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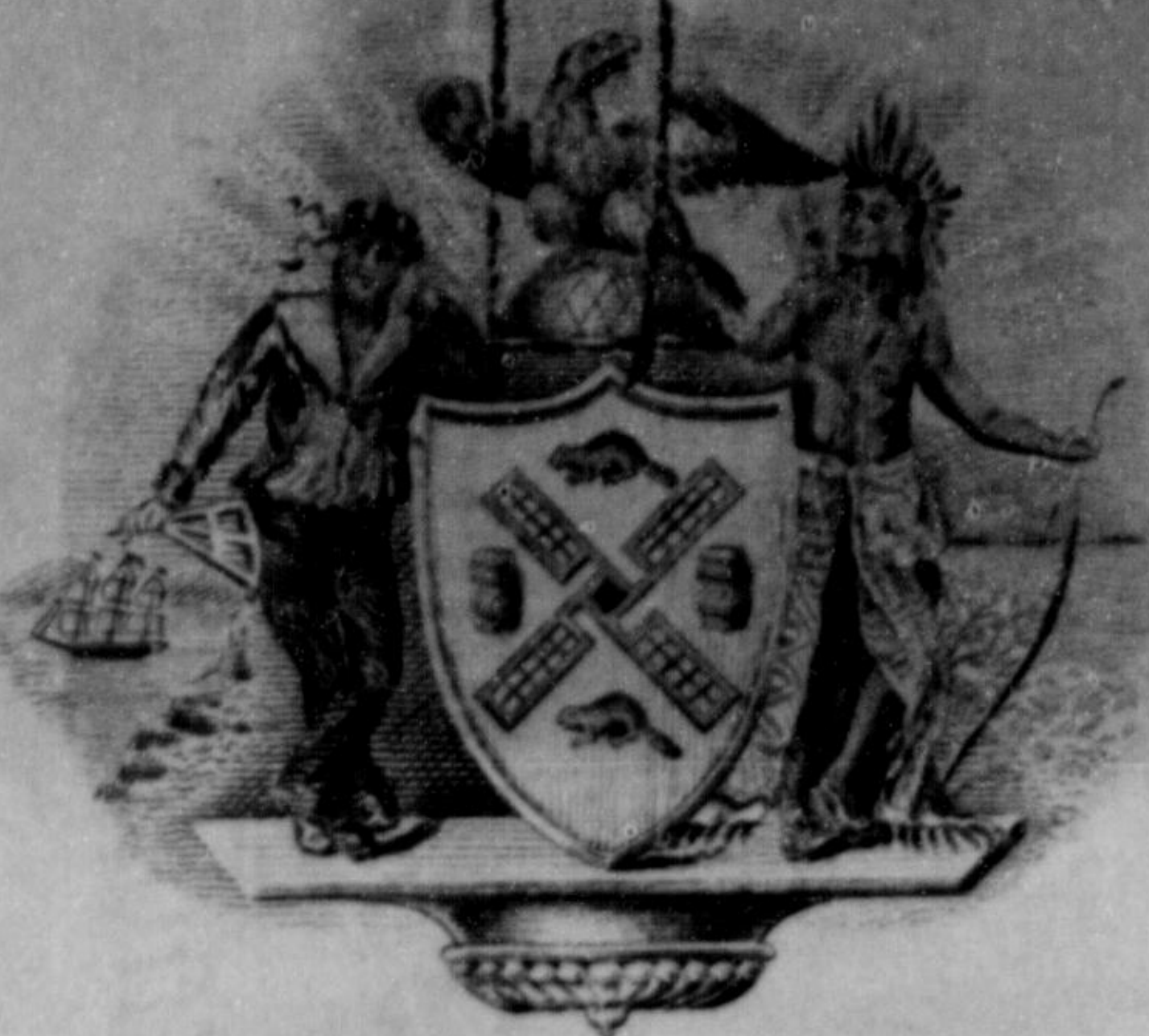
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FOLDER

25

City Employees

1910-1912

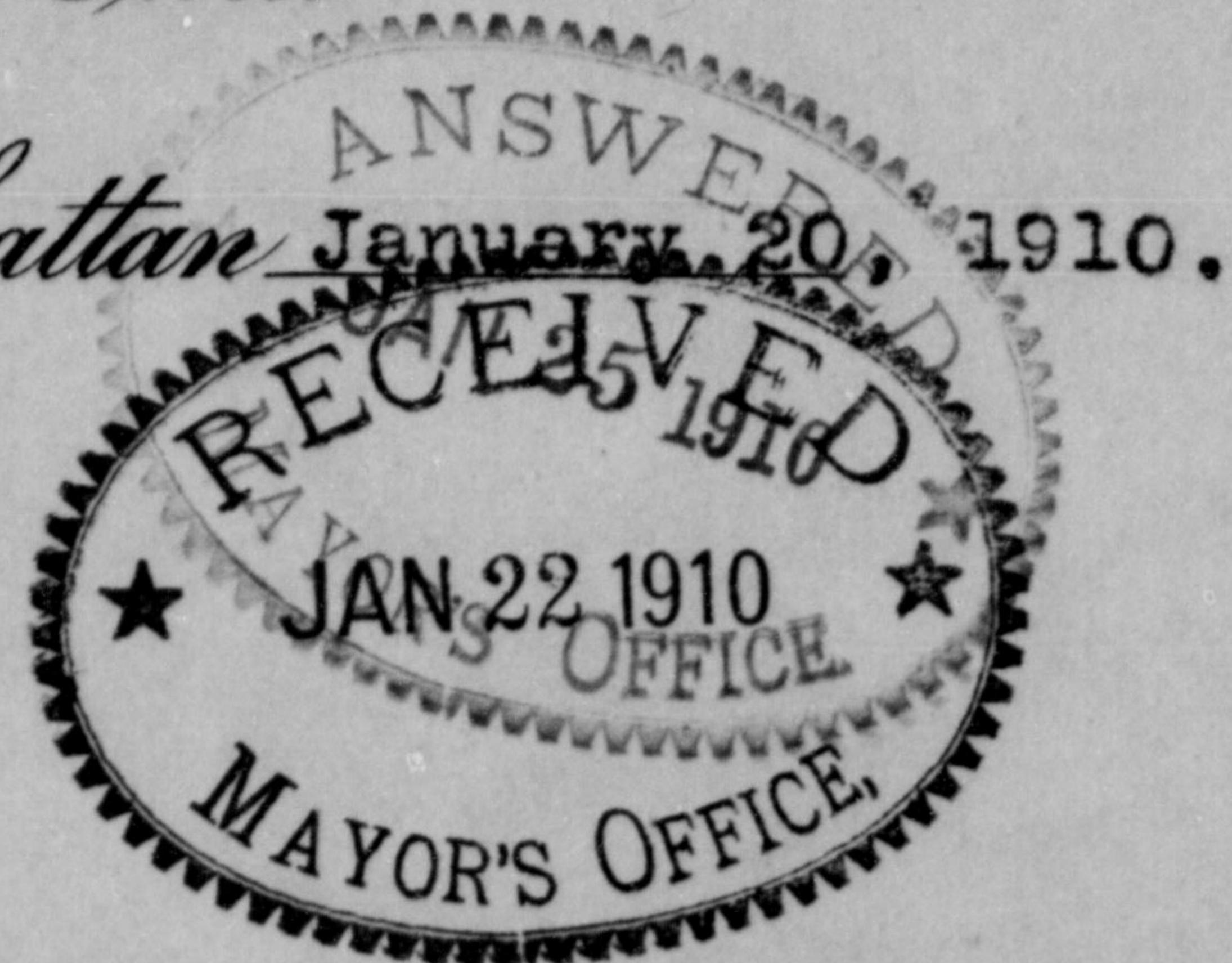


NICHOLAS J. HAYES, RHINELANDER WALDO
COMMISSIONER.
PATRICK A. WHITNEY,
DEPUTY COMMISSIONER.
CHARLES C. WISE, ARTHUR J. O'KEEFFE
DEPUTY COMMISSIONER,
BOROUGH OF BROOKLYN, QUEENS.
WILLIAM A. LARNEY,
SECRETARY.

Headquarters
Fire Department City of New York

157 & 159 East 67th Street

Borough of Manhattan



Hon. William J. Gaynor,

Mayor, City of New York.

S i r : -

In connection with the trial of members of the Fire Department for derelictions of duty I have the honor to recommend for your consideration the following proposition which, if approved by you, should be taken before the Legislature with a view to an amendment of the present law.

Instead of members of the force guilty of infractions of the rules and regulations of the department, or other misconduct, being tried before a Deputy Commissioner, as is now the practice, it is recommended that they be tried before Boards, to be appointed from time to time by the Fire Commissioner, and to consist of officers of the department of a rank not below that of Battalion Chief, who should convene when directed for the purpose of trying such cases as may be properly brought before them by direction of the Commissioner. The said board to reach a finding and recommend a sentence. Such sentence not to be operative until approved by the Fire Commissioner, who should have the power to disapprove or mitigate but not to increase the same. The sentence recommended by the court to be the lightest sentence which receives

HEADQUARTERS

Fire Department City of New York,

BOROUGH OF MANHATTAN.

NEW YORK,.....19

.....

.....

119A-20-09 (B) 20,000

Handwritten notes and stamps are visible in the background, including a circular stamp from the New York City Fire Department dated 1910.

the approval of the majority of the court. Members to vote on finding and sentence in inverse order of rank.

The advantages of this would be -

1st. The men would be tried by members of the uniformed body to which they belong, and who, from their training and experience, are more capable of judging of the affect of their action on the discipline of the force than any man who has not been brought up as a member of a uniformed body.

2nd. Removing the influence of politics from the administration of justice. It is believed that it would be more difficult to reach officers of the uniformed force, who are not dependent on politics for the retention of their places, than it is to reach those who at times have been made the subject of political interference.

These Boards should be changed from time to time, and their members need not be announced until immediately preceding the trial.

It is believed that men who make a life work of a profession are more interested in the success and welfare of their profession than any outsider, and, therefore, would be less susceptible to outside interference on questions regarding the efficiency of the force.

Chief Croker concurred in these recommendations in a letter to me.

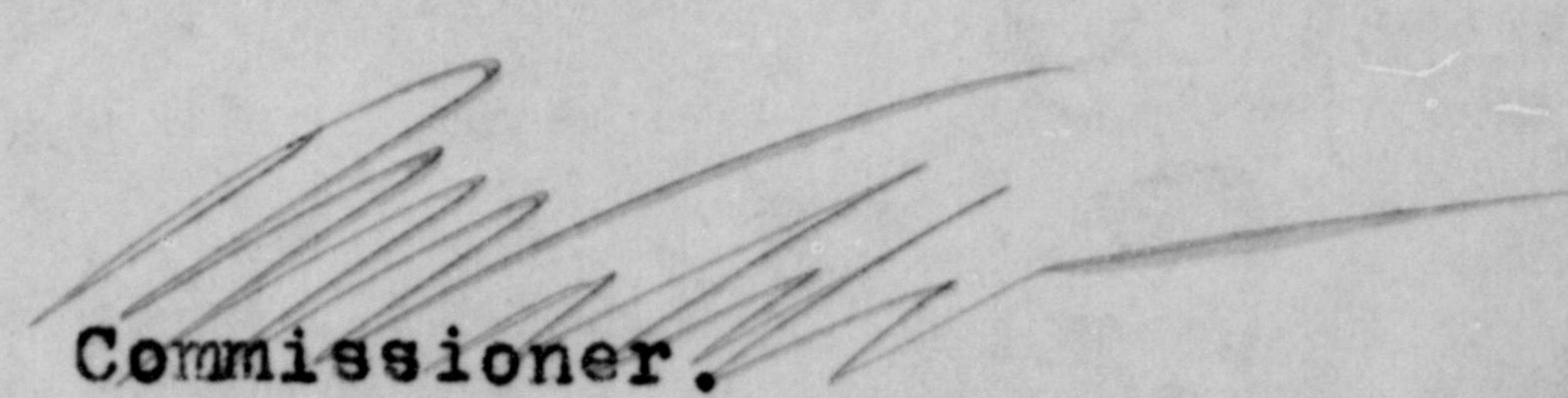
In this connection it is also suggested that the present limit of ten days' fine, with no other penalty between that and dismissal, is too little, and the maximum fine should

Hon. William J. Gaynor:

-(3)-

be "not to exceed thirty days' pay", as is the present law
with regards to the Police Department.

Very respectfully,



Commissioner.

D.

Jan 20/10

M-to Legislation
on the hearing of
charges by a board

and M-to amending
fine) from 10 to 30 days

Jan. 25, 1910.

Sir:

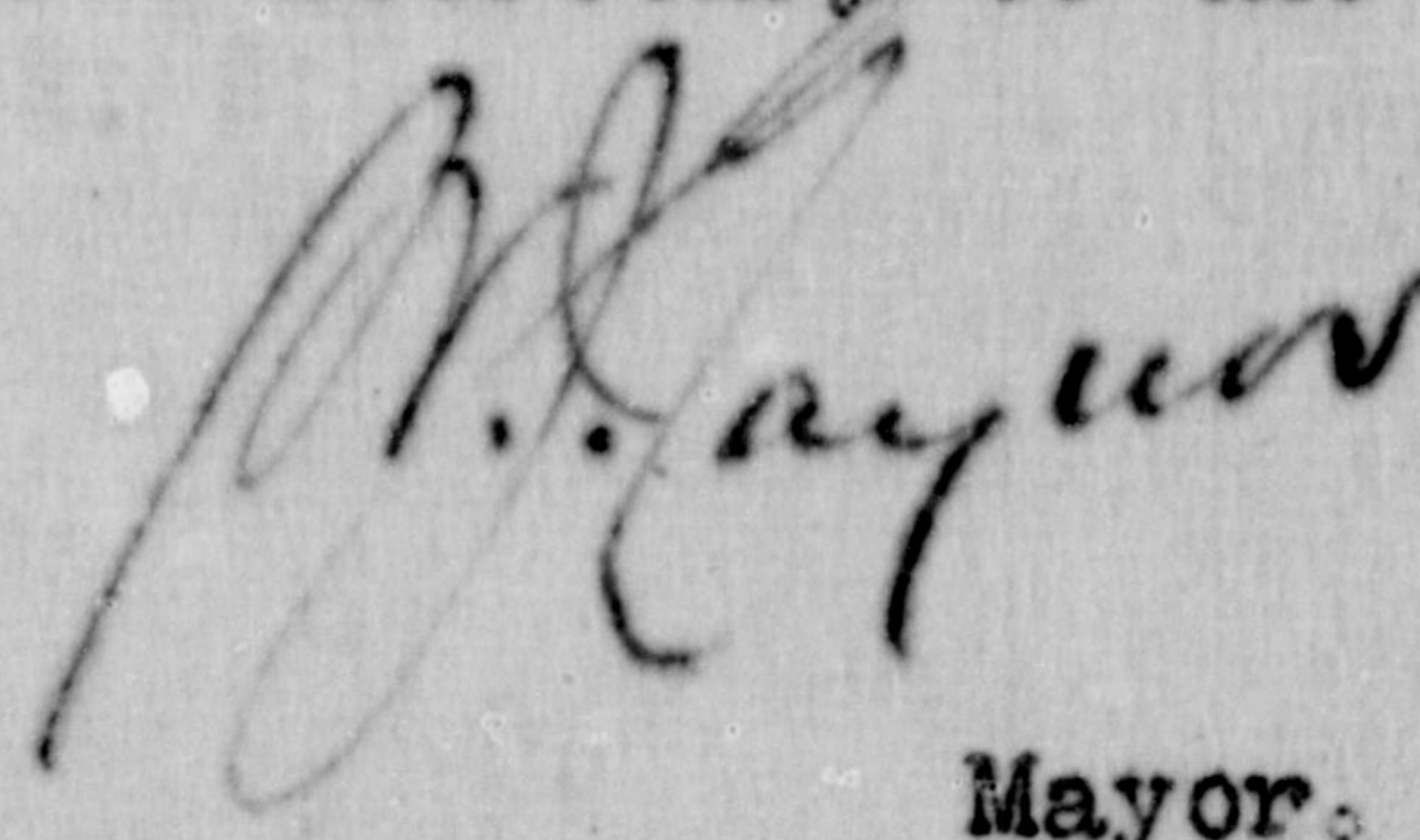
1. I am informed that after the board of city record had in a large number of cases, namely, those in the list hereto annexed, designated by resolutions particular newspapers to publish notices from time to time, you unlawfully changed such designations without the direction or authority of the said board, by crossing out the names of certain newspapers so designated in and by the said resolutions and inserting others in their stead, all as enumerated or shown in the said annexed list.

2. I am also informed that you received from the proprietors of the newspapers so unlawfully substituted by you a percentage of the money paid to them by the city for such advertisements.

I call upon you to appear before me in the Mayor's office at 10 o'clock A.M. on January 27th to make any explanation thereof you may see

(2)

fit, and to show why you should not be removed
from your position of executive secretary to the
Mayor therefor. .

A handwritten signature in dark ink, appearing to read "J. H. Mayor", is written over the printed name "Mayor". The signature is fluid and cursive.

Mayor.

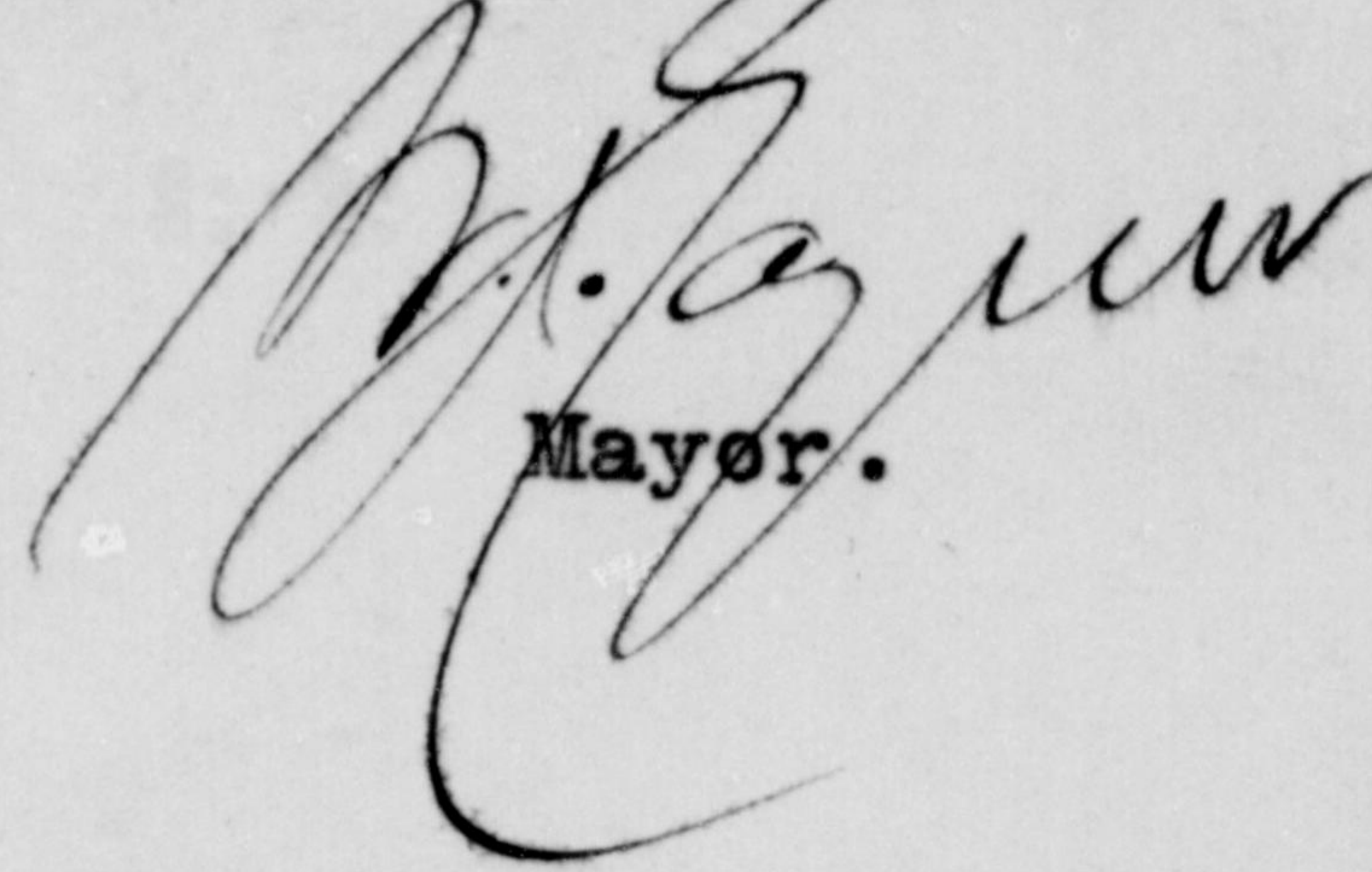
William A. Willis, Esq.,

Executive Secretary to the Mayor.

CITY OF NEW YORK
OFFICE OF THE MAYOR

February 14, 1910.

I DIRECT YOU to hear the charges
preferred against Lee J. Mills, Sealer of
Weights and Measures, and report to me .

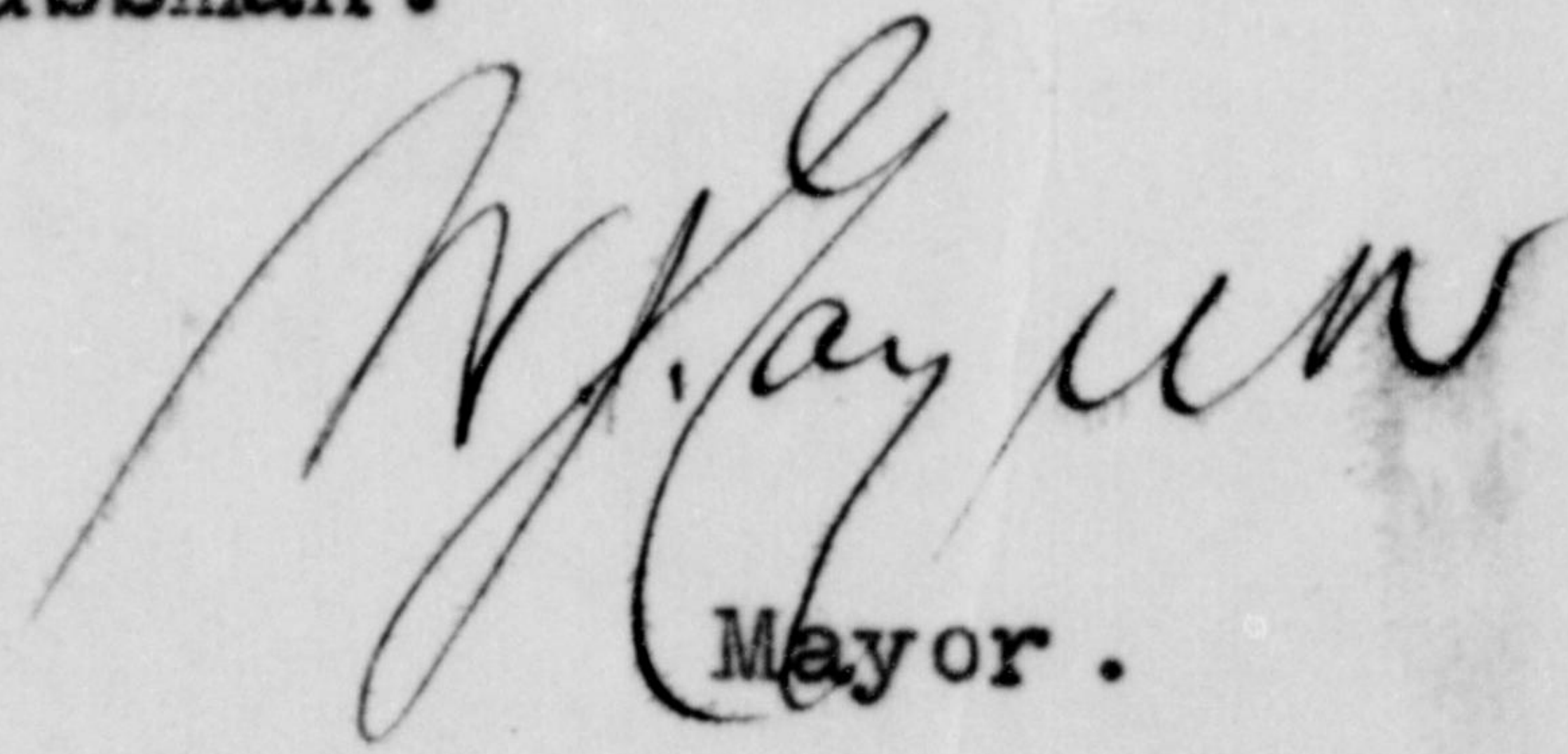

Mayor.

To
Robert Adams on,
Secretary.

CITY OF NEW YORK
OFFICE OF THE MAYOR

February 17, 1910.

Acting in pursuance of section 306
of the Municipal Court act, I delegate to
you the power and duty of hearing the evi-
dence produced upon the trial of the charges
preferred against City Marshals Thomas F.
Clarke and David Sussman.


Mayor.

To
Robert Adamson,
Secretary.

Undated memo
in file from Cop turned
about 2/23/10

- (1) The services of all unnecessary clerks to commissions should be immediately dispensed with.
- (2) The services of all unnecessary appraisers and valuers should be immediately dispensed with.
- (3) The advertising should in all instances be done in weekly instead of daily newspapers. The provision of the law requires that notices shall be published in "every issue" of the newspapers designated. ^{for the statutory period} This can be complied with by publication once a week ^{in a weekly newspaper} as well as daily ^{in a daily newspaper}.
- (4) There is no necessity for having the stenographers' minutes printed after they have been typewritten. Approximately \$150,000. has already been spent for printing and stenographic work. Of this considerably more than half was for printing, and might have been saved to the City.
- (5) I shall have other matters to bring to your attention in this connection from time to time.

Special Counsel should be immediately notified that the services of the following appraisers will not be further required on behalf of The City of New York:

J. J. Campbell, Kingston, N. Y.
Jesse B. Boice, Pautaukunk, N. Y.
John F. Hallian, Kingston, N. Y.
Thomas Cusack, Kingston, N. Y.
G. E. Johnston, New Platz, N. Y.
Abram S. Denton, Gardiner, N. Y.
George B. Van Valkenburgh, Catskill, N. Y.
Elting Harp, New Platz, N. Y.
Walter Hasbrouck, Lloyds, N. Y.
J. A. Trainor, New York City.
Michael E. Griffin, Norwich, N. Y.
Jacob A. Newstead, New York City.
J. C. McGreedy, Hornell, N. Y.
Abram Terwilliger, Shokane, N. Y.
William J. Hillary, Buffalo, N. Y.
Neil McCloskey, Hamburg, New York
John C. Shultz, Saugerties, N. Y.
Harvey Leamon, Schenectady, N.Y.
Frank Rosa, Olive Bridge, N.Y.
Stephen Ryan, Norwich, N.Y.
Arthur J. Mahon, Rochester, N.Y.
James W. Sutton, Oswego, N.Y.
Walter S. Morton, New York City.
Edward Wegmann, New York City.
Richard Rossitter, Paterson, N. J.
Avery McDougal, New York City
D. W. Hefferman, Dunkirk, N.Y.

Wesley J. Springstead, Haverstraw, N. Y.

W. M. Cameron, Glens Falls, N. Y.

CLERKS TO COMMISSIONS.

The services of John T. Maher, [#] of Newburgh, N.Y. and Frederick Benedict, of Kingston, N. Y., should be immediately dispensed with. (Maher gets \$200. and Benedict \$125. per month.)

Cash to pay
Deputy clerk

Feb 21/10

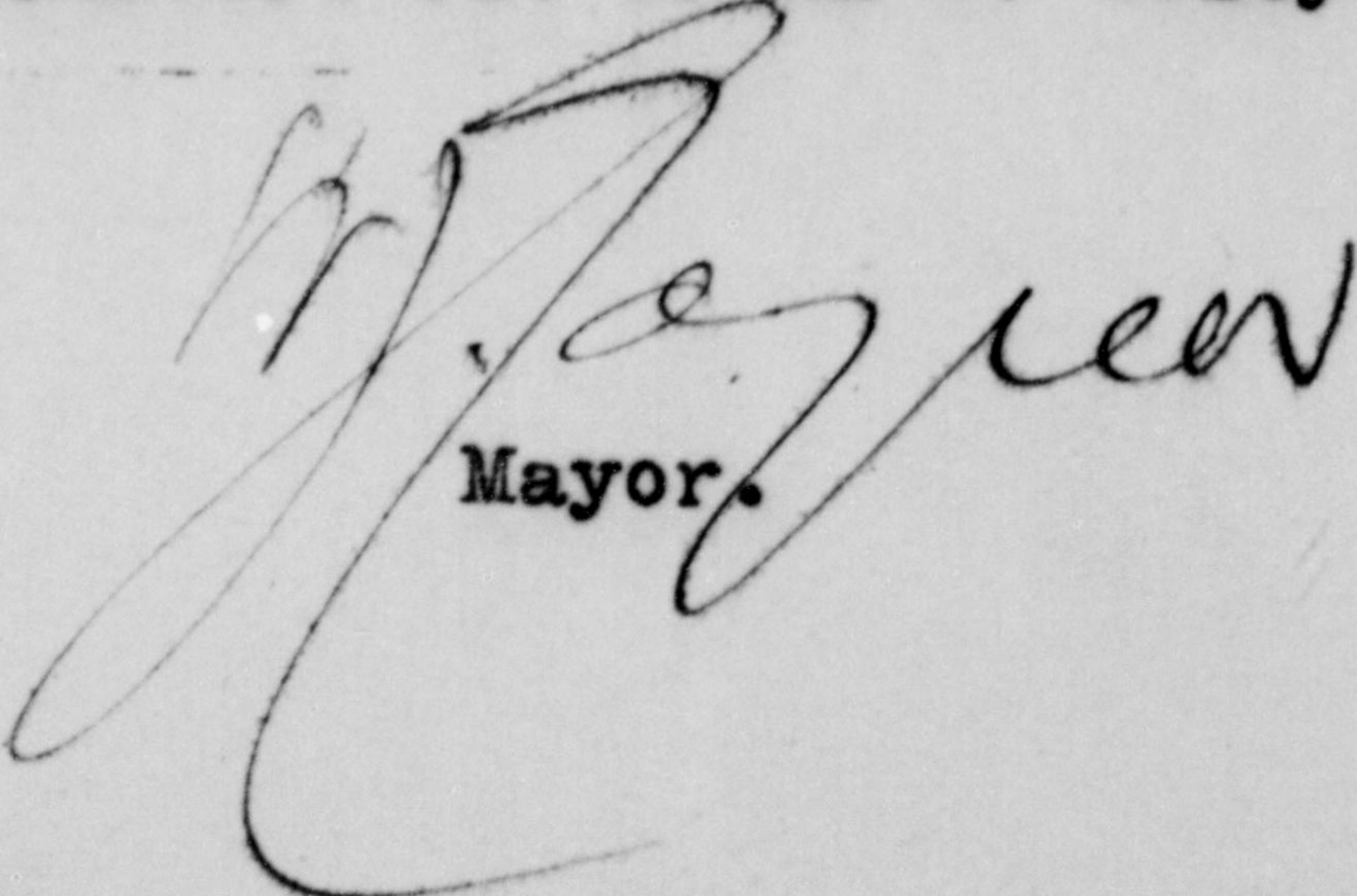
List of Appraisers
to be dispensed
with

CITY OF NEW YORK.
OFFICE OF THE MAYOR.

March 11, 1910.

Acting in pursuance of Section 306
of the Municipal Court act, I delegate to you
the power and duty of hearing the evidence
produced upon the trial of the following
charges against City Marshals:

William Kraus vs. Frederick L. Walter;
Robert S. Smith vs. Benjamin Horn;
Randolph M. Newman vs. Benjamin Horn;
Daniel J. Miller vs. Benjamin Horn;
Goldstein & Goldstein vs. Frank M. Moley;
Goldberg & Orenstoft vs. Frank M. Moley.

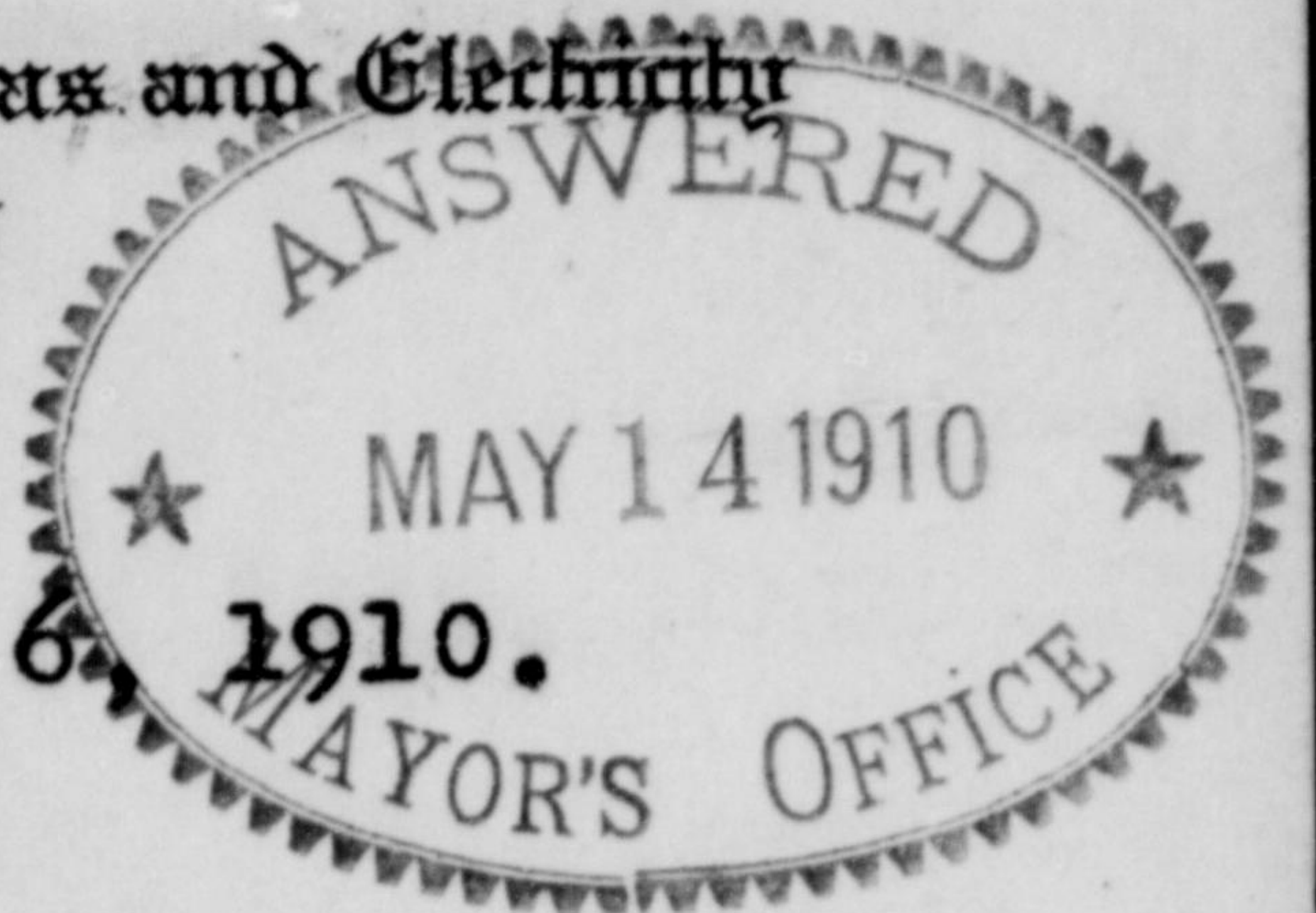


Mayor.

To
Robert Adamson,
Secretary.

City of New York
Office of
Commissioner of Water Supply, Gas and Electricity
13-21 Park Row

May 6, 1910.



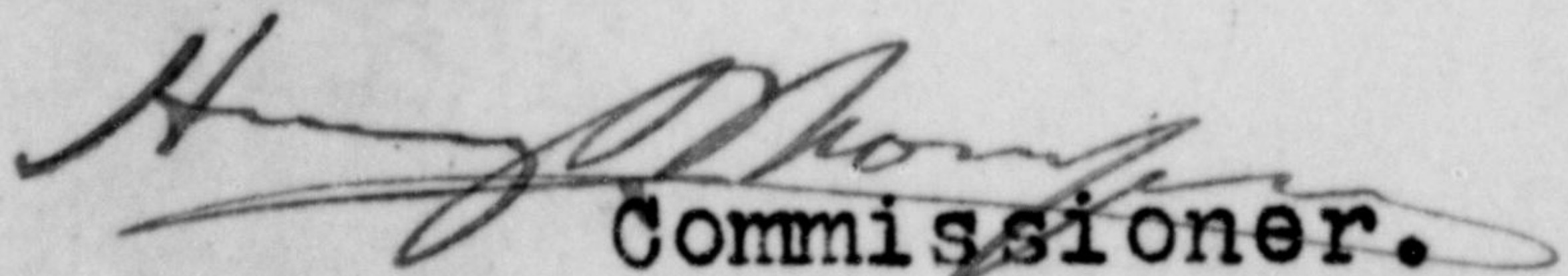
Hon. William J. Gaynor,
M A Y O R,
City of New York.

Dear Sir:-

In answer to your favor of May 3rd, I informed you that we had six men working in the Department who came from Cleveland, and you told me verbally to reduce them to three.

This morning Mr. Bemis tells me that you told him you are satisfied that the six men here should remain, but that no others should be brought on, which instructions will be carried out.

Sincerely,


Commissioner.

May 6/10

Ad to 6 Mess
from Cleveland

Oct.31,1910.m

Dear Professor Bemis:

Your letter of October 28th, which you sent to me at St. James where I had to go to get a short rest, and where I really ought to be left alone, only shows what was already apparent, namely, that the relations between you and the Commissioner are such that both of you cannot continue to serve in the Department. I regret that this has come about. I am bound to say, however, that you have caused it yourself. You did not seem to fully realize that you were a subordinate in the Department. I note that you say that your dismissal will cause an attack on my administration. I care nothing about that whatever. The attack can begin just as soon as those who want to make it are ready. I shall have no hesitation in publicly stating the facts in the case. As for Mr. Thompson, he is a man of the highest integrity, intelligence and business capacity, and the City of

New York is exceedingly fortunate in getting such a man into its service. If you could not work with him that is your misfortune if not your fault. You came to me several times to confer with me over the Commissioner's head, which no doubt mortified him. You even came to me at St. James right after I was taken from the hospital, and when I was almost unable to articulate, to talk to me about matters over his head, and was so insistent about it that I must say the impression made on me was anything but favorable to you. I hope I say all this in kindness. I have examined carefully into the matter, and I do not intend to try to impose on the Commissioner a deputy with whom he has been wholly unable to work. I regret that you should think, apparently, that any threat or prospect of an attack on the administration should influence me one iota in your favor or in anyone else's favor.

Very truly yours,

H. J. Payne

Prof. Edward W. Bemis,
106, Hamilton Avenue,
New Brighton, S. I.

CITIZENS UNION OF THE CITY OF NEW YORK

A Union of Citizens without regard to party, for the purpose of
securing the honest and efficient government of the City of New York

OFFICERS

WM. JAY SCHIEFFELIN *Chairman*
ISAAC N. SELIGMAN *Treasurer*
J. O. HAMMITT *Secretary*

41 PARK ROW (OLD TIMES BUILDING)

Let there be Light!



FINANCE COMMITTEE

ISAAC N. SELIGMAN
FRANK L. BABBOTT HENRY HENTZ
GUSTAV H. SCHWAB HENRY BATTERMAN
RICHARD S. CHILDS ARTHUR C. LUDINGTON
E. R. L. GOULD, *Chairman*
TEL. CORTLANDT 5898-5899

February 20, 1911.

Hon. William J. Gaynor,
M a y o r ,
City Hall, New York City.

Dear Mr. Mayor:-

You will remember that under date of January 27, 1910, you certified in a letter to the Municipal Civil Service Commission that it had been brought to your attention that William A. Willis, Executive Secretary to the Mayor changed the resolution of the designations by the Board of City Record designating certain specified newspapers for advertising city matters by erasing the names of such newspapers and substituting others in the said resolutions without the lawful authority of the Board of City Record, and received from the proprietors of the newspapers illegally substituted a certain per centage of the money paid by the city for such advertisements. Your letter referred to the fact that these acts of misconduct were reduced to writing and served on Mr. Willis, together with the list of the papers illegally certified by him, and he was directed to appear before you at 10 A. M. on January 27, 1910, to give explanation. You found the charges to be true and the explanation offered unsatisfactory and untruthful.

Mr. Willis is now employed by the "New York American". Information has come to me which makes me very anxious to have an opportunity to have the record of the charges and proceedings before you examined.

I would greatly appreciate your sending me written authority for me or my representative to examine this record, and information as to the office in which the record will be found.

Yours very truly,

Wm Jay Schieffelin

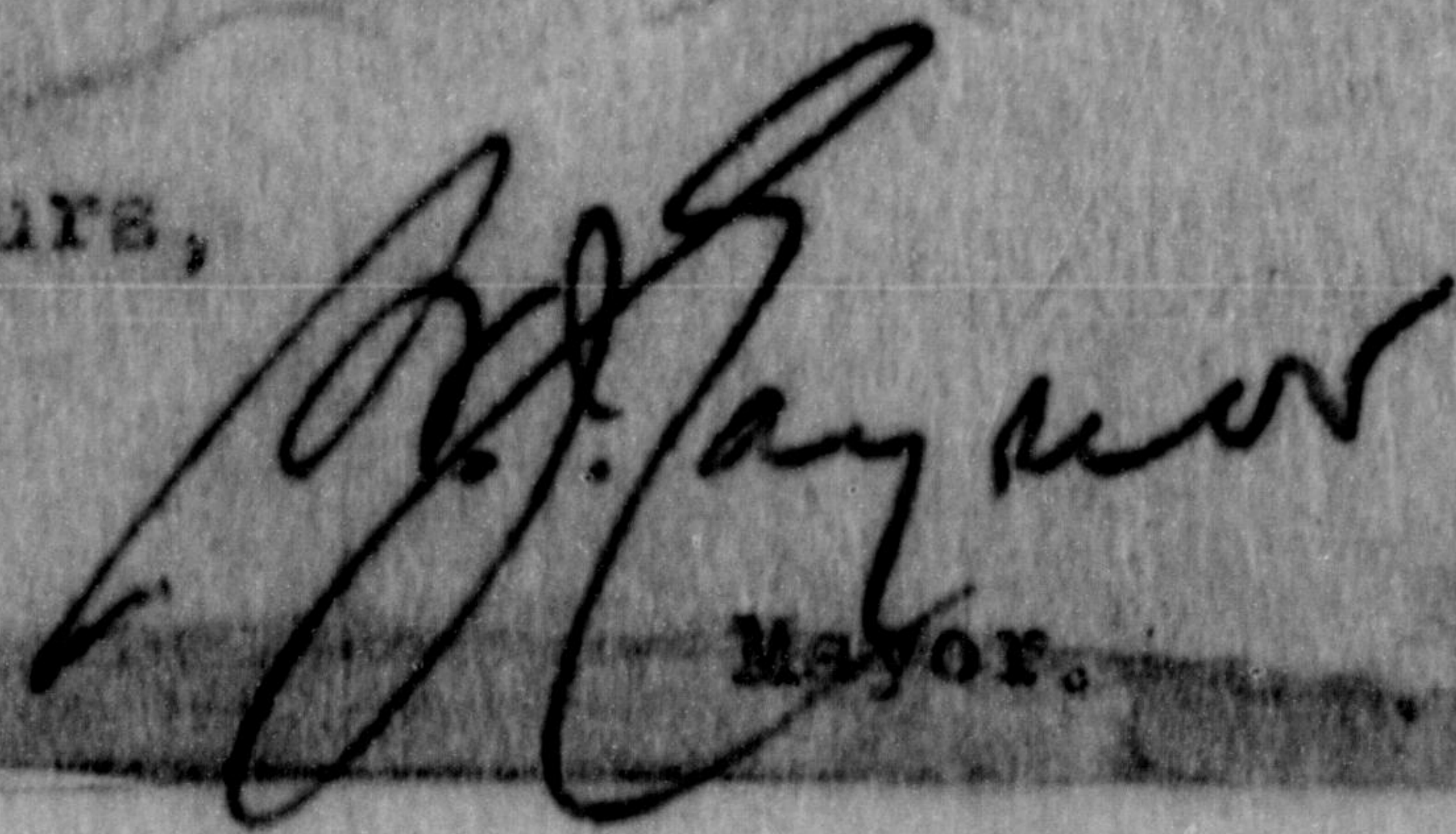
Chairman.

Feb. 20, 1911.m

Sir:

I am receiving many letters from employees of the Park Department who are discharged during the winter. I wish you would bring the matter up at the next meeting of the Board, and have it thoroughly considered. The list of employees should be made up so that the city could take care of them the year round, if possible. So many discharges of men during the winter is a great hardship, and ought to be reduced to a minimum. If they could get work elsewhere it would be all right, but they cannot do so as a rule. I should like to hear from you on this subject after it has been carefully considered.

Very truly yours,


Mayor.

Charles B. Stover, Esq.,

President of the Park Board.

Feb. 23, 1911.m

Dear Mr. Schieffelin:

The papers concerning Willis are all on file here, and Mr. Adamson will let you or your representative see them at any time. I think there were 299 such forgeries. The original papers are in the hands of the Supervisor of the City Record, and he will show them to you. He is the kind of man that the American would be expected to employ.

Very truly yours,

W. J. Adamson
Mayor.

William J. Schieffelin, Esq.,
The Citizens Union,
41, Park Row, N.Y. City.

Mar. 2, 1911. k

S i r

Your favor of March 1st is at hand, letting me know that you are getting the opinion of the Corporation Counsel on certain questions of the employment of workmen. I am quite certain that there is some way to do this thing. If we had it in mind when the budget was being made up we certainly could have done it. If we cannot do it any other way we should increase the per diem, so that if they are laid off they will not suffer so much for the reason that during the time they worked they would be receiving high pay. Or we can distribute that high pay during the whole year. Or we can hire them by the year. The case is certainly susceptible of some solution. We ought to be willing to do as much as charitable private employers do to keep their men from being periodically thrown out of work, and there must be some legal way to do it.

Very truly yours,

H. J. Maynor
Mayor.

Charles B. Stover, Esq.,
Commissioner of Parks, etc.

June 26, 1911.k

Dear Mr. Bruere:

Your idea of a lunch room in the new Municipal Building is excellent. But if we are to have one it should not be of the mere standing, hurry lunch kind. It should be of the best — one which would encourage those who sit down to stay there for one hour.

Very truly yours,

W. L. Gaynor
M a y o r.

Henry Bruere, Esq.,
261, Broadway,
New York City.

Jan. 5, 1912.k

Dear Mr. Watson:

Please thank Mr. Raine, of the News-Scimitar, for bringing to my attention the interesting pamphlet setting forth the extraordinary growth and prosperity of Memphis. Such a record could only have resulted from a splendid civic spirit, backed by the enterprise and activity of such newspapers as they have in the South. Without a wholesome and intelligent public sentiment, based upon the truth publicly spoken, nothing much can be done nowadays.

You may tell Mr. Raine, if he does not know it already, that a number of southern men are helping me in the work I am trying to do here. It has been commented that there are more southern men holding important positions in the City Government than at any previous time in its history, and they are all doing splendid work.

Sincerely yours,

R. J. Taylor,
Mayor.

Archibald R. Watson, Esq.,
Hall of Records,
Manhattan.

c

Marshals

MEMORANDUMON THE OFFICE OF MARSHAL OF THE CITY OF NEW YORK.

Appointment
and
term: ✓

Marshals of the City of New York are appointed by the mayor for the term of six years.

(Charter, secs. 1424 to 1427 inc.)

Number of
marshals;

They are sixty-eight in number, divided among the boroughs as follows:

Division
among
boroughs
and
expiration
term:

Manhattan and The Bronx, 40; terms expire May 1, 1915;

(Chap. 506, laws of 1903;
Charter sec. 1424).

Brooklyn, 18; terms expire Jan. 1, 1913;

(Chap. 1000, laws of 1896)

(See also Brooklyn Charter, L. 1888, p. 1100;
Charter section 1424)

Queens, 6; Terms expire Jan. 20, 1910;

Richmond, 4; Terms expire Jan. 20, 1910.

(Charter sections 1425 and 1426)

Bond:

The marshal shall execute and file with City Clerk a bond for \$2,000.

(Municipal Court act, sec. 294.)

Compensation: The compensation of a marshal consists wholly of fees.

(Municipal Court act, sec. 354.)

Removal: The mayor may remove a marshal upon written charges after a hearing. The mayor may delegate to his secretary the power and duty to hear evidence and report proofs taken.

(Municipal Court Act, sec.306)

Marshals' duties: The duties of a marshal principally consist in executing the process and mandate of the Municipal Court of the City of New York. This is our civil court of inferior jurisdiction, having, generally speaking, cognizance only of cases involving less than five hundred dollars, and summary proceedings, commonly known as dispossess proceedings between landlord and tenant. It necessarily follows that in this court are adjudicated the rights of people of small means, and it is of this class that its

Jurisdiction of Municipal Court:

Importance of Municipal Court: litigants is largely made up. The importance of this court can hardly be underestimated when we refer to the astonishing volume of business transacted by it. The figures showing the business transacted by the court for the six months from January 1, 1908 to June 30, 1908 are as follows:

Total summonses issued (free and paid)	68,798
Landlord and tenant proceedings,	49,014
Attachments issued,	1,428
Orders of arrest issued,	468

(The above does not take account of replevins and warrants of seizure, the figures for which are not accessible.)

Importance
of office
of
marshal:

The marshals being the executive officers of this court, it will be seen that, despite the disrepute in which the office is generally held, it is an office of importance, and all the more so because the marshal deals principally with the poor and unfortunate - with those who have reached the extreme of distress, with those who are seeking to recover their wages, and with those whose little place of business or home is in jeopardy. It is unfortunately the fact that many of the marshals are not of the calibre that might be desired. The temptation to illegally increase their fees by taking advantage of the necessities of people who are not acquainted with their rights, or are too poor to enforce them, is constantly being exercised.

Complaints
against
marshals:

A large part of the complaints that are received at the mayor's office come from persons who have some ulterior motive such as an attempt to bolster up a pending civil action or obtain money from a marshal under some pretext. It has been the custom to make an investigation of all complaints and those which are without merit have been dismissed without a hearing. Other complaints are for abuse of process, extortion, oppression, larceny, etc. In such cases after an investigation had been made, the issues were formulated, a date set for the hearing, the complainant, the marshal and witnesses summoned, and a hearing had before the secretary. The secretary then formulated a report with his recommendations to his honor, the mayor, who passed upon the same and rendered a final decision. (3)

Past pro-
cedure in
case of
complaints:

Crudeness
of present
marshal
system:

The present marshal system in this city is crude, chaotic, unregulated, unscientific and unsatisfactory. Through want of proper regulation, abuses have existed for years, that are a menace to the people of this city, particularly the poor.

Abuses:

Among these abuses is the fact that there are a large number of irresponsible imposters doing business as marshals.

Lack of
proper
records:

The mayor's office is without proper records of the marshals and their actions; other than is contained in a few pages of the general appointment ^{book}, no permanent record is kept. There is no record to show whether the marshals' bonds have been filed, who are the sureties thereon, or when they expire. No separate or comprehensive register is kept of complaints and their disposition. The appointment book is unreliable so far as records of the marshals are concerned, and it is practically impossible to tell by it who are and who are not the present marshals except so far as certain lead pencil notations therein may indicate.

The
remedy:

It is quite apparent that such conditions should not be permitted to exist, and, if desired, a detailed scheme will be submitted, designed to properly regulate and govern the office of marshal.

Extortion
of illegal
fees:

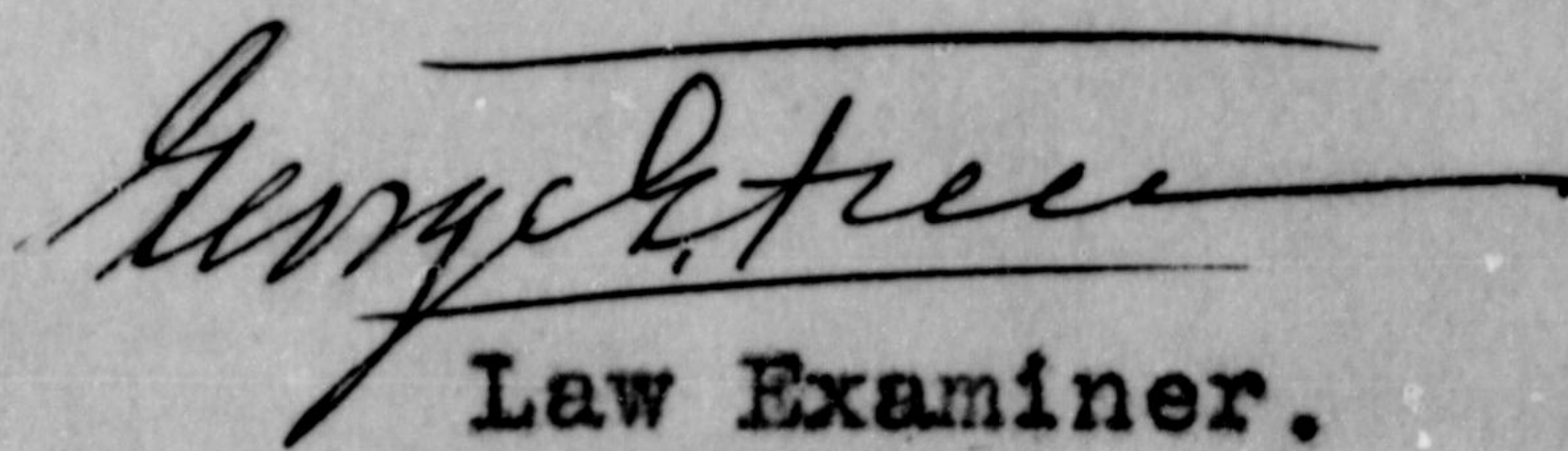
There is one other matter in connection with marshals to which attention should be called:

Section 926 of the charter provides for the collection ^{by a marshal} of unpaid personal taxes by distress and sale. The receiver of taxes has for some years delegated this business to a particular marshal. This marshal has

unlawfully collected from tax-payers thousands of dollars in fees to which he is not entitled. It is suggested that this matter be made the subject of a special investigation and report.

Dated, New York, Jan. 5, 1910.

Respectfully submitted,


Law Examiner.

Jan 5/1910
List of number
of Marshals for the
15 Boroughs

(2)

March 6th, 1912.M

My dear Al:

I am enclosing to you the proposed act amending the charter in relation to city marshals, about which I spoke to you on Monday. This amendment in substance puts the marshals on salary and provides that they shall wear uniforms, and that all fees which they collect shall be turned in to the clerks of the courts to which they are assigned.

V I submitted a copy of this act to the special meeting of the Board of Municipal Court Justices yesterday afternoon and I am informed this morning that it was unanimously approved. I am to receive a report from the legislative committee of the Board later and I will send it to you. The Marshals Association has also approved the bill. Of course it has been approved by the Mayor.

The bill, in my opinion, accomplishes many beneficial results. You know that we have had a lot of trouble with fake marshals. This is the reason for putting the marshals in uniform. The marshals themselves approve this provision. These fake marshals and the eagerness of the real marshals to collect fees are the cause of nearly all the complaints we receive here. Some of the marshals are so greedy about fees that they are constantly guilty of overcharging and of oppressing poor people. This will all be stopped if this law passes because they can collect only the prescribed legal fees. Another trouble which has been the source of a lot of complaint here has been the refusal of marshals to take small executions for poor people for collection because the fees they will get are too little. The result has been that many of the poor people have had their executions neglected. Under the law the marshals will be forced to attend to these. Also the

change in the law will help the landlords and persons who have judgments for collection, as the exorbitant fees for dispossessing a tenant or for hauling away goods that have been levied on will be stopped.

As to the effect on the city treasury of paying these salaries to the marshals, I have had a tabulation made based on the work of the municipal courts last year, and it shows that the salaries of the marshals can easily be paid out of the fees with probably a saving of \$25,000 a year to the city.

The proposed amendment does not in any way disturb the marshals who are in office. They will be continued without any change. The bill provides that the Mayor can designate one of the marshals as the chief marshal, who will have a general supervision over the work of the other marshals. The Board of Aldermen will fix the salaries of the marshals.

I am sending a copy of the bill also to Bob Wagner. I do not know what the procedure is about introducing a bill up there, whether it should be introduced in one body or simultaneously in both bodies. Accordingly I am sending him a copy so that if that be customary the bill can be introduced both in the Senate and in the Assembly.

I thank you very much for your interest in the matter, and I believe that you will be doing a great and useful service to the poor people of this city if you can get this bill through. It is a bill that affects the courts of the poor people, and very poor people are the victims of the abuses which this bill is intended to remedy.

Sincerely yours,

Robert Adams

Secretary.

Hon. Alfred E. Smith,
Assembly Chamber,
Albany, New York.

Enc.

CORPORATION COUNSEL,
CITY OF NEW YORK.

July 15, 1912.

Hon. William J. Gaynor,
Mayor.

Sir :-

I beg to make further reply to your favor under date of June 25th, which enclosed letter of the International Union of Steam Engineers, Local Unions Nos. 20 and 319, protesting against an opinion rendered by this Department under date of April 29th, 1912, to the effect that the City has no power to employ its laborers, workmen or mechanics for overtime work, even in cases of extraordinary emergency. Under your direction I have re-examined the matter personally, in the light of your suggestions and the representations contained in the letter of the International Union of Steam Engineers above referred to. The letter states a typical case so clearly and concisely that it seems proper here to quote the same in full:

"International Union of Steam Engineers,
Hall of
Local Union No. 20 and 319.

New York, June 19, 1912.

Hon. William J. Gaynor, Mayor,
City of New York.

Dear Sir:-

The undersigned have been directed by their respective organizations to invite your attention to an opinion recently rendered to the Comptroller by Corporation Counsel Watson, in which he declares that the payment of

wages for work performed in excess of eight hours to per diem employees is unlawful.

We believe under ordinary conditions per diem employees should not be required to work more than eight hours per diem. We do not advocate the creation or continuance of any system or condition that makes overtime possible, but we believe some method should be evolved whereby compensation can be paid per diem employees who work overtime in the event of an emergency.

Occasionally emergencies arise which require employment in excess of the usual eight hours. In our occupation nearly all steam plants are in operation continuously, twenty-four hours per day. An engineer may fail to report for duty on account of temporary illness, he may be absent from duty several days, in this event the engineer who has performed eight hours service is required to remain and operate the steam plant for an additional eight hours, for which he cannot receive recompense according to the opinion rendered by the Corporation Counsel. This we submit is an injustice to the engineer. If he declines to remain on duty for the additional eight hours it is necessary for him, under the engineers license law, to shut down the plant before he retires from the engine room (unless relieved by a licensed engineer), and if he should do so it is reasonable to assume that he would be dismissed from the service.

We feel certain that the City of New York has no desire to establish or enforce a system which will deprive mechanics or per diem employees of wages earned in excess of the usual eight hours, or that may place them in a position that will prejudice their future employment in the event of their refusal to work more than eight hours per diem without some assurance of compensation.

We therefore respectfully request that Your Honor give this matter your consideration, with the view of either allowing wages for overtime, or providing for the appointment of a sufficient number of employees so as to make employment in excess of the usual eight hours per diem impossible.

Respectfully submitted,

Charles Hanlon
Representing Local Union No. 319.

Michael Murphy
Representing Local Union No. 20."

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The opinion to which the foregoing letter refers was rendered by the Acting Corporation Counsel under the date above mentioned, addressed to the Hon. Maurice E. Connolly, President of the Borough of Queens. That opinion holds, respecting §3 of the Labor Law, as follows:

"There is an absolute inhibition against the employment by a municipal corporation of laborers, working men or mechanics in excess of eight hours in any one calendar day. The exception with regard to extraordinary emergency caused by fire, flood or damage to life or property applies only to such persons employed by contractors or subcontractors doing work for the municipal corporation."

For this conclusion the sole authority quoted in the opinion referred to is the decision of the Appellate Division of the Second Department in the Matter of Burns v. The City of New York (121 App.Div. 180), in which, with reference to §3 of the Labor Law, the Court did declare it to be what indeed it purports to be on its face, - an inhibition against contracts or agreements for overtime work in excess of eight hours in a single working day. But the Burns case does not appear to have been a case of emergency employment, nor does the question of overtime employment in emergencies appear to have been considered at all. Under the circumstances, therefore, this adjudication is not in point upon the proposition which it has been cited to sustain, and it would be a surprising situation indeed if, in a real emergency, the City, acting through its departmental heads and other properly constituted officials, who are expressly declared to be trustees of the City's property, funds and effects, might not call upon its employees

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to conserve the City's property, and compensate them for it, after the expiration of the working day.

It is true that the Labor Law contains no express exception for the emergency employment of City employees, as it does in the case of employees of contractors with the City. Whether this omission was inadvertent or not we need not now inquire, for aside from the sense and reason of the conclusion favoring emergency employment beyond eight hours when the property of the City, or the health or lives of its citizens are imperilled, several authoritative decisions bear out this view.

In the matter of People ex rel. Uscoy v. Waring (52 App.Div. 36), it was held that the Water Commissioners of the City of Olean were justified in employing laborers over time in an emergency affecting the water supply of that city. In the course of the decision in that case the Court said:

"Olean is a city of considerable size and importance. Its inhabitants are dependent upon the city waterworks for their water supply, and they consume a million and a quarter gallons of water per day. In order to supply this large quantity of water, it was necessary to keep the one pump then in use in almost continuous operation. Consequently it may be readily seen that had an accident happened to this pump, as was liable to be the case at any time, the most serious consequences must have ensued, consequences which would have proved disastrous to all classes of the community, rich and poor, employer and employee. Surely in these circumstances it is not only proper but it was clearly the duty of the officers having the matter in charge to take extraordinary precautions to avert such a calamity, and inasmuch as it is not pretended that they wilfully or intentionally violated the law, we think the case, so far

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as this particular feature of it is concerned, may be dismissed without further comment. * * * * *

In the comparatively recent case of Grady v. City of New York (182 N.Y. 22), it was said by the Court of Appeals:

"While the statutes regulating the period of labor on public work fixed the standard of a day's work at eight hours, they authorized the employment for a greater time in case of emergency. The plaintiff's duties were largely of the emergency character, and his employment to discharge those duties, though involving at times work for more than eight hours a day, was entirely legal. The question is, what was the contract to be implied from the course of dealings between the parties as to his compensation for such services? Was he to get a fixed wage for eight hours' work and then additional pay for the various periods of overtime his duty might require, or was his compensation to cover all the work he might perform, regardless of how the period of labor might vary on different days? Either method of compensation was proper and legal."

It is my opinion, therefore, that the right of the City, or of contractors with it, to employ mechanics and laborers overtime in real emergencies, and the right of such mechanics and laborers to wages at the prevailing rate for overtime when so employed, may not be seriously questioned at this time.

Whether or not an emergency exists, which must be the sole warrant for the overtime employment of mechanics and laborers by the City, necessarily depends upon the facts of the case. Obviously no hard and fast rule upon the subject can be framed, beyond the requirements which the Comptroller should, and doubtless will, insist upon, namely: That all pay-rolls covering overtime compensation shall be restricted to mechanics and laborers, and shall be accompanied by cer-

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tificates from the heads of the appropriate departments setting forth circumstances justifying the overtime employment of such mechanics and laborers as an emergency measure.

For the above reasons, and upon the authorities herein referred to, I beg to advise you that I shall recall the opinion of the Acting Corporation Counsel to the President of the Borough of Queens, dated April 29, 1912, transmit copies of this letter to the Comptroller and all City departments which may be affected thereby, and also to the International Union of Steam Engineers, at whose request you directed that a re-examination of the question of overtime employment should be made.

R e s p e c t f u l l y,

Richard R. Watson

Corporation Counsel.

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CITY PERSONNEL-

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MERRY & BOOMER,
MANAGERS.

Hotel McAlpin

Greeley Square

New York City

December 28, 1912.

Sir:

Permit me to tender my resignation as confidential stenographer to the Mayor, owing to ill health. Such ill health has been brought about by worry and the fact that there is no retiring room convenient for the women in your office. Now that you tell me I take too great a liberty in using your wash room in your absence, there is nothing for me to do except resign. I have attempted repeatedly to have



MERRY & BOOMER,
MANAGERS.

Hotel McAlpin

Greeley Square

New York City

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a place assigned for our use, only to be laughed at and told I was "trying to run the City Hall." The men, of course, are taken care of in this respect, and I submit it is a matter as important for women as for men, if not more so.

Respectfully,
Jeanne B. Marion.

Hon. William J. Gaynor, Mayor,
City Hall, New York City