request, I have prepared a statement which I hope will be satisfactory, and which is enclosed herewith. The statement covers the entire Law Department, and not only what is usually meant by "the Corporation Counsel's office". The fact is often lost sight of that the Bureaus and Offices connected with the department are as much a part thereof as what is ordinarily spoken of as "the Corporation Counsel's office." This statement, though more lengthy than I could wish, I feel to be entirely inadequate to convey a correct idea of the vast volume of business that is transacted by the Department.

Some of the figures are not absolutely accurate for the reason that some of the schedules could not be brought down to the end of the year; but they are near enough to the true ones for all practical purposes.

Very respectfully,

A handwritten signature in dark ink, appearing to read "Francis M. Keefe". The signature is written in a cursive style with some flourishes.

Counsel to the Corporation.

Enclosure.

Communication.

— FROM —

COUNSEL TO THE CORPORATION.

Report of Office
of Counsel to
Corporation
Jan 1 / 1895

1.

Dec 31 / 95

DATED NEW YORK,

*Law Department,
Office of the Counsel to the Corporation.*

O'R-
New York, January 4 1896.

Hon. William L. Strong,

Mayor.

S i r :-

I have received a communication from Mr. Burrows, your Chief Clerk, transmitting resolution of the Board of Aldermen, No. 199, which is to the following effect:

"All rails, pillars or columns of iron, steel, or other material which are being transported over and along the streets of said city upon carts, drays, cars or in any other manner, shall be so loaded as to avoid causing loud noises or disturbance the peace and quiet of such streets, under penalty of Twenty-five dollars for each offence.

Sec. 2. This ordinance shall take effect on the first day of January, 1896".

The Board of Aldermen by section 86 of the Consolidation Act have power to make ordinances with such penalties as are provided in section 85 (i.e.) not exceeding \$100 in the following cases: Where it is intended to regulate the use of the streets, highways, roads and public places by foot passengers, animals, vehicles, cars and locomotives.

Under this grant of power, I am of the opinion the the resolution as passed is valid and if you desire it may be approved by you.

I am,
Yours truly,

Francis M. Scott
Counsel to the Corporation.

Section 25 of Chapter 610 of the Laws of 1895 accepted and approved by ~~you~~ provided that no City Magistrate appointed pursuant to that Law should HOLD ANY OTHER PUBLIC OFFICE OR CARRY ON ANY OTHER BUSINESS OR PRACTICE AS AN ATTORNEY AND COUNSELOR AT LAW IN ANY COURT IN THIS STATE OR ACT AS REFEREE.

Section 4 of the same Act also provides that the clerks appointed by a City Magistrate should NOT BE INTERESTED IN ANY OTHER BUSINESS.

In the Assembly Bill offered for your acceptance No 639,088 Section 25 of the original Law is amended ^{it}ing ~~only~~ ^{prohib} City Magistrates to TRY ANY ACTION OR PROCEEDING OR ARGUE ANY MOTION ON APPEAL IN PERSON AS ATTORNEY AND COUNSEL, and omitting entirely the provision in the original Law prohibiting the Magistrates from CARRYING ON ANY OTHER BUSINESS.

The Bill under consideration fails entirely to provide that the clerk be appointed shall not be engaged IN ANY OTHER BUSINESS which no doubt will be interpreted so as to ~~relieve~~ each of the clerks now in office from the injunction preventing them from engaging in any other business.

The provisions of this bill amending the 25 Section of the original Act do not prohibit Magistrates in office from practicing as attorneys and counselors at Law in the Courts of this State, it will allow them to act as Attorneys of Record in any case pending in the Court as it will be noticed the amended provisions in the Law under consideration simply prohibits the Magistrates from APPEARING IN PERSON IN COURT OR TRYING ANY ACTION OR PROCEEDING OR ARGUING ANY MOTION OR APPEAL.

The failure to provide in the new Law that the clerk of the Magistrate Court shall NOT ENGAGE IN ANY OTHER BUSINESS and inferentially repealing that injunction in the original Law in my opinion will admit of the clerks of the

City Magistrates and possibly the clerks of the Special Sessions to engage in the traffic in liquor or any other business the infraction of which would likely come before the several Magistrates for trial.

In my opinion the proposed changes in the original Law would open the way for the abuses in the administration of criminal law so much complained of before the present Law and its salutary provisions went into effect.

Yo

1896

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and its various provisions went into effect
eliminating for so much complained of before the present law
would open the way for the abuses in the administration of
the several legislatures for which
business the introduction of which would likely come before
legislature to correct in the future in regard to the other
other legislatures and possibly the clerks of the several

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Memorandum in regard to Senate Bill
No. 1297, introduced by Senator McMahon,
entitled "An act to amend the Consolidation
Act relating to the Court of General
Sessions and its judges and officers.

----- -X

This act amends the provisions of the Consolidation
Act in regard to the Court of General Sessions by providing:

1st. That said court shall have four parts instead of
three.

2nd. By providing that there shall be elected at the
general election in November, 1895, and in every fourteenth
year thereafter, a judge of the court of general sessions of
the peace, adding an additional judge to said court so that
it shall consist of a recorder, the city judge, and three
judges of the court of general sessions.

3rd. That there shall be seven deputy clerks instead of
four; three interpreters instead of two; four stenographers
instead of two; four record clerks, and four chief court at-
tendants.

4th. The deputy clerks are to receive a salary of \$3000
instead of \$2500; each of the interpreters \$2000; each of
the record clerks and each of the chief court attendants a
salary of \$1200.

In brief, the act provides for an additional judge,
an additional part of the court, and for the proper clerks
and court officers thereof, with some readjustment of sala-
ries.

This office has been informed by several of the judg-
es of the Court of General Sessions that the state of crimi-

B

nal business of this city and county, which is steadily increasing, warrants and requires this addition to the judicial force of our principal criminal court.

Francis M. Rath
Counsel to the Corporation.

Senate Bill No. 1297

Memorandum in regard to
Senate Bill No. 1297, in-
troduced by Senator McMahon
entitled "An act to amend
the Consolidation Act re-
lating to the Court of Gen-
eral Sessions and its
judges and officers.

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C

Chapter 339 of the Laws of 1892, Vol.1, section 13, provides that there shall be a board whose duty it shall be to execute, direct and superintend the construction of improvements from 106th Street to the line of the Harlem River, etc., which Board shall be called "The Board of the Park Avenue Improvement above 106th Street" * * *

The said Board shall consist of five members to be appointed by the Mayor of the City of New York, two of whom shall be civil engineers, experienced in railroad and bridge construction. In case of the death, removal or resignation of any member of the said Board, or their, or either of their successors, the vacancy shall be filled by appointment by the Mayor of the City of New York.

Chapter 11 of the Laws of 1895, provide that at any time within six months after the commencement of his term of office, the Mayor of the City of New York, elected for a full term, may, at pleasure, remove from office any public officer now or hereafter holding office by appointment of the Mayor of said City.

It is therefore clear that by the Laws of 1892 and 1895 the Mayor's power of removal and appointment at any time before the 1st of July, is absolute and complete.

/

J.P.C.

B.-A.M.

----- X :
Memorandum in regard to Assembly :
Bill 1931 introduced by Mr. Wilks :
for the Relief of James B. Brady. :
----- X :

In 1854 the Common Council of New York adopted a resolution and ordinance directing that curb and gutter stones be set, and flagging four feet wide be laid on both sides of Eighty-third Street, from the Third Avenue to Avenue A, under the direction of the Street Commissioner. James B. Brady was awarded the contract, and the work was completed in November, 1854. Brady was paid \$18,925.27 and claimed that there remained due to him the sum of \$8,136.11, for the recovery of which he brought an action against the city. The case was tried before a referee, who found as matter of law that the contract was illegal and void in respect to certain rock excavation, because the amount of such excavation was not included among the data by which the bids were to be tested.

He also held that the plaintiff was entitled to recover a reasonable compensation as upon a quantum meruit

The city appealed so far as the judgment was unfavorable to it, to the General Term of the Superior Court, which reversed the judgment entered on the referee's report, holding ^{with} ~~that~~ the referee ^{that} ~~thought~~ the contract was illegal; and further that the plaintiff was not entitled to recover upon a quantum meruit, or at all.

The plaintiff appealed to the Court of Appeals, entering into a stipulation for judgment absolute as required by the statute.

The case in the Court of Appeals was decided in December, 1859, and is reported in the 20th New York Reports at page 312. That court affirmed the judgment of the General Term, and judgment absolute was entered in favor of the city.

From 1859 to the present year a number of bills for the relief of Brady have, from time to time, been introduced into one house or other of the Legislature, but have failed of enactment, in some cases by not passing both houses, and in others by failure to receive executive approval.

There seems to be no good reason why, in 1895, the city should be called upon to pay a claim for work alleged to have been done in 1854, and which the courts, including the Court of Appeals, decided, after full trial in 1859, to be an illegal and void claim.

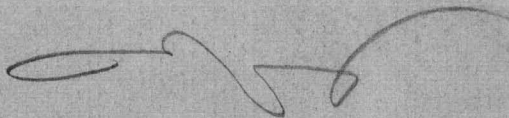
The passage of this bill was opposed before the Cities Committee of the Assembly by this office, and we urge your Honor to withhold your approval thereon. It is difficult at best to defend actions against the city, and we submit that successful defenses should not be wiped out thirty-six years after the event by special legislation of this kind.

Francis M. Scott

Counsel to the Corporation.

Assembly Bill 1931.

Memorandum relative to Assembly Bill 1931, introduced by Mr. Wilks, for the relief of James B. Brady.

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May 23 at 2

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Memorandum in regard to Senate Bill No. 1199, introduced by Mr. Sullivan, entitled "An act to amend sections 1766, 1768, 1775 and 1776 of Title 4, chapter 21 of chapter 410 of the laws of 1882, entitled "An act to consolidate into one act and to declare the special and local laws affecting the interests of the city of New York", so far as the same relates to the coroners.

-----X

The object of this act is to provide that the coroners' office in this city shall be open at all hours of the day and night, and provides for an additional assistant clerk, in order that there may be a force sufficient in the office to comply with the proposed provision of law.

It authorizes the clerk in attendance during the absence of all the coroners, to issue a permit authorizing the removal of a body.

This bill was proposed in behalf of the undertakers, the special evil aimed at being that in case of sudden death upon the street or in hotels, or other public places, even when there is absolutely no suspicion of foul play, and the death is fully established to have been due to natural causes, in case no permit of removal can be obtained from the coroners' office, the body has to remain in a station-house, and cannot be taken to an undertaker's shop.

The coroners' office, closing early on Saturday afternoon and not opening again until the usual office hours on Monday, leaves a stretch of thirty-six hours dur-

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1895-

ing which - unless a coroner happens to be accidentally discovered at his private house or private office, or met upon the street - nothing can be done in the way of preserving the body or preparing it for burial, to the great distress of friends and relatives.

In the interests of humanity, this bill should be approved.

Francis M. Scott.

Counsel to the Corporation.

State of New York.

2d Rdg. No. 877.

No. 2249.

Rec. 136

IN ASSEMBLY,

February 26, 1896.

Senate Bill No. 726, introduced by Mr. CANTOR — read twice and ordered printed, and when printed to be committed to the committee on affairs of cities. In Assembly, reported from the committee on affairs of cities with amendments—ordered reprinted and placed on the order of second reading.

AN ACT

To amend chapter four hundred and ten of the laws of eighteen hundred and eighty-two, entitled "An act to consolidate into one act and to declare the special and local laws affecting public interests in the city of New York."

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section one hundred and ninety-six of chapter four
2 hundred and ten of the laws of eighteen hundred and eighty-two,
3 entitled "An act to consolidate into one act and to declare the
4 special and local laws affecting public interests in the city of
5 New York," is hereby amended so as to read as follows:

6 § 196. The board of estimate and apportionment is hereby
7 authorized to audit and allow, as charges against the city, the
8 reasonable costs, counsel fees and expenses paid or incurred, or

EXPLANATION.—Matter underscored ————— is new, matter in brackets [] is old law to be omitted.

- 1 which shall hereafter be paid or incurred, by any commissioner,
 2 city magistrate or police justice who shall have been a successful
 3 party in any proceedings or trial to remove him from office, or
 4 who shall bring or defend any action or proceeding, in which the
 5 question as to his title to office is in any way presented, or
 6 involved, or in which it is sought to convict him, or to review or
 7 prohibit any such removal or to obtain possession of his office, or
 8 by any commissioner for the proper presentation and justification
 9 of his official conduct before any body or tribunal lawfully investigat-
 10 ing the same, and not officially recommending his removal from office. X
 11 The board of estimate and apportionment is hereby authorized
 12 and directed to cause to be included in the taxes to be levied and
 13 raised for the year following such audit upon the estate subject to
 14 taxation in said city and county, an amount sufficient to pay the
 15 revenue bonds directed to be issued by the said comptroller in
 16 anticipation of the collection of the said taxes, with all interest
 17 due or to become due thereon.
 18 § 2. This act shall take effect immediately.

*Making a final disposition of the
 case during the term of office
 of such Commissioner —*

*Law Department,
Office of the Counsel to the Corporation.*

B.-M.

New York, April 29, 1896.

In the Matter of Assembly Bill No.
2249, amending Section 196 of the
New York City Consolidation Act,
now pending before the Mayor.

- - - - -x

Hon. William L. Strong,

M a y o r.-

S i r:-

I have examined the bill above mentioned, which
is intended to amend chapter 196 of the New York City
Consolidation Act, being a section under which the Board
of Estimate and Apportionment is authorized to audit and
allow reasonable costs, counsel fees and expenses to cer-
tain Commissioners and other public officers.

The changes of the bill in the main are as fol-
lows:-

1st: It adds "City Magistrates" to the persons
who have a right to present such claims, the present law
providing only for allowance to Commissioners and Police
Justices.

It provides that such charges may be awarded to
any Commissioner, City Magistrate or Police Justices who
shall have been a successful party in any proceeding or
trial, or "who shall bring or defend any action or pro-
ceeding in which the question as to his title to office

"is in any way presented or involved, or in which it is
"sought to convict him."

It seems to me that it is entirely proper that the City Magistrates should be included in this bill, if it is proper in the first place that Police Justices should be so included, because, as you are aware, the City Magistrates take the place of the Police Justices.

It is also proper, I think, that the power of the Board should be extended to expenses incurred in actions or proceedings in which the title to office is involved, for the reason that the question of the title of the present City Magistrates to their offices is now being litigated in a criminal proceeding in which neither they nor the Police Justices are parties of record, and yet which it is perfectly well understood are prosecuted and defended respectively by the Police Justices and the City Magistrates.

The test case which is now pending before the Appellate Division is a case where a prisoner seeks to be released upon habeas Corpus upon the plea that the person who committed him was not a Magistrate duly authorized so to commit.

This case brings up the whole question as to the validity of the so-called City Magistrates Act of last year, and as to whether or not the Police Justices were ousted

from their office, and as to whether or not the City Magistrates are lawfully appointed.

I see no reason why expenses incurred in such a case should not be allowed with the same propriety that they would be if the proceeding was a direct one between the City Magistrates and the Police Justices.

The third change in the act is to restore to the section the proviso that where the proceeding is one by a Commissioner for the proper presentation of the justification of his official conduct before any tribunal lawfully investigating the same, he shall be allowed his expenses, if such tribunal "shall not make a final disposition of the case during the term of office of such commissioner." This is the form in which the section formerly stood, and I know of no reason why it should not be restored.

The law has recognized for a great many years the justice of allowing to successful contestants over the possession of an office, the costs and counsel fees and expenses which they necessarily incurred, and it seems to me, in view of the fact that Commissioners and other public officers are likely at any time to be put to considerable expense in justifying and defending their official conduct and their title to office, that it is no more than

fair and just, where they are successful in doing so,
that they should be allowed an opportunity to recoup their
necessary expenses.

Yours very truly,

Francis M. Scott

Counsel to the Corporation.

*Law Department,
Office of the Counsel to the Corporation.
New York,* May 4, 1896.

K.

Memorandum in regard to Mr. Maccabe's bill P. No. 2492, entitled "An Act in relation to the uniforms of the officers and members of the Fire and Police Departments of the City of New York."

This bill provides that any officer or member of the Fire and Police Departments who, while in the discharge of his duty, injures or destroys his uniform shall receive compensation therefor.

The bill provides that this amount shall be paid "by the City Chamberlain of the City of New York, upon the warrant of the Comptroller, from any available fund of said City of New York."

The bill is bad in form as we are advised that there is no fund available for this purpose under the terms of this act and the bill should be disapproved upon this question of form alone.

While under consideration in the Legislature the Commissioners of both Departments informed this office that they were opposed to the passage of the bill, first, because all meritorious cases were now taken care of as matter of practice, and they feared that abuses might grow up under the terms of this act. There is no necessity for the bill. Unnecessary Legislation is bad Legislation.


May 4

Menu re the Mac
Cubers 2492

Missouri Point
Finman

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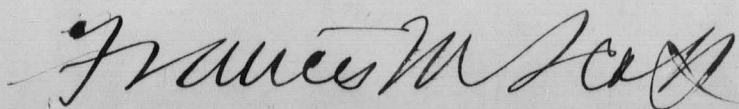
J.P.C.
F.K.

Memorandum in regard to Senator Ford's bill,
P. No. 1368, amending §1768 of the Consolidation Act as
amended by chapter 846 of the Laws of 1885 relating to
Coroners.

Last year, by chapter 846, the sections of the
Consolidation Act relating to Coroners were so amended
as to provide that the Coroner's Office should always be
open for the purpose of granting permits for the removal
of bodies. An additional clerk, at a salary of \$1500.
per annum was also provided by said act.

The bill under consideration amends said pro-
vision by providing for two assistant clerks at a salary
of \$1500. each, in place of the one provided for last
year.

The passage of this bill was opposed by this
office as no convincing reasons were advanced either
here or in Albany for the increase in force. As this
office is informed the duties of the night permit clerk
are neither onerous nor exacting and it seems as if the
increase was not called for by any public necessity. In
fact advocates of the bill have admitted that the bill
was intended for the personal advantage of one individual
who would be able to draw a substantial salary from the
City for nominal work with the opportunity afforded for
prosecuting his professional studies in the day-time.



Mem. Re Senator
Ford's Bill 1368.

Extra Coronus Clerk +

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*Law Department,
Office of the Counsel to the Corporation.
New York,* May 7, 1896.

K.

Memorandum in relation to Senator Guy's bill, P. No. 1541, entitled "An act to increase the salary of the Commissioner of Street Improvements of the 23d and 24th Wards of the City of New York and his Deputy."

The Commissioner of Street Improvement is an officer elected by the people. His salary, at present, is fixed at the sum of \$5,000. This bill proposes to increase his salary to the sum of \$8,000. per annum. His deputy now receives a salary of \$3,500. This bill **increases** it to \$5,000.

The passage of this bill was opposed by this office acting under its general instructions to oppose all bills increasing salaries and under particular instructions to oppose this particular ~~bill~~ *following*.

It was opposed upon the ~~particular~~ *following* grounds,

First, that the commissioner, being an elective officer it was improper to increase his salary by act of the Legislature during the term for which he had been elected; and

Second, that the statute was mandatory. The City authorities for the last two years have consistently

opposed all mandatory legislation, especially in regard to officers and salaries.

The statement was made by this office before the Cities Committee of the Senate, in executive session, that we had, from the highest authority, instructions to oppose this bill and that if passed it would not become a law with the consent of the City.

The Chairman of the Committee stated to Mr. Clarke that perhaps he thought he represented the Mayor, but that in this instance he, the Chairman, had information that he ~~did~~^{did} not, that the Mayor would approve this bill. Mr. Clarke stated that he had received particular instructions to oppose this precise bill and that if he did not represent the Mayor on this bill he did not on any, and would cease to annoy the Committee by appearing before them.

Mem. in regard to
Senator Gump's Bill 1541
increasing Court
Happens Salary

34

*Law Department,
Office of the Counsel to the Corporation.
New York, May 18, 1896.*

File

Memorandum in regard to Mr. Husted's bill, 1175
entitled, "An Act to authorize the continuance and main-
tenance of a public highway in Westchester County, from
Peekskill to a point on the boundary line between the
states of New York and Connecticut near North Salem."

The purpose of this bill is to compel the city
to build and maintain an embankment or viaduct through
Reservoir "A" on the Muscoot river on which to carry the
highway from West Somers to Somers.

It would require an embankment 60 feet high,
1000 feet long with a bridge of at least 50 feet span at
a cost of at least \$60,000.

The city has constructed a first class road
around the upper part of the reservoir at a cost of
\$35,000 to build and has also paid all damages to ad-
jacent property owners as required by law.

The extra amount of travel required by passing
around and over this road is only three-quarters of a
mile.

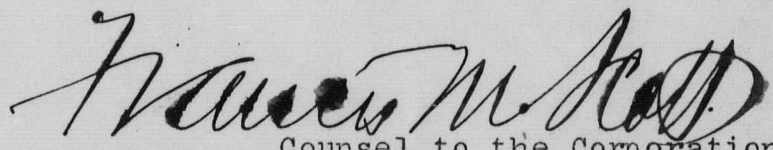
The passage of this bill, upon the suggestion
of the Department of Public Works and upon the statement
of facts made by Chief Engineer Birdsall, was opposed by
this office but the bill passed during the closing days

of the session.

The bill was transmitted directly to the Governor but this office filed a memorandum in opposition to the bill, first upon the merits and second that under the provisions of the Constitution the bill was a city bill and should have been sent to the Mayor for his action thereon.

In consequence of this action on our part the bill has been sent to the Mayor.

The bill should be disapproved because it compels the City to expend, quite needlessly, an additional sum of at least \$60,000. and would cause the \$35,000. already expended to be a mere waste of the public funds.


Counsel to the Corporation.

May 18

Mem in relation
to Mr. Huston's Bill
1173 regarding an
embankment across
Reservoir "A".

12

OFFICE OF THE
COUNSEL TO THE CORPORATION
CITY OF NEW YORK.

Ward's Island
McMahon
Sinking Fund

1893-

Feb-9

Opinion

7.
Hon. Wm. L. Strong
Attorney

*Law Department,
Office of the Counsel to the Corporation.*

R. *New York,* February 9th, 1895

Hon. Ashbel P. Fitch,

Comptroller.

S i r :-

I have received your communication under date of January 22nd, 1895, transmitting a communication received from Dennis McMahon, dated January 2nd 1895, in which the writer offers to sell to the city certain riparian rights on the west side of Ward's Island.

You state that "this communication was presented to the Commissioners of the Sinking Fund at their meeting held January 11th, 1895, and was ordered to be referred to the Counsel to the Corporation for his opinion thereon".

Mr. McMahon enclosed with his communication to you a copy of a map made by Andrew Findlay on which the property offered for sale by him to the city is colored brown.

It is also shown on said map by the numbers 1, 2 and 30, and extends from the line of original water mark to the exterior line of the water rights granted by the State of New York to Arbaham R. Lawrence and others by letters patent dated April 26th, 1811.

By these letters patent there was granted to Abraham R. Lawrence, Richard Lawrence, Jasper Ward and Bartholo-

mew Ward "all the land under water around Great Barn Island situate in the East River or Sound in the City and County of New York from high water mark to low water mark and extending on the northwest side of said Island one hundred and fifty feet from low water mark towards New York island and from the other parts of said island three hundred feet from low water mark, together with all and singular the rights, hereditaments and appurtenances to the same belonging or in any wise appertaining, to have and to hold the above described and granted premises unto the said Abraham R. Lawrence, Richard Lawrence, Jasper Ward and Bartholomew Ward their heirs and assigns forever."

In the year 1869 Alfred E. Beach then being the owner of an undivided interest in the lands under water embraced in said grant began an action in the Supreme Court of the State of New York against the Mayor, Aldermen and Commonalty of the City of New York. The Commissioners of Emigration and others then also owning undivided interests in said lands under water for a partition and division of the same and such proceedings were thereafter had in said action that on the 10th day of September 1877, a final judgment or decree was rendered confirming the report of the Commissioners theretofore appointed by the court for the purpose of making such partition and division, and setting apart and allotting

said lands in severalty to and among the parties to said action according to their respective interests as therein set forth.

Such allotment was made according to and as shown on a map entitled "Map of Ward's Island made by order of the Commissioners appointed by the Supreme Court of the State of New York in the matter of Alfred E. Beach against the Mayor, Aldermen and Commonalty of the City of New York and others by decree dated March 29th 1872, showing the water rights set off to the parties in the suit, adopted New York May 12th, 1876, signed by Daniel P. Ingraham, Jr., George F. Betts and John Kavanagh, Commissioners; made by Rudolph Rosa, surveyor, etc., of New York, 31 Pine street, June 15th, 1875.

By this final judgment or decree lots 2 and 30 as shown on said map were set apart to the plaintiff, Alfred E. Beach, and lot 1, was set apart to the defendant, Adrian Van Sinderin as executor and trustee of William Lawrence, deceased.

Mr. McMahon claims to be the present owner of these parcels through grants from Messrs. Beach and Van Sinderin and has exhibited to me muniments of title which apparently substantiate his claim.

The validity of his title, however, can only be ascertained upon an examination thereof.

As I understand the situation, the city now owns all the upland on Ward's Island with the possible exception of the land lying within the lines of certain old roads, but owns only about one-third of the lands under water around the island included in said grant to Abraham R. Lawrence and others of April 26, 1811.

It has never acquired title to said parcels 1, 2 and 30 or either of them so far as I am aware.

I return herewith the enclosures which accompanied your communication.

Respectfully yours,

WILLIAM H. CLARK,

Counsel to the Corporation.

RANDALL'S I.

LITTIE HELL GATE

116TH ST. (BOULEVARD)

115TH ST.

114TH ST.

113TH ST.

112TH ST.

111TH

110TH

109TH

108TH

107TH

106TH ST.

105TH ST.

104TH ST.

103RD ST.

101ST ST.

100TH ST.

MAIN LAND NEW YORK CITY

CENTRAL PARK

Exterior Line of Waterrights



43 Lots.

11 Lots.

36 Lots.

1168
369
335
160
334
163 Ft.

Northerly Road

Westerly Road

This is the Westerly Section of the Partition Map filed in the Register's Office C. & C. of N. Y. under the final decree of Part. in the case of Alfred C. Beach with the Mayor of New York & others entered in the Supreme Court on 10th Sept. 1877. Filed in the N. Y. County Clerk's Office on that date. The Partition Map is No. 802 on file. The decree is recorded in the Register's Office under 1425 & 317 on 14th Jan'y 1878. Map filed on Aug 13-1877 with the Court. Part of Southern Road. Petition.

WARDS ISLAND

Part of 12th Ward N.Y. City.

High water level Line
Low on Inside Water Line
A.R. LAWRENCE
31
32
30
197
766 Ft.
762.3 Ft.
Exterior Line of Waterrights granted to A.R. Lawrence & others

60 Lots.

Bolles.

Commissioners of Emigration

HELL GATE

Block	30	60	Lots	766 ft.
"	1	11	"	334 "
"	2	36	"	453 "
Total	107	"	1553 "	

—D. McMAHON'S—

Water Front or Dock Lots "Wards Island"
Harlem River Frontage

Andrew Lindley's Survey

SUIT IN PARTITION

Beach v.s. the Mayor & others

By the printed deed in partition Alfred E Beach acquired in Severalty among others; title in fee to the following Lots on Partition map No 801 on file viz Lots 30 & 2.

Decree entered Sept 10th 1877 in Supreme Court and unappealed from By same Decree Adrican Van Sinderen Trustee for Willia Lawrence acquired title to lots Nos 1 & 33 on same map

On 19th Sept 1877 Alfred E Beach conveyed title to lots Nos 2 & 30 to Dennis McMahon same recorded Liber 1435 p 71

On Feb 23rd 1878 Adrican Van Sinderen Trustee conveyed Lots N 1 & 33 to Dennis McMahon , same recorded about same date- Liber 1435 cons p 393

On Feb 1st 1881 Dennis McMahon conveyed said lots Nos 1, 2.

30 & 33 to Mary E Childs and took a purchase money Mortgage on act of the purchase money for \$15000 Recorded Liber 1543 of Mtgs p 334 on Feby 22, 1881

In May 1882 said McMahon released Lot No 33 from the operation and lien of said mortgage

On 13th June 1883 McMahon obtained in the Supreme Court a decree of foreslosure on said mortgage and on the 31st of Aug., 1883 the Lots Nos 1, 2, & 30 not affected by the release property was sold and bid in by said McMahon and he took a Referees deed dated Sept 20th 1883 and recorded in Liber 1975 of convs p 115 on June 22nd 1886 and has ever since owned the property and paid Taxes on it ; there may be 3 or 4 years taxes due

Dennis McMahon
243 Broadway

Brief deduction of
A. McMahon Title
to Lots nos. 1, 2 & 30
on Partition Map of
Reparan Right around
Ward Island

I certify that I am well acquainted with all the property front-
~~ing~~ on Harlem River, lying southeasterly of the Third Ave.
Bridge on said River on both sides of the River. The property
hereinafter referred to is situated on ^{East} ~~either~~ side of the River
between the said Bridge and the mouth of Harlem River at the
Southern extremity of Wards Island and between one new bulk-
head line being the lines of the proposed improvement in said
River as established by the Government of the U.S. and a line
in the upland far enough above high water mark so as to inclu-
de all the riparian rights to the land under water lying in
front of the same.

In my opinion the City lots of two thousand five hundred
square feet in area lying between these boundaries when the
proposed improvements in Harlem River is completed (which is
expected to be within 3 or 4 years) will be worth at least
from two thousand five hundred to four thousand dollars each.

Dated New York :
Nov 18th 1880 :

Andrew Findley
appraiser

note Mr Findley was recommended to me by the Commissioners of the Harlem
River Improvement Co as an appraiser whose opinion would be
incontestable

R. M. W.

Copy

Andrew Fendleys

Appraisement

Proposed improvements in Harlem River is completed (which is
square foot in area lying between these boundaries when the
in my opinion the City lots of two thousand five hundred
United New York
front of the same.

is all the riparian rights to the land under water lying in
in the island and throughout above high water mark so as to inclose
River as established by the Government of the U.S. and the line
West line being the line of the proposed improvement in said
Southern extremity of Ward's Island and between one new bulk-

New York Dec 1st 1880

In view of the improvement of the Harlem River which is now in progress under the auspices and at the expence of the National Government; from my familiarity with the locality I consider that the Dock lots situated on Wards Island and fronting Harlem River will be very valuable upon the completion of said improvements; and that they would be a good investment if purchased now at a price from Two thousand to Two thousand five hundred dollars a lot. The lots thus appraised to include all the Riparian Rights belonging to same and to be of an area of Twenty five hundred square feet each.

Isaac A Lawrence

102 Broadway

Appraiser to
Continental Fire Insurance Co.

Copy

Isaac A. Lawrence

Appraisement

of Twenty five hundred square feet each,
all the Riparian Rights belonging to same and to be of an
five hundred dollars a lot. The lots thus appraised to include
the purchased now at a price from two thousand to two thousand
and improvements; and that they would be a good investment
Harlem River will be very valuable upon the completion of
sider that the Dock lots situated on Ward's Island and fronting

New York Nov 22nd 1880

When the bulkhead on the westerly side of Wards Island is completed and when the improvements of the Harlem River by the United States Government is finished the lots 2500 square feet in area on the westerly side of Wards Island will be ~~wet~~ worth thirty five hundred dollars each lot \$3500.

Isaac Walton

appraiser of London Liverpool & Globe Insurance Co. and New York Life Ins. Co.

Copy

Isaac Wallous

appraisement

Prk Life Ins. Co.

appraiser of London Liverpool & Globe Insurance Co. and New

Isaac Wallous

worth thirty five hundred dollars each lot \$3500.

Copy

New York Nov 30th 1880

To Whom it may concern:

This is to certify that I have examined t
the water front property located on the westerly side of Ward
Island (12th Ward of New York City) and known as plot 30 com
prising Three and forty three one hundreths ($3 \frac{43}{100}$) Acres
bounded on the East by the original high water line, on the
West by the exterior line of water rights granted to A.R.
Lawrence and others as represented on certain maps of Wards
Island made by order of the Commissioners appointed by the
Supreme Court of the State of New York dated March 19th 1872,
and adopted by the Commissioners May 12th 1876, and estimate
that the said property is worth Two thousand (\$2000.) dollars
per lot of Twenty fiye hundred square feet, at the present
time. This valuation is based upon the supposition that the
improvements of the Harlem River now in progress will be com-
pleted in 3 or 4 years as estimated.

Lots in ~~Plate~~ Nos. 1, 2, & 33 as described on said map I con
sider to be worth the same.

Respty.

O. G. Bennet

Appraiser to the Dry Dock Savings Bank

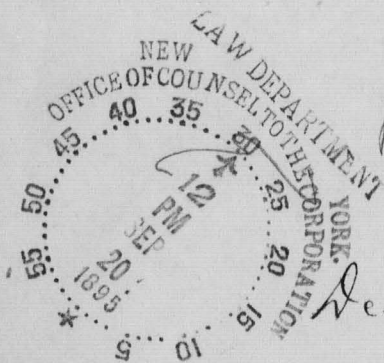
Copy O. G. Bennett
Appraisement

that the said property is worth Two thousand (\$2000.) dollars
and adopted by the Commissioners May 18th 1896, and estimate
Supreme Court of the State of New York dated March 18th 1895,
Island made by order of the Commissioners apportioned by the
Island in 3 or 4 years as estimated.
Lawrence and others as represented on certain maps of wards
West by the exterior line of water rights granted to A.R.
bounded on the East by the original high water line, on the
prising three and forty three one hundredths (343/100) Acres
Island (18th Ward of New York City) and known as Plot 30 con-

D. McMAHON.

T. W. HANDLEY.

McMAHON & HANDLEY,
COUNSELLORS AT LAW,
243 BROADWAY,



New York, September 18 1895

Dear Sir,

As the Case of the State Insane is
coming up again - would it ^{not} be well for the City
to purchase the Water Rights in front of Ward's Island
owned by me and others - my present price is
\$1000 a lot 25 X 100 ft each - I own 107 lots and
I represent other owners -

Yours

D. McMahon

His Honor Mayor Strong

*Law Department,
Office of the Counsel to the Corporation.*

B

New York.

October 21, 1895

Hon. William L. Strong,

Mayor.

S i r :

I have received from your Private Secretary a letter dated September 19, referring to me a letter from D. McMahon, concerning the advisability of the purchase by the City of the land fronting on Ward's Island.

Mr. McMahon's letter which is enclosed, and which I return to you, states that he is the owner of 107 water lots in front of Ward's Island which he offers to sell for \$1000 a lot.

I find upon examination that this matter was before the Sinking Fund Commissioners early in the present year, and that on February 9, 1895 my predecessor addressed a communication upon that subject to the Comptroller, of which I enclose you a copy.

I know of nothing to add to that letter except to say that Mr. McMahon has furnished me with a number of appraisals of the property made some years since, which would seem to indicate a higher value to it than that asked by Mr. McMahon. I suppose that his property will constantly increase in value, and that the Sinking Fund Commissioners could with propriety consider the question of negotiating for a purchase.

Yours very truly,

Francis M. Stoddard

Counsel to the Corporation.

DENNIS McMAHON,
COUNSELLOR AT LAW,

243 BROADWAY,

Rooms 20 & 21,

Elevator in Rear.

Sinking Fund

New York, *November 10th* 1896

Hon Mayor Strong

Dear Sir,

Pursuant to your request
I called on Mr Scott and asked him ^{before} what board
you should bring up the Wards Island
Reparations Right purchase - He said the
"Sinking Fund Com^{ee}" He further added that
he was not a member of that Board but was
called on to give them advice when requested -
It requested he would do as he had done
before in his letter to me, strongly advise the
purchase - Do me the favor to give me
notice when you will bring it up at least
2 days before hand and I will have my
counsel present & all books maps &
maps affecting the matter -

Respy Yours

Dennis McMahon

M.