

DEPARTMENT OF BUILDINGS,

B. W.

NR 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,

STEVENSON CONSTABLE,
SUPERINTENDENT.

New York, May 1st, 1896.

Hon. Wm. L. Strong,

Mayor of the City of New York.

Dear Sir:-

I have the honor to acknowledge receipt of your communication of the 1st, in regard to the Chinese Theatre. I have again sent one of my men down there to look into this matter.

I consider it a serious matter to allow assemblages of people and performances to be carried on in a building in such condition as this one, with three hundred lodgers above the theatre, and an opium joint underneath.

Yours respectfully,

Stevenson Constable
Sup't of B'ldgs.

177.

D. W.

STEWARTSON (CONSTABLE)

STEWARTSON (CONSTABLE)

HON. WM. T. GILSON,

Mayor of the City

DEPARTMENT

215 550 FOUNTAIN

S. W. CORNER

B. W.

DEPARTMENT OF BUILDINGS,

NR 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,

STEVENSON CONSTABLE,
SUPERINTENDENT.

New York, May 2nd, 1896.

Hon. Wm. L. Strong,
Mayor of the City of New York.

Dear Sir:-

In confirmation of our conversation over the telephone in regard to Chinese Theatre, I would state as follows:

The main points of danger are the theatre being in an old building, occupied above as a lodging-house with over 300 lodgers, and in the basement underneath the theatre are dressing rooms, smoking rooms, kitchen, stove, etc. all of the most inflammable construction; in addition to this, there being oil lamps and opium smoking, the combination is very dangerous.

I consider that while it is a great hardship to prevent the re-occupancy of such building, as it has been in use for three years, for assemblage or public purposes, that the risk of life in the present condition of said building is too great for me to authorize it, unless improvements and alterations are made which decrease the risk.

Yours respectfully,

Stevenson Constable
Sup't of B'ldgs.

Sup't of B'ldgs.

DEPARTMENT OF BUILDINGS,

B. W.

NO 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,



New York, May 2nd, 1896.

Hon. Wm. L. Strong,

Mayor of the City of New York.

Dear Sir:-

I have the honor to acknowledge receipt of your favor of the 1st inst, in regard to premises #138 E.14th St., concert license having been applied for same, and in reply would state that as everything is all right, said license can be granted.

Yours respectfully,

Stevenson Constable
Sup't of B'ldgs

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BUILDINGS

ST.

MAY 2ND, 1896.

B. W.

DEPARTMENT OF BUILDINGS,

NO 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,



New York,

189

May 5th, 1896.

M.

Hon. Wm. L. Strong,

Mayor of the City of New York.

Dear Sir:-

In re 2157-2157 Amsterdam Ave. Concert Hall

Replying to your inquiry regarding this hall, I beg to state that
as I find the same all right, license can be granted.

Yours respectfully,

Stevenson Constable
Sup't of B'ldgs.

86

Dear Sir:-

Mayor of the City of

Hon. Wm. L. Strong,

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CITY OF NEW YORK
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Hon. Stevenson Constable,

Dear Sir:- You have submitted for my opinion the question whether any building in the city of New York can have its occupancy and use changed from that for which it has been built or has been used, to that of a hotel, without first complying with the law controlling the construction of such buildings. The law here referred to is to be found in Title 5, Chapter II, of Chapter 410, Laws of 1882 as amended. This part of Chapter 410 was last amended by Chapter 275, Laws of 1892. In Chapter 275, while the use and occupancy is in most cases an important factor in determining the proper construction of buildings, it is not the only guide. Many sections of the law are of general application, while others concern matters foreign to the present enquiry. Nor does the same rule run through those that apply to the question proposed. An examination therefore of each becomes necessary, after which I will deduce as far as possible a general rule.

Section 12 first claims our consideration. It, with Section 13, regulates the thickness of the walls of structures according to their use and occupancy and also according to their height. The part which relates to the subject of this opinion provides that; "The walls of all dwelling-houses, whether called tenement-houses, apartment-houses, flats, hotels or other buildings which are to be used for residence purposes, twenty-six feet or less in width between walls, and also the walls of school houses, which are hereafter erected, or which may be altered to be used as herein specified, over thirty-five feet in height, and not over fifty feet in height, shall not be less than twelve inches thick above the foundation wall;" etc. The words, "which are hereafter erected" etc., have reference only to "other buildings which are to be used for residence purposes" and "school houses." They do

not refer to the "dwelling-houses, whether called xxx hotels" etc.. I adopt this construction as it would not be possible to alter a hotel into a hotel. The reading then is "The walls of all x x x hotels x x x over thirty-five feet in height and not over fifty feet in height shall be" etc.. And here the question arises whether this reading includes all "hotels" irrespective of the period of their erection, or only such as are or have been put up after the passage of the section. The rule that governs the interpretation of statutes is that they "Are not to be construed as retrospective, unless by the language thereof they are clearly intended so to be" (Sedgwick, on the Construction of Statutory and Constitutional Law, page 161. Note). Guided by this principle the provisions in this section concerning "hotels" are to be construed as prospective and therefore only apply to such as are or have been built after the passage of the act, namely, April 9th 1892. As hotels have the minimum thickness allowed for walls, the question of a change in this feature of the construction of a building when altered so as to be used as a hotel cannot arise. Nor in making this statement have I lost sight of one-story structures mentioned in section 13, the walls of which are only eight inches thick. It would not be practical to use a structure as therein described for hotel purposes. To sum up what has been thus far said section 12 only applies to hotels erected subsequently to April 9th 1892, and as the thickness of their walls are the least allowed by law for any purpose whatever, excepting the one-story structure above mentioned, it has no bearing on the subject of this opinion.

To pass to section 16, it directs that "Every building hereafter altered to be occupied as a hotel, and every building hereafter erected or altered to be occupied as a lodging-

(3)

house, and every tenement-house, apartment-house and dwelling-house five stories in height, or having a basement and four stories in height above a cellar, hereafter erected or altered to be occupied by one or more families on any floor above the first, shall have the first floor above the cellar or lowest story constructed fire proof with iron or steel beams and brick arches. The stairs from the cellar or lowest story to the fire-proof floor next above, when placed within any such building, shall be located to the rear of the staircase leading from the first story to the upper stories and be inclosed with brick walls. The opening through the brick wall of such inclosure into the lowest story shall have an iron door, or a tin covered wooden door constructed as hereinafter described in section four hundred and ninety-one of this title, and shall be self-closing. When the stairs from the first story to the cellar or lowest story are located in an open side court the door opening leading thereto from the first story may be placed underneath the staircase in the first story, and the strings and railings of such outside stairs shall be of iron, and if the stairs be inclosed from the weather incombustible material only shall be used for that purpose. No closet shall be constructed underneath the first story staircase, but the space thereunder shall be left entirely open and kept free from incumbrance." And first it will be noticed that the application of these provisions to "hotels" depends upon whether they are "five stories" high or have a "basement and four stories" above a cellar. It would seem at first sight that they include hotels irrespective of this limitation. This, however, would lead to the result of forcing builders to do more in altering a structure under thirty-five feet into a hotel, than in putting up a new one.

The section further provides "Every such building exceeding five stories in height, or having a basement and five stories in height above a cellar, shall be constructed as in this section before described, and shall also have the halls and stairs inclosed with twelve-inch brick walls. Eight-inch brick walls not exceeding fifty feet in their vertical measurement, may inclose said halls and stairs, and be used as bearing walls where the distance between the outside bearing walls does not exceed thirty-three feet, and the area between the said brick inclosure walls does not exceed one hundred and eighty superficial feet. The floors, stairs and ceilings in said halls and stairways shall be made of iron, brick, stone, or other hard incombustible materials, excepting that the flooring and sleepers underneath the same may be made of wood and the treads and handrails of the stairs may be of hard wood, provided that where wooden treads are used the underside of the stairs shall be entirely lathed with iron or wire lath and plastered thereon, or covered with metal. At least one flight of such stairs in each of said buildings shall extend to the roof, and be inclosed in a bulkhead built of fire-proof materials. When the said halls and stairways are placed centrally in, or back from the front line of the building, a connecting fire-proof hallway inclosed with brick walls shall be provided on the first story and extend to the street." Here there is no doubt that the criterion which is to determine whether these latter provisions are to be required rests upon the height in stories, of the structure. It is, consequently, reasonable to infer that the same rule is to be applied to those first above given of this section. This reasoning becomes very strong when it appears that if adopted an incongruity is avoided. Before further discussing

the above parts of section 16 I will pass to section 20; "It is an elementary rule of construction that all the parts of an act relating to the same subject should be considered together, and not each by itself. By such a reading and consideration of a Statute, its object or general intent is sought for, and the consistent auxilliary effect of each individual part." (Sutherland on Statutory Construction, page 285.) The transition to section 20 is made for the purpose of weighing the two sections together as it will be seen that one will throw light upon the other. Section 20 enacts that "Every building hereafter erected to be used as a hotel, and every building hereafter erected or altered to be used as a theater, hospital, asylum, institution for the care or treatment of persons, or in whole or in any part as a school or place of instruction, the height of which exceeds thirty-five feet, except buildings, for which specifications and plans have been heretofore submitted to and approved by the superintendent of buildings, and every other building the height of which exceeds eighty-five feet, shall be built fire-proof," etc.. Then follows such regulations as are applicable to fire-proof buildings.

Thus it is noticeable that sections 16 and 20 have reference to structures "hereafter erected" and to those "hereafter altered."

With regard to buildings "hereafter erected" namely, after April 9th 1892, the construction of the same is made by these sections to depend upon their use; they therefore of necessity forbid a construction not warranted by their use. This is tantamount to the prohibition of their use unless the construction is made to conform thereto. Thus, using a non-fire-proof dwelling over thirty-five feet high as a hospital is forbidden. The spirit of these sections

is to regulate the construction of buildings according to their use, and that intent would be plainly defeated if the use could be changed without conforming the structural parts thereto. Thus it was the clear intention of the legislature to require all new hotels over thirty-five feet high to be fire-proof. Assuming that the use could be changed without conforming to this section, a non-fire-proof dwelling erected after April 9th 1892, could be occupied as a hotel. Consequently the intention of the legislature could be defeated in all such cases and the act rendered practically vain. Rejecting such an interpretation for one which is distinctly in accord with the purpose aimed at by the legislature I am of the opinion that the use and occupancy of any of the above buildings erected after April 9th 1892 cannot be changed without conforming to the provisions of section 16 and section 20. It must also be added that in such an interpretation, we find further confirmation in the forty-fifth section of the act which provides: "This act is hereby declared to be a remedial statute and is to be construed liberally, to secure the beneficial interests and purposes thereof."

"With respect to buildings 'hereafter altered,' the alteration also depends upon the use to which the structure is to be adapted. It is the act, however, of altering the building, here, that brings it within the purview of the sections. But do these sections apply to buildings that are altered irrespective of the period of their erection? It has already been shown that sections 16 and 20 control all structures erected after April 9th 1892, the date of their passage; that if the use is changed such buildings must be altered so as to conform thereto, and that this rule is to be found in the employment of the term 'hereafter

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erected." Consequently if the term "hereafter altered" did not extend to those that have been erected prior to April 9th 1892, it would be useless, of no force or effect. To apply it, then, to structures erected before April 9th 1892, is to give it force and effect. It is, in consequence, an interpretation in harmony with the well-known principle that each and every part of an act must, if possible, be "so construed that no clause, sentence or word shall be void, superfluous or insignificant." (Sutherland on Statutory Construction, page 319.) To bring a building, however, within the scope of these words the statute distinctly says that it must be "altered," therefore a mere change of use without in any way altering the structure, if the same has been put up prior to April 9th 1892, will not bring it within the purview of sections 16 and 20. If it is altered, though, even in the smallest degree, for any of the purposes above specified, they apply, and the changes therein prescribed must be made. And further, a building erected before the passage of the act but thereafter altered for a use within the statute, cannot have that use changed without conforming to the new use. This rests on the principle already above referred to, that the construction limits the use by being itself controlled thereby.

The recapitulation of the law relating to sections 16 and 20 is that the use of buildings erected subsequently to April 9th 1892, cannot be changed without altering the buildings so as to conform to the rules set forth in these sections; that the use of those erected prior to that time can be changed without altering the buildings, but that if any alterations are made, for the purpose of occupying the building for any of the uses therein set forth, however small, the provisions above quoted of sections 16 and 20 must be

obeyed.

Applying this to the question submitted it will be seen, that:

1. Buildings erected after April 9th 1892 cannot be changed into hotels if over thirty-five feet high without being made fire-proof.
2. Buildings erected before April 9th 1892 can be changed into hotels without altering the same, but if any alterations, as above set forth, are made, the provisions hereinbefore given, must be complied with.

With regard to this second sub-division it will hereafter be noticed that the same is somewhat modified by Chapter 454, Laws of 1885, and Chapter 566, Laws of 1887.

To pass on to section 19, it provides "In every building used as a dwelling-house, tenement-house, apartment-house or hotel, each floor shall be of sufficient strength in all its parts to bear safely upon every superficial foot of its surface seventy pounds; x x x and every floor shall be of sufficient strength to bear safely the weight to be imposed thereon in addition to the weight of the materials of which the floor is composed."etc.. Here the use is distinctly made the only criterion, consequently when that is changed the hotel must also be altered, if it does not already conform to the above requirement. With regard to the application of section 19 to the present question it must be remarked that in as much as seventy pounds is the least weight required for the floor of any building, hotel or otherwise, it is not possible that this section could affect a building the use of which is changed into a hotel. The law requires the strength of the floors of many buildings to be more than seventy, but none less.

Section 16 also provides, "The floor of the cellar or

lowest story in every dwelling-house, tenement-house, apartment-house, lodging-house and hotel hereafter erected, shall be concreted with suitable materials not less than three inches thick."

The effect of the term "hereafter erected" has already been considered. This regulation therefore applies to all buildings erected after April 9th 1892, so that if the use is changed to any of those therein specified the cellar floor must be concreted as therein directed. Section 26 enacts that "Every building, other than a dwelling-house, hereafter erected and all factories, hotels, churches, theaters, school-houses and other buildings of a public character now erected in which gas or steam is used for lighting or heating, shall have the supply pipes leading from the street mains provided each with a stop-cock placed in the sidewalk at or near the curb, and so arranged as to allow of shutting off at that point. Every electric wire for furnishing light, heat or power, led into any building from the outside thereof, shall be arranged with suitable appliances to cut off the current on the outside of the building." This section applies to all "hotels" whether erected before or after the passage of the act .

I have now come to the consideration of that part of section 45 which reads: "Nothing herein contained shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired, or liability incurred, nor any cause or causes of action accrued or existing, under any act repealed hereby; nor to repeal, limit or modify the powers and duties of the health department of the city of New York except in respect to plumbing, drainage, light and ventilation of buildings in said city." The law in force, and having reference to the construction of buildings when

Chapter 275, Laws of 1892 was enacted was Chapter 410, Laws of 1882 as amended by Chapter 566, Laws of 1887. Now if any "liability" has been incurred under Chapter 566, Laws of 1887, to conform to its provisions such liability has not been affected by the passage of Chapter 275, Laws of 1892. A "liability" is defined to be "that condition of affairs which gives rise to an obligation to do a particular thing to be enforced by action." (See Anderson's Dictionary of Law.) But the obligation of complying with the provisions of Chapter 566, Laws of 1887, in the erection or alteration of buildings was therein imposed, and the power of enforcing the same by action was therein conferred. Therefore, a liability with respect to all buildings erected or altered while those provisions were in force arose and was not abrogated by Chapter 275, Laws of 1892.

It thus is incumbent upon me to determine whether any of the parts of that statute are applicable to the question propounded.

By the forty-first section of this act it took effect on the Fifth day of July 1887. I have looked carefully through Chapter 566 and find that there are only two sections that contain provisions important to the subject of this opinion. Section 5 provides that "All dwelling-houses, whether called tenement-houses, apartment-houses, flats, hotels, or other buildings which are to be used for the residence of any person or persons, which are hereafter erected, or which may be altered to be used as herein specified, shall have brick or stone walls on which the beams rest, not over twenty-six feet apart; and in no case shall either end of a beam or beams of such houses rest on stud partitions. This clause, however, shall not be construed to prevent the use of iron girders and columns or piers of masonry for the support of the beams

(II)

in such buildings in which the distance between the walls is not over thirty-three feet, provided, however, that no clear span is over twenty-six feet, or provided that an eight-inch thick partition wall supports the beams within five feet of the center; but no such partition wall shall be built having an eight-inch thick portion measuring vertically more than fifty feet. This clause shall also not be construed to prevent the use of iron girders, or iron girders and columns, or piers of masonry for the support of the walls and ceilings over any rooms which have a clear span of more than twenty-six feet between walls." Having recourse to the same reasoning that I have used in discussing section 12, Chapter 275, Laws of 1892, the result reached is that buildings erected or altered between July 5th 1887 and April 9th 1892, the use of which ~~was or~~ is changed into a hotel, must comply with these provisions. Section 26 directs that "Every building hereafter erected or altered to be occupied as a hotel, and every dwelling-house exceeding five stories in height hereafter erected or altered to be occupied by two or more families on any floor above the first, and every dwelling-house over sixty feet in height hereafter erected or altered to be occupied by more than one family, shall have the halls and stairs inclosed with twelve-inch brick walls. But eight-inch walls, not exceeding fifty feet in their vertical measurement may inclose said halls and stairs, and be used as bearing walls, where the distance between the outside bearing walls does not exceed thirty-three feet, and the area between said brick enclosure walls does not exceed one hundred and eighty superficial feet. The floors, stairs and ceilings in said halls and stairways shall be made wholly of iron, brick, stone or other hard incombustible materials, and at least one flight of such stairs in each of said buildings shall extend to the roof, and be inclosed in a

bulk-head built of fire-proof materials."

The effect of the use of the phraseology "hereafter erected or altered" has already been considered in connection with section 16 and section 20, Chapter 275, Laws of 1892. Led by the principle there enunciated the conclusion here arrived at is that all buildings, erected or altered subsequently to July 5th 1887 and prior to April 9th 1892, the use of which is changed to that of a hotel, must be controlled by these regulations. In the thirty-ninth section of this act a provision similar to the one above quoted from section 45, Chapter 275, Laws of 1892, is to be found. It declares that "Nothing herein contained shall be construed to affect any suit or proceeding now pending in any court, nor any rights acquired, or liability incurred, nor any cause or causes of action accrued or existing under any act repealed thereby;"etc.

With regard to the saving of liabilities under the law as it existed prior to Chapter 566, Laws of 1887, the same force is to be given to this clause as has been applied to section 45, Chapter 275, Laws of 1892. The act in force before Chapter 566, Laws of 1887 was Chapter 410, Laws of 1882 as amended by Chapter 456, Laws of 1885. It went into effect June 9th 1885. The single provision in that law that has reference to the matter in hand reads: "All dwelling-houses, whether called tenement-houses, apartment-houses, flats, hotels, or other buildings, which are to be used for the residence of any person or persons, which are hereafter erected, or which may be altered to be used as herein specified, shall have brick or stone walls on which the beams rest, not over twenty-four feet apart, and in no case shall either end of a beam or beams of such houses rest on stud partitions; this clause, however, shall not be construed to prevent the use of iron girders and columns for

(13)

the support of the walls and ceilings over any wider rooms in such buildings." (*Section 6, Chapter 456, Laws of 1885*)

The application of the principle hereinbefore presented to this clause leads me to conclude that:

All buildings erected or altered between June 9th 1885 and July 5th 1887, the use of which ~~was or~~ is changed into a hotel, must comply with the provisions of Chapter 456, Laws of 1885, above given. In Chapter 456, Laws of 1885, there is a clause saving liabilities almost word for word like those in Chapter 566, Laws of 1887 and in Chapter 275, Laws of 1892. As, however, the law in force prior to Chapter 454, Laws of 1885, namely, Chapter 410, Laws of 1882, unamended as far as the present matter is concerned, has nothing which hereto relates, it is not necessary to examine any provisions of the same.

To recapitulate the various conclusions of this opinion of consequence to the question submitted:

First, The use and occupancy of a building cannot be changed so as to be occupied as a "hotel"

1, if erected or altered after April 9th 1892 and over thirty-five feet high, without making the same fire proof, as provided in section 20, Chapter 275, Laws of 1892;

2, if erected or altered after April 9th 1892, without concreting the floor of the cellar or lowest story with suitable materials not less than three inches thick, as set forth in section 16, Chapter 275, Laws of 1892;

3, if a dwelling, without placing a stop-cock in the sidewalk at or near the curb, and so arranged as to

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allow of shutting off at that point, as directed by section 26, Chapter 275, Laws of 1892;

4, if erected or altered between July 5th 1887 and April 9th 1892, without conforming to the provisions above quoted, of section 5 and section 26 of Chapter 566, Laws of 1887;

5, if erected or altered between June 9th 1885 and July 5th 1887, without complying to section 6, Chapter 456, Laws of 1885.

Second, The use and occupancy of a building can be changed so as to be occupied as a "hotel," if erected prior to June 9th 1885, without making any alterations therein.

I have the honor to remain

Very respectfully yours,

John Vinton Dahlgren,

Attorney to the Department of Buildings.

Dated, New York, May 5, 1896.

No.

COURT

DEPARTMENT OF BUILDINGS OF THE CITY
NEW YORK,

Plaintiff,

against

Defendant.

JOHN VINTON DAHLGREN,

Attorney to the Department of Buildings,

No. 220 Fourth Avenue,

NEW YORK CITY.

Office of Attorney

—Opinion—

Relative to changing
the use and occupancy
of a building to that
of a Hotel, without
altering the construction
of the same.

John Vinton Dahlgren
Attorney.

1896.

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CONF

DEPARTMENT OF BUILDINGS,

B. W.

NR 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,



New York, May 8th, 1896 *189*

M

Hon. Wm. L. Strong,

Mayor of the City of New York.

Dear Sir:-

Accompanying, please find the "unsigned" document which I suppose you refer to in yours of May 5th.

I regret that you have been unable to ascertain the name of the party who sent same, as in glancing over the paper, I see a great many statements that are not only false but totally contrary to the records of this Department.

Yours respectfully,

Stevenson Constable
Sup't of B'ldgs.

178.

Hon. Mr. T. Strong,

Mayor of the City of New

B. W.

RECEIVED
JAN 10 1881
CITY OF NEW YORK

RECEIVED
JAN 10 1881
CITY OF NEW YORK

RECEIVED
JAN 10 1881
CITY OF NEW YORK

DEPARTMENT OF BUILDINGS,

B. W.

NO 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,

STEVENSON CONSTABLE,
SUPERINTENDENT.

New York, May 11, 1896. 189

M.

Hon. Wm. L. Strong,

Mayor of the City of New York.

Dear Sir:-

As the Board of Plumbing Examiners have complained a great deal of their present quarters being inadequate for the purposes for which they are required, and have found considerable fault with the way they have been treated, I, desiring to keep things working smoothly, have decided to allow them to make use on Thursdays, their regular meeting day, of a room in this Department, although it will put us out a little .

Hoping this meets with your approval, I am,

Yours respectfully,

Stevenson Constable
Sup't of B'ldgs.

W. L. Strong
ms

179.

Wm. W. I. Strong;

Mayor of the City of New

STRENGTHENED

B. W.

2 W CORNER

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10th FLOOR

DEPARTMENT OF BUILDINGS,

NR 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,



V. F.

New York,

May 11, 1896.

OFFICE OF ATTORNEY.

Mr. Abraham S. Gilbert,

Dear Sir;-

You are hereby appointed Assistant
Attorney to the Department of Buildings. Said appointment to take
effect this day.

Yours respectfully,

Stevenson Constable
Superintendent of Buildings.

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STATEMENT OF THE

RECEIPTS OF THE

S.W. CORNER 18TH ST.

V. H.

DEPARTMENT OF BUILDINGS,

220 Fourth Avenue.

New York, May 12, 1896.

E. G. Gilmore, Esq.,

Sir:--

After a careful re-examination of the Academy of Music, relating to means of egress and safety, as stated in Section 35, Chapter 275, Laws of 1892, the following requirements are necessary:

- 1st. To remove two seats on centre portion of gallery so as to form an aisle.
- 2nd. Erect an outside fire escape on 14th Street front to be constructed and located as specified in order attached.
- 3rd. Close up openings in brick wall separating stage from dressing rooms; and fire-proof all doors from stage and fly gallery leading to dressing rooms or stone stairs, also close all doors in wall under auditorium floor except one, and make same fire-proof.
- 4th. Cover all foot and border lights and gas jets with wire guards.
- 5th. Place new signs "EXITS" in size as required by law.

We recommend the following items of improvements on stage:
Extend the present curtain on each side to pass wooden frame on proscenium opening, and line frame with fire-proof material. (Better have a proper fire-proof curtain.) Also make a trial of present sprinkler system, add to same, and make same complete.

Respectfully,

Alverson Constable
Superintendent of Buildings.

A. *These items are very necessary but as it is an old theatre cannot be enforced*

Academy —
— of —
— Music —
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DEPARTMENT OF BUILDINGS,

B. W.

NR 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,



New York, May 13, 1896. 189

Hon. Wm. L. Strong,

Mayor of the City of New York.

Dear Sir:-

Enclosed please find list of what still remains to be done at the Academy of Music. The final clause on list covers several items which cannot be enforced legally, but which are very essential for the safety of the theatre, and which I have recommended that the proprietor carry out.

Yours respectfully,

Stevenson Constable
Sup't of B'ldgs.

(Enc.)

DEPARTMENT OF BUILDINGS,

NR 220 FOURTH AVENUE,

S.W. CORNER 18TH ST.,



U.

New York, May 13, 1896.

Hon. William L. Strong,

Mayor of the City of New York.

Dear Sir:--

Enclosed please find action of the Board of Examiners at their meeting yesterday afternoon in regard to the Bill now before you, and which is to come up for a hearing to-day, amending Section 484, Chapter 410 of the Laws of 1882, limiting the height of non-fireproof buildings to seventy feet.

Respectfully,

Stevenson Constable
Superintendent of Buildings.

Hon. William L. Storer,

SUPERINTENDENT,
STENSON CONSTABLE

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S.W. CORNER 18TH

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DEPARTMENT OF

DEPARTMENT OF BUILDINGS,

NR 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,



U.

New York, May 13, 1896.

In BOARD OF EXAMINERS of
Department of Buildings,

EXTRACT FROM MINUTES OF MAY 12, 1896.

"RESOLVED, that it is the sense of this Board that the proposed legislation is too far-reaching in its consequences to justify its enactment, especially in view of the fact that the revision of the entire Building Law is under consideration by the various business interests of the City."

STEVENSON CONSTABLE,
Superintendent of Buildings.

NAPOLÉON LEBRUN,
N.Y. Chap. AM. Ins. of Architects.

F. C. MOORE,
Board of Fire Underwriters.

EDWIN DOBBS,
Mechanics' & Traders' Exchange.

W. A. CONOVER,
Mechanics' & Traders' Exchange.

W. J. Fryer,
Society Arch'l Iron Workers.

CORNELIUS O'REILLY,
Real Estate Owners & Builders Assn.

HUGH BONNER,
Chief of Fire Department.

SAMUEL McMILLAN,
Real Estate Exchange, Limited.

WILLIAM H. CLASS,
Clerk to Board.

99.

STEVENSON COMPANY
SUPERINTENDENT

U.

EXTRACT FROM MINUTES

Department of

IN BOARD OF

S. W. CO.

AS TO FOR

DISCOUNT

Hen. Stevenson Constable,

Dear Sir:- You have submitted for my opinion the question whether any building in the city of New York can have its occupancy and use changed from that for which it has been built or has been used, to that of a hotel, without first complying with the law controlling the construction of such buildings. The law here referred to is to be found in Title 5, Chapter 11, of Chapter 410, Laws of 1882 as amended. This part of Chapter 410 was last amended by Chapter 275, Laws of 1892. In Chapter 275, while the use and occupancy is in most cases an important factor in determining the proper construction of buildings, it is not the only guide. Many sections of the law are of general application, while others concern matters foreign to the present enquiry. Nor does the same rule run through those that apply to the question proposed. An examination therefore of each becomes necessary, after which I will deduce as far as possible a general rule.

Section 12 first claims our consideration. It, with Section 13, regulates the thickness of the walls of structures according to their use and occupancy and also according to their height. The part which relates to the subject of this opinion provides that: "The walls of all dwelling-houses, whether called tenement-houses, apartment-houses, flats, hotels or other buildings which are to be used for residence purposes, twenty-six feet or less in width between walls, and also the walls of school-houses, which are hereafter erected, or which may be altered to be used as herein specified, over thirty-five feet in height, and not over fifty feet in height, shall not be less than twelve inches thick above the foundation wall":etc. The words, "which are hereafter erected" etc., have reference only to "other buildings which are to be used for residence purposes" and "school houses." They do

not refer to the "dwelling-houses, whether called xxx hotels" etc.. I adopt this construction as it would not be possible to alter a hotel into a hotel. The reading then is "The walls of all x x x hotels x x x over thirty-five feet in height and not over fifty feet in height shall be" etc. And here the question arises whether this reading includes all "hotels" irrespective of the period of their erection, or only such as are or have been put up after the passage of the section. The rule that governs the interpretation of statutes is that they "Are not to be construed as retrospective, unless by the language thereof they are clearly intended so to be" (Sedgwick, on the Construction of Statutory and Constitutional Law, page 161. Note). Guided by this principle the provisions in this section concerning "hotels" are to be construed as prospective and therefore only apply to such as are or have been built after the passage of the act, namely, April 9th 1892. As hotels have the minimum thickness allowed for walls, the question of a change in this feature of the construction of a building when altered so as to be used as a hotel cannot arise. Nor in making this statement have I lost sight of one-story structures mentioned in Section 13, the walls of which are only eight inches thick. It would not be practical to use a structure as therein described for hotel purposes. To sum up what has been thus far said section 12 only applies to hotels erected subsequently to April 9th 1892, and as the thickness of their walls are the least allowed by law for any purpose whatever, excepting the one-story structure above mentioned, it has no bearing on the subject of this opinion.

To pass to section 16, it directs that "Every building hereafter altered to be occupied as a hotel, and every building hereafter erected or altered to be occupied as a lodging-

house, and every tenement-house, apartment-house and dwelling-house five stories in height, or having a basement and four stories in height above a cellar, hereafter erected or altered to be occupied by one or more families on any floor above the first, shall have the first floor above the cellar or lowest story constructed fireproof with iron or steel beams and brick arches. The stairs from the cellar or lowest story to the fireproof floor next above, when placed within any such building, shall be located to the rear of the staircase leading from the first story to the upper stories and be inclosed with brick walls. The opening through the brick wall of such inclosure into the lowest story shall have an iron door, or a tin covered wooden door constructed as herein-after described in section four hundred and ninety-one of this title, and shall be self closing. When the stairs from the first story to the cellar or lowest story are located in an open side court the door opening leading thereto from the first story may be placed underneath the staircase in the first story, and the strings and railings of such outside stairs shall be of iron, and if the stairs be inclosed from the weather incombustible material only shall be used for that purpose. No closet shall be constructed underneath the first story or staircase, but the space thereunder shall be left entirely open and kept free from incumbrance". And first it will be noticed that the application of these provisions to "hotels" depends upon whether they are "five stories" high or have a "basement and four stories" above a cellar. It would seem at first sight that they include hotels irrespective of this limitation.. This, however, would lead to the result of forcing builders to do more in altering a structure under thirty-five feet into a hotel, than in putting up a new one.

Thus the law does not require the first floor of a hotel, thirty-five feet or under, to be constructed fireproof with iron or steel beams and brick arches. If, however, the above provisions apply to hotels without regard to whether they are five stories high, or have a basement and four stories above a cellar, then a structure thirty-five feet or under if altered into a hotel, would also have to be changed so that the first floor would be constructed as above described. This inconsistency is not, however, the only objection to attaching such an interpretation to these requirements.

The section further provides "Every such building exceeding five stories in height, or having a basement and five stories in height above a cellar, shall be constructed as in this section before described, and shall also have the halls and stairs inclosed with twelve-inch brick walls. Eight-inch brick walls not exceeding fifty feet in their vertical measurement, may inclose said halls and stairs, and be used as bearing walls where the distance between the outside bearing walls does not exceed thirty-three feet, and the area between the said brick inclosure walls does not exceed one hundred and eighty superficial feet. The floors, stairs and ceilings in said halls and stairways shall be made of iron, brick, stone, or other hard incombustible materials, excepting that the flooring and sleepers underneath the same may be made of wood and the treads and handrails of the stairs may be of hard wood, provided that where wooden treads are used the underside of the stairs shall be entirely lathed with iron or wire lath and plastered thereon, or covered with metal. At least one flight of such stairs in each of said buildings shall extend to the roof, and be enclosed in bulkhead built of fireproof materials. When the said halls and stairways are placed centrally in, or back from the front line of the building, a

connecting fireproof hallway inclosed with brick walls shall be provided on the first story and extend to the street". Here there is no doubt that the criterion which is to determine whether these latter provisions are to be required rests upon the height in stories, of the structure. It is, consequently, reasonable to infer that the same rule is to be applied to those first above given of this section. This reasoning becomes very strong when it appears that if adopted the incongruity above mentioned is avoided. Before further discussing the above parts of section 16 I will pass to section 20: It is an elementary rule of construction that all the parts of an act relating to the same subject should be considered together, and not each by itself. By such a reading and consideration of a statute, its object or general intent is sought for, and the consistent auxiliary effect of each individual part". (Sutherland on Statutory Construction, page 285). The transition to section 20 is made for the purpose of weighing the two sections together as it will be seen that one will throw light upon the other. Section 20 enacts that "Every building hereafter erected or altered to hotel and every building hereafter erected or altered to be used as a theater, hospital, asylum, institution for the care of treatment of persons, or in whole or in any part as a school or place of instruction, the height of which exceeds thirty-five feet, except buildings, for which specifications and plans have been heretofore submitted to and approved by the superintendent of buildings, and every other building the height of which exceeds eighty-five feet, shall be built fireproof, " etc. Then follows such regulations as are applicable to fireproof buildings.

Thus it is noticeable that sections 16 and 20 have reference to structures "hereafter erected" and to those "hereafter altered".

With regard to buildings "hereafter erected" namely,

after April 9th 1892, the construction of the same is made by these sections to depend upon their use; they therefore of necessity forbid a construction not warranted by their use. This is tantamount to the prohibition of their use unless the construction is made to conform thereto. Thus, using a non-fireproof dwelling over thirty-five feet high as a hospital is forbidden. The spirit of these sections is to regulate the construction of buildings according to their use, and that intent would be plainly defeated if the use could be changed without conforming the structural parts thereto. Thus it was the clear intention of the legislature to require all new hotels over thirty-five feet high to be fireproof. Assuming that the use could be changed without conforming to this section, a non-fireproof dwelling erected after April 9th 1892, could be occupied as a hotel. Consequently the intention of the legislature could be defeated in all such cases and the act rendered practically vain. Rejecting such an interpretation for one which is distinctly in accord with the purpose aimed at by the legislature I am of the opinion that the use and occupancy of any of the above buildings erected after April 9th 1892 cannot be changed without conforming to the provisions of section 16 and section 20. It must also be added that in such an interpretation, we find further confirmation in the forty-fifth section of the act which provides: "This act is hereby declared to be remedial statute and is to be construed liberally, to secure the beneficial interests and purposes thereof".

With respect to buildings "hereafter altered", the alteration also depends upon the use to which the structure is to be adapted. It is in the act, however, of altering the building, here, that brings it within the purview of the sections. But do these sections apply to buildings that

are altered irrespective of the period of their erection? It has already been shown that sections 16 and 20 control all structures erected after April 9th 1892, the date of their passage; that if the use is changed such buildings must be altered so as to conform thereto, and that this rule is to be found in the employment of the term "hereafter erected". Consequently if the term "hereafter altered" did not extend to those that have been erected prior to April 9th 1892, it would be useless of no force or effect. To apply it, then, to structures erected before April 9th 1892, is to give it force and effect. It is, in consequence, an interpretation in harmony with the well-known principle that each and every part of an act must, if possible, be "so construed that no clause, sentence or word shall be void, superfluous or insignificant". (Sutherland on Statutory Construction, page 319.) To bring a building, however, within the scope of these words that statute distinctly says that it must be "altered", therefore a mere change of use without in any way altering the structure, if the same has been put up prior to April 9th 1892, will not bring it within the purview of sections 16 and 20. If it is altered, though, even in the smallest degree, for any of the purposes above specified, they apply, and the changes therein prescribed must be made. And further, a building erected before the passage of the act but thereafter altered for a use within the statute, cannot have that use changed without conforming the structure to the new use. This rests on the principle already above referred to, that the construction limits the use by being itself controlled thereby.

The recapitulation of the law relating to sections 16 and 20 is that the use of buildings erected subsequently to April 9th 1892, cannot be changed without altering the

buildings so as to conform to the rules set forth in these sections; that the use of those erected prior to that time can be changed without altering the buildings, but that if any alterations are made, for the purpose of occupying the building for any of the uses therein set forth, however small, the provisions above quoted of sections 16 and 20 must be obeyed.

Applying this to the question submitted it will be seen that:

1. Buildings erected after April 9th 1892 cannot be changed into hotels if over thirty-five feet high without being made fireproof.
2. Buildings erected before April 9th 1892 can be changed into hotels without altering the same, but if any alterations, as above set forth, are made, the provisions hereinbefore given, must be complied with.

With regard to this second sub-division it will hereafter be noticed that the same is somewhat modified by Chapter 454, Laws of 1885, and Chapter 566, Laws of 1887.

To pass on to section 19, it provides "In every building used as a dwelling-house, tenement-house, apartment-house or hotel, each floor shall be of sufficient strength in all its parts to bear safely on every superficial foot of its surface seventy pounds; x x x and every floor shall be of sufficient strength to bear safely the weight to be imposed thereon in addition to the weight of the materials of which the floor is composed", etc. Here the use is distinctly made the only criterion, consequently when that is changed the hotel must also be altered, if it does not already conform to the above requirement. With regard to the application of section 19 to the present question it must be remarked that inasmuch as seventy pounds is the least weight required for the floor of any building, hotel or otherwise, it is not

possible that this section could affect a building the use of which is changed into a hotel. The law requires the strength of the floors of many buildings to be more than seventy, but none less.

Section 16 also provides, "The floor of the cellar or lowest story in every dwelling-house, tenement-house, apartment-house, lodging-house and hotel hereafter erected, shall be concreted with suitable materials not less than three inches thick".

The effect of the term "hereafter erected" has already been considered. This regulation therefore applies to all buildings erected after April 9th 1892, so that if the use is changed to any of those therein specified the cellar floor must be concreted as therein directed. Section 26 enacts that "every building, other than a dwelling-house, hereafter erected and all factories, hotels, churches, theaters, school-houses and other buildings of a public character now erected in which gas or steam is used for lighting or heating, shall have the supply pipes leading from the street mains provided each with a stop-cock placed in the sidewalk at or near the curb, and so arranged as to allow of shutting off at that point. Every electric wire for furnishing light, heat or power, led into any building from the outside thereof, shall be arranged with suitable appliances to cut off the current on the outside of the building". This section applies to all "hotels" whether erected before or after the passage of the act.

Section 34 contains the requirements of law which have reference to fire escapes. It directs that " x x x every building already erected, or that may hereafter be erected, more than three stories in height, occupied and used as a hotel x x x shall be provided with good and sufficient fire escapes, stairways, or other means of egress in case of fire

as shall be directed by the Superintendent of Buildings, and said superintendent shall have full and exclusive power and authority within said city to direct fire escapes and other means of egress to be provided upon and within said building or any of them. The owner or owners of any building upon which a fire escape is erected shall keep the same in good repair and properly painted. x x x In constructing all balcony fire escapes, the manufacturer thereof shall securely fasten thereto, in a conspicuous place, a cast-iron plate having suitable raised letters on same, to read as follows: **Notice!** Any persons placing any incumbrance on this balcony is liable to a penalty of ten dollars and imprisonment for ten days. All buildings requiring fire escapes shall have stationary iron ladders leading to the scuttle opening in the roof thereof, and all scuttles and ladders shall be kept so as to be ready for use at all times. If a bulkhead is used in place of a scuttle, it shall have stairs with sufficient guard or hand rail leading to the roof" etc. This section as far as it affects hotels is so clear that no interpretation is necessary. It plainly expresses what it means.

I have now come to the consideration of that part of section 45 which reads: "Nothing herein contained shall be construed to affect any suit or proceeding now pending in any court, or any rights acquired, or liability incurred, nor any cause or causes of action accrued or existing, under any act repealed hereby; nor to repeal, limit or modify the powers and duties of the health department of the city of New York, except in respect to plumbing, drainage, light and ventilation of buildings in said city". The law in force, and having references to the construction of buildings when Chapter 275, Laws of 1892 was enacted was Chapter 410, Laws of 1882 as amended by Chapter 566, Laws of 1887. Now if any "liability" has been incurred under Chapter 566, Laws of 1887, to conform to its provisions such liability has not been

affected by the passage of Chapter 275, Laws of 1892. A "liability" is defined to be "that condition of affairs which gives rise to an obligation to do a particular thing to be enforced by action". (See Anderson's dictionary of law).

But the obligation of complying with the provisions of Chapter 566, Laws of 1887, in the erection or alteration of buildings was therein imposed, and the power of enforcing the same by action was therein conferred. Therefore, a liability with respect to all buildings erected or altered while those provisions were in force arose and was not abrogated by Chapter 275, Laws of 1892.

It thus is incumbent upon me to determine whether any of the parts of that statute are applicable to the question propounded.

By the forty-first section of this act it took effect on the Fifth day of July 1887. I have looked carefully through Chapter 566 and find that there are only two sections that contain provisions important to the subject of this opinion. Section 5 provides that all "dwelling-houses, whether called tenement-houses, apartment-houses, flats, hotels or other buildings which are to be used for the residence of any person or persons, which are hereafter erected, or which may be altered to be used as herein specified, shall have brick or stone walls on which the beams rest, not over twenty-six feet apart; and in no case shall either end of a beam or beams of such houses rest on stud partitions. This clause, however, shall not be construed to prevent the use of iron girders, and columns or piers of masonry for the support of the beams in such buildings in which the distance between the walls is not over thirty-three feet, provided, however, that no clear span is over twenty-six feet, or provided that an eight inch thick partition wall supports the beams within five feet of the center; but no such partition wall shall be built having an eight inch thick portion measuring vertically

more than fifty feet. This clause shall also not be construed to prevent the use of iron girders, or iron girders and columns, or piers of masonry for the support of the walls and ceilings over any rooms which have a clear span of more than twenty-six feet between walls". Having recourse to the same reasoning that I have used in discussing section 12, Chapter 275, Laws of 1892, the result reached is that buildings erected or altered between July 5th 1887 and April 9th 1892, the use of which was or is changed into a hotel, must comply with these provisions. Section 26 directs that "Every building hereafter erected or altered to be occupied as a hotel, and every dwelling house exceeding five stories in height hereafter erected or altered to be occupied by two or more families on any floor above the first, and every dwelling house over sixty feet in height hereafter erected or altered to be occupied by more than one family, shall have the halls and stairs inclosed with 12 inch brick walls. But eight inch walls, not exceeding fifty feet in their vertical measurement may inclose said halls and stairs, and be used as bearing walls, where the distance between the outside bearing walls does not exceed thirty-three feet, and the area between said brick enclosure walls does not exceed one hundred and eighty superficial feet. The floors, stairs and ceilings in said halls and stairways shall be made wholly of iron, brick, stone, or other hard incombustible materials, and at least one flight of such stairs in each of said buildings shall extend to the roof, and be inclosed in a bulkhead built of fireproof materials".

The effect of the use of the phraseology "hereafter erected or altered" has already been considered in connection with section 16 and section 20, Chapter 275, Laws of 1892. Led by the principle there enunciated the conclusion here arrived at is that all buildings, erected or altered

subsequently to July 5th 1887 and prior to April 9th 1892, the use of which is changed to that of a hotel, must be controlled by these regulations. In the thirty-ninth section of this act a provision similar to the one above quoted from Section 45, Chapter 275, Laws of 1892, is to be found. It declares that "Nothing herein contained shall be construed to affect any suit or proceedings now pending in any court, nor any rights acquired, or liability incurred, nor any cause or causes of action accrued or existing under any act repealed thereby"; etc.

With regard to the saving of liabilities under the law as it existed prior to Chapter 566, Laws of 1887, the same force is to be given to this clause as has been applied to section 45, Chapter 275, Laws of 1892. The act in force before Chapter 566, Laws of 1887 was Chapter 410, Laws of 1882 as amended by Chapter 456, Laws of 1885. It went into effect June 9th 1885. The single provision in that law that has reference to the matter in hand reads: "All dwelling-houses, whether called tenement-houses, apartment-houses, flats, hotels, or other buildings, which are to be used for the residence of any person or persons, which are hereafter erected, or which may be altered to be used as herein specified, shall have brick or stone walls on which the beams rest, not over twenty-four feet apart, and in no case shall either end of a beam or beams of such houses rest on stud partitions; this clause, however, shall not be construed to prevent the use of iron girders and columns for the support of the walls and ceilings over any wider rooms in such buildings." (Section 6, Chapter 456, Laws of 1885).

The application of the principle hereinbefore ~~stated~~^{presented} to this clause leads me to conclude that:

All buildings erected or altered between June 9th 1885

and July 5th 1887, the use of which was or is changed into a hotel, must comply with the provisions of Chapter 456, Laws of 1885, above given. In Chapter 456, Laws of 1885, there is a clause saving liabilities almost word for word like those in Chapter 566, Laws of 1887 and in Chapter 275 Laws of 1892. As, however, the law in force prior to Chapter 454, Laws of 1885, namely Chapter 410, Laws of 1882, unamended as far as the present matter is concerned, has nothing which hereto relates, it is not necessary to examine any provisions of the same.

To recapitulate the various ~~conclusions~~ of this opinion of consequence to the questions submitted:

First, The use and occupancy of a building cannot be changed so as to be occupied as a "hotel."

- 1, if erected or altered after April 9th 1892 and over thirty-five feet high, without making the same fireproof, as provided in section 20, Chapter 275, Laws of 1892;
- 2, if erected or altered after April 9th 1892, without concret~~ing~~ the floor of the cellar or lowest story with suitable materials not less than three inches thick, as set forth in section 16, Chapter 275, Laws of 1892;
- 3, if a dwelling, without placing a stop-cock in the sidewalk at or near the curb, and so arranged as to allow of shutting off at that point, as directed by section 26, Chapter 275, Laws of 1892;
- 4, if more than three stories in height, without com-

plying with the provisions of section 34 (having reference to fire escapes) - if required ~~do~~ to do by the superintendent of buildings;

5, if erected or altered between July 5th 1887 and April 9th 1892, without conforming to the provisions above quoted, of section 6 and section 26 of chapter 566, Laws of 1887;

6, if erected or altered between June 9th 1885 and July 5th 1887, without complying to section 6, Chapter 456, Laws of 1885.

Second, The use and occupancy of a building can be changed so as to be occupied as a "hotel" if erected prior to June 9th 1885, without making any alterations therein; excepting, however, such as are hereinbefore required by sub-divisions 3 and 4 of the First division of this recapitulation.

I have the honor to remain,

Very respectfully yours,

Attorney to the Department of Buildings.

Dated, New York, May 13, 1896.

against

WILLIAM L. FINDLEY,
Attorney to Fire Department,

Nos. 157 and 159 East 67th Street,

New York.

Office of Attorney 3.

— Opinion —

Relative to changing
the use ^{and} occupancy
of a building to that
of a Hotel, without
changing the construction
of the same.

John Vinton Dahlgren

Copy Attorney

Rendered May 13th, 1896.

DEPARTMENT OF BUILDINGS,

NR 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,

STEVENSON CONSTABLE,
SUPERINTENDENT.

OFFICE OF ATTORNEY.

A.E.H.

New York, May 18th, 1896.

M

Hon. William L. Strong,

Mayor of the City of New York.

Dear Sir:-

Enclosed please find copy of letter forwarded to the Hon. Levi P. Morton, Governor of the State of New York, in re. bill index No. 714, being Assembly Bill print No. 2028, entitled "An Act to afford protection against injury or death to persons employed on buildings in course of construction in cities of the State of New York". As proper means for the enforcement of this act by this Department have not been provided for in said act, I wrote, as you will see, to Assemblyman French and Senators Stranahan and Pavey, as per letter enclosed.

While being thoroughly in accord with any legislation that gives better protection to the employees upon buildings, and to the public generally, I feel it would be useless to have such legislation, unless proper means were given to enforce it, and therefore desired that such bill should not go into effect until Jan. 1st, 1897, at which time proper means if not provided for directly in bill, could have been provided by the Board of Estimate and Apportionment of this City.

Yours respectfully,

Stevenson Constable
Sup't. of B'ldgs.

Copy

H.J.H.

May 18, 1896.

Hon. Levi P. Morton,
Governor of the State of New York,
Albany, N. Y.

Dear Sir:-

I beg to submit the following in relation to bill indexed under number 714, and being Assembly bill, print number 2028, in regard to protection against injury or death to persons employed on buildings in the course of construction. This Department is naturally in favor of any measure which will afford better protection to life and limb, and it only objects to the passage of this bill for one reason.

The bill, if enacted into a law, will charge this Department with the duties of seeing that its provisions are complied with, and this Department is utterly unable, with the funds at its disposal, to make the proper inspection of buildings in course of construction in regard to provisions of the act. Already this Department is unable to properly discharge its duties by reason of the inadequacy of the appropriation made to carry on its administration. Under these circumstances, I communicated with various members of the Assembly and the Senate, suggesting one of two things-- either that an appropriation be made so as to enable this Department to employ the necessary inspectors to see that the provisions of the act were complied with, or else to have the bill amended so that it would not go into effect until January 1, 1897,

H.J.H.

May 18,

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hoping next year to obtain a larger appropriation and thus have this Department enabled to perform the duties incumbent upon it under the act. I understood that this latter suggestion would be adopted and the bill amended so as not to go into effect until the first of January next, but the bill has been passed without that amendment. There is no excuse for this, as both the introducer and the chairman having it under consideration were informed that such an amendment would probably be obtained in the Senate and were urged to arrange for such an amendment in the House, which could have been done without any trouble whatever. This Department cannot undertake the responsibility of enforcing the provisions of this act, in view of its lack of funds, and for that reason this Department objects to the passage of the bill.

I have the honor to remain,

Respectfully,

Sup't. of B'ldgs.,

New York City, May 18, 1896.

Dictated.

DEPARTMENT OF BUILDINGS,

NO 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,



OFFICE OF ATTORNEY.

V.F.

New York,

May 18, 1896.

Hon. William L. Strong,

Mayor of the City of New York.

Dear Sir:-

I beg to confirm what the assistant attorney to this Department stated to you at the oral hearing this morning on the bill entitled: "An Act to amend Chapter six hundred and two of the laws of 1892, entitled An Act to Secure the Registration of Plumbers and the Supervision of Plumbing and Drainage in the cities of the State of New York."

The Department of Buildings objects to the passage of the bill for the following reasons:

First. It is not drawn with the care and definiteness that such bills should be. As an example:- Plumbers are required to register under the provisions of the bill on or before May 18th, a day which must necessarily be passed before the bill is enacted as a law.

Nothing is more important in the administrations of this Department than that the bills affecting it, or affecting the work or workmen over which it is charged with inspection, should be clear, precise, definite and easily understood.

Second. Only four days ago a bill was approved by Your Honor which is complete in all its details and makes better provision for the inspection and control of plumbing of this Department than the present

DEPARTMENT OF BUILDINGS.

NO 220 FOURTH AVENUE,

S.W. CORNER 18TH ST.,



OFFICE OF ATTORNEY.

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New York,

acts.

Third. Moreover, in my opinion no further legislation is needed in regard to plumbing, except perhaps to render clear the doubtful provisions of the present law respecting the subject of registration of plumbers. At present plumbers are required to register in three different departments.

The bill under consideration increases the complications in regard to registration instead of lessening them.

In conclusion I beg to state that it is most advisable that when any attempt is made to amend the laws in relation to the subject matters over which this Department has charge, the bills containing such amendments should be submitted to this Department for the approval of its attorney before being presented to the Legislature. This would save a great deal of annoyance, time and trouble, both of the employees of this Department and of persons seeking to have the laws amended.

I have the honor to remain,

Yours very respectfully,

Stevenson Constable
Superintendent of Buildings.

B. W.

DEPARTMENT OF BUILDINGS,

NR 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,



OFFICE OF ATTORNEY.

New York, May 19, 1896.

Hon. Wm. L. Strong,

Mayor of the City of New York.

Dear Sir:-

In answer to yours of the 19th inst, enclosing communication from W. C. Duncan, Esq., East Orange, N. J., concerning building in course of demolition, dust arising from same, etc. I would respectfully state, as I advised you upon entering this Department, that there is no department in the City of New York having jurisdiction over the demolition of buildings. I also advised the Board of Aldermen to this effect. The only Department, who in my judgment could act in any way, is the Board of Health, to whom I have referred said communication.

Yours respectfully,

Stevenson Constable
Sup't of B'ldgs.

HON. MR. J. S. PHELPS

OFFICE OF ATTORNEY

SUPERINTENDENT
STEWARTSON COMBUSTIBLE

B. W.

182.

DEKALB

25 350

S. W.

H.J.H.

COPY.

Abm. Boehm.

Lewis Coon.

BOEHM & COON,
Dealers in Real Estate,
45 Maiden Lane.

New York, May 5th, 1896.

Stevenson Constable, Esq.,
Supt. Dept. of Buildings,
City.

Dear Sir;

I hereby offer to allow the Department of Buildings to occupy the top floor of my building #2773 and 2775 Third Ave., corner of Courtland Avenue, without the payment of any rent or expense of any kind from and including this date to January 1st 1897.

Very respectfully,

ABRAHAM BOEHM.

8.

DEPARTMENT OF BUILDINGS,

NR 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,



OFFICE OF ATTORNEY.

A.E.H.

New York, May 23rd, 1896.

Hon. William L. Strong,

Mayor of the City of New York.

Dear Sir:-

Enclosed please find copy of offer of use of building 2773-2775 Third Avenue (top floor), for branch office of this Department North of the Harlem from Messrs. Boehm & Coon, which I have accepted, and have notified the Board of Sinking Fund Commissioners to this effect so as to keep the records of the action of this Department correct.

Yours respectfully,

Stevenson Constable
Sup't. of B'ldgs.

DEPARTMENT OF BUILDINGS,

B. W.

NR 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,



OFFICE OF ATTORNEY.

New York,

May 28, 1896.

Hon. Wm. L. Strong,

Mayor of the City of New York.

Dear Sir:-

In answer to yours of the 28th inst, in regard to the new Day Nursery in connection with St. Thomas Church, would state same will receive immediate attention

The principal question which arises is, whether the same is legal, not being of fire-proof construction, as the law would seem to imply.

Yours respectfully,

A large, flowing handwritten signature in cursive script, reading "Stevenson Constable".

Sup't of B'ldgs

Dictated S. C.

9.

OF BUILDINGS

NEW YORK

NEW 18TH ST.

MAY 28, 1888.

New York

DEPARTMENT OF BUILDINGS,

NR 220 FOURTH AVENUE,

S.W. CORNER 18TH ST.,



H.J.H.

New York, May 29, 1896.

Honorable William L. Strong,
Mayor of the City of New York.

Dear Sir;

Upon making an examination of Madison Square roof garden, I find that the exits are sufficient in number, also that the room formerly used as a kitchen, has been abandoned. No scenery on platform stage and all wood work around the same is covered with fire-proof resisting paint. Also the boxes on gallery roof are made of wood but have been there for some time. There is a record of approved application #685/96 for altering the entire roof garden. The wooden boxes will be entirely removed and the structure covered with a fire-proof roof.

Very respectfully,

Sup't. of B'ldgs.

Dictated S.C.

*The approval of the non fire proof boxes
in April 20th 1894 not legal but as it was
done before my control & in a few months
the structure will be made fire proof -
the decision in regard to license rests
with your Honor*

10.

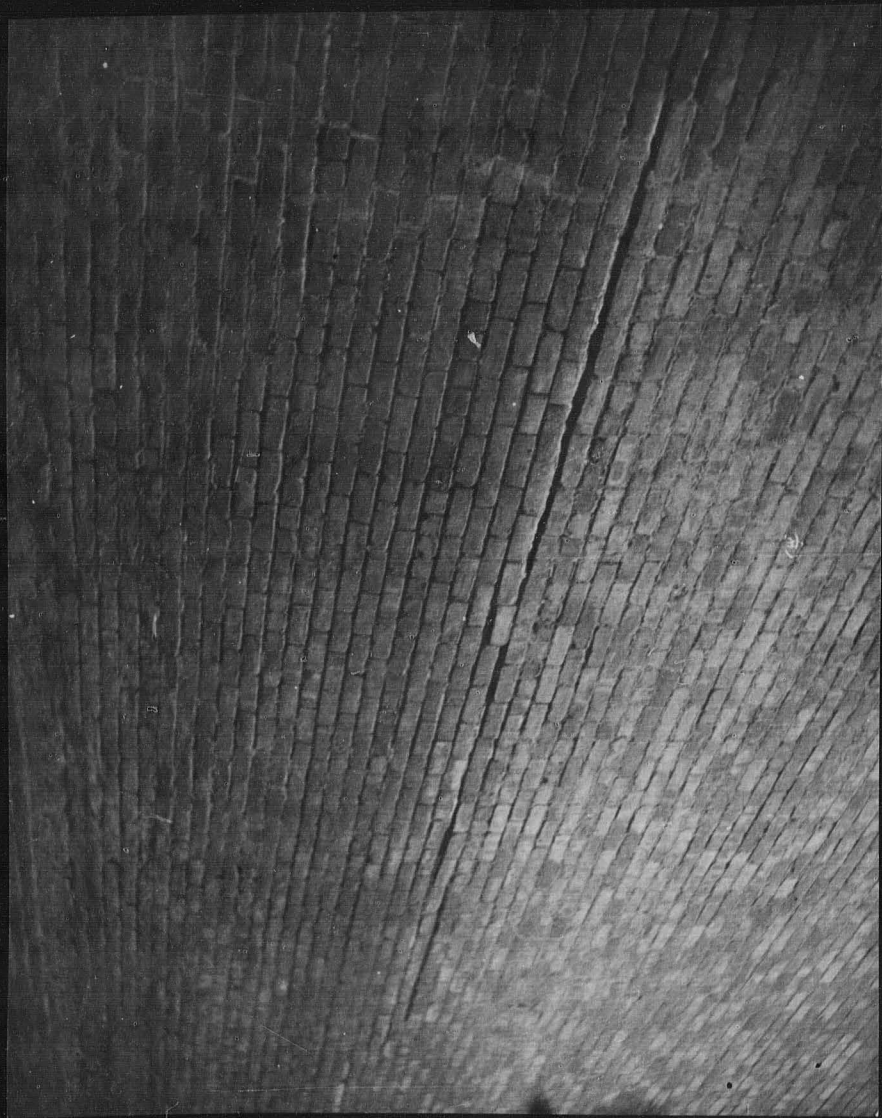
D. BUILDINGS

1000 1/2 ST.

1000 1/2 ST.

MAY 29, 1933

71



U. B. 869/95-

41st Street '600'

N of 11th Ave

W. G. Stalnecker

Jan 22/96 Unsafe Blowing



U. S.

869/95

41st Street - S.D. - 600'.

W of 11th Ave

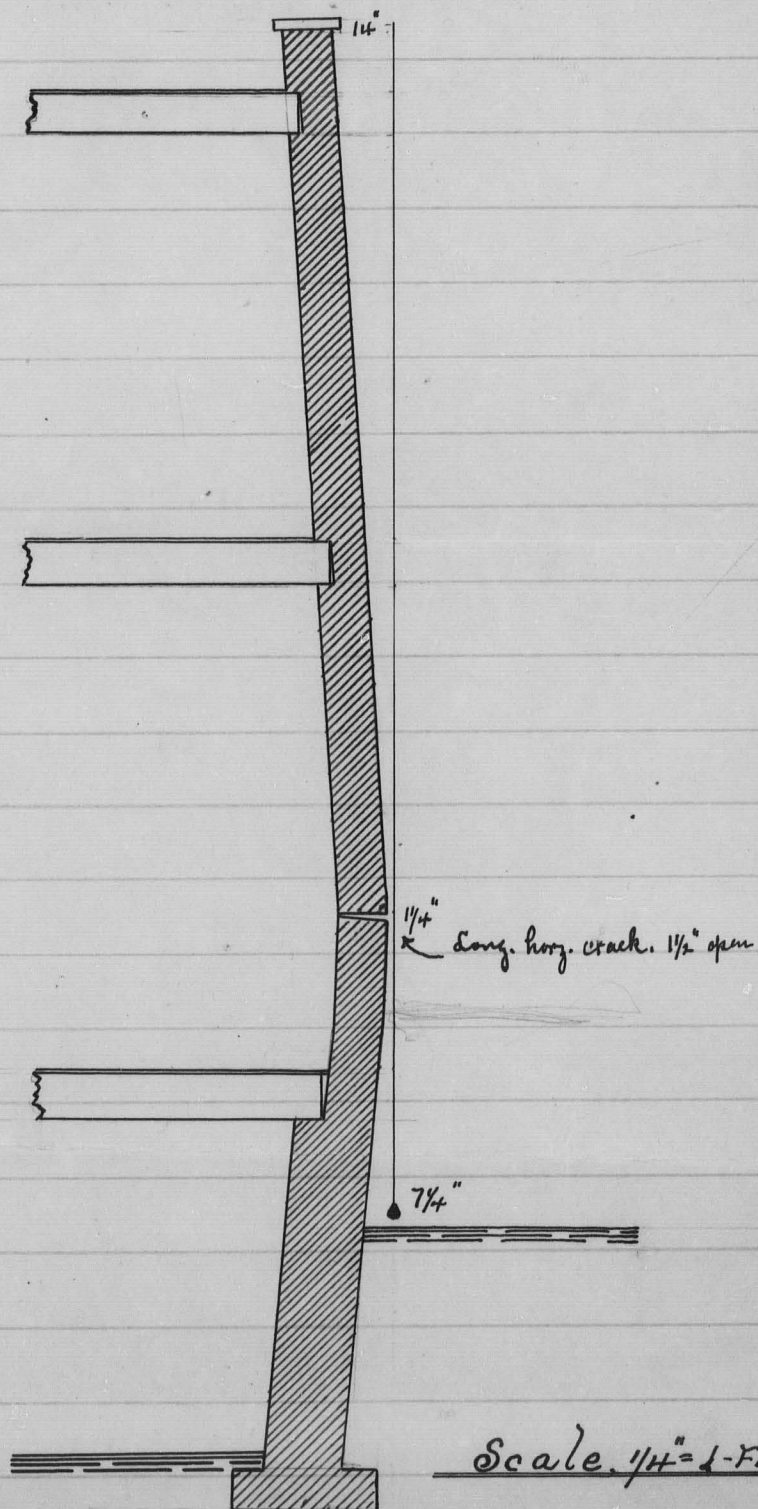
W G Stalmecker Jr.

Jan 22/96 Unsafe Blding

Cross section taken in easterly wall at a position in which the greatest deviation from plumb and horizontal lines occurs. The plumb measurements are as marked.

Jan. 22 - 1896.

Martin J. Hackett.



Duplicate:

DEPARTMENT OF BUILDINGS,

NR 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,



OFFICE OF ATTORNEY.

V.F.

New York, May 13, 1896.

Mr. William G. Stahlnecker, Jr.,

78 Buena Vista Avenue, Yonkers, New York.

Dear Sir:-

I am informed that the precept of the Court relative to premises on the South Side of Forty-first Street, about six hundred feet from the North West Corner of Eleventh Avenue, has not yet been carried out by you, according to your agreement on file in this Department.

This is to notify you that unless steps are taken immediately in the matter this Department will execute the said precept.

Very respectfully,

John Vinton Dahlgren
Attorney to the Department of Buildings.

Bic. L.V.
U.B. 869/95
2/116

6

PLATES

MAY 13, 1896.

DEPARTMENT OF BUILDINGS.

NR 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,



V.F.

New York, May 16, 1896.

OFFICE OF ATTORNEY.

J. J. Hearne, Esq.,

Care of W. G. Stahlnecker, Jr.,

78 Buena Vista Avenue, Yonkers, New York.

Dear Sir:-

Yours of the 15th instant, addressed to the Superintendent of Buildings, referring to the unsafe building, owned by Mr. Stahlnecker, on the South side of West 41st Street, was duly received.

In reply would state that the said building is in such a dangerous condition that this Department will not assume the responsibility of extending the time to carry out the precept of the Court to make it safe.

I am now receiving estimates preparatory to awarding the contract to execute the said precept and will probably give out the work in two or three days.

Very respectfully,

John Vinton Dahlgren

Attorney to the Department of Buildings.

Dic. S.J.P.
U.B. 869/95
2/116

OMRI F. HIBBARD,
ATTORNEY AT LAW.

~~80 BROADWAY, UNION TRUST CO. BUILDING~~

NEW YORK. (ROOM 1203.)

TELEPHONE 3414 CORTLANDT. 32 LIBERTY ST.

May 25th, 1896.

W. G. Stahlnecker, Esq.,
164 Locust Hill Ave.,
Yonkers, N.Y.

Dear Sir:-

Yours of late date from Norfolk at hand and contents duly noted. I trust the matter will work out as you anticipate but I will keep you advised of what comes to my notice. To-day the office of the attorney of the Building Department called me up on telephone and gave me the three following estimates which they have received for the work.

T. P. Galligan & Son., 528 E. 17th St., \$2822.

Reinhardt & Son., 642 Sixth Street, \$1900.

Charles A. Cowen, 289 Fourth Ave., \$1480.

The least one, you will see is \$1,480. and they tell me that unless you immediately begin the work they will let it to the man for \$1480 and let him proceed with the work. Of course I do not know what decision Constable may make in the matter but I firmly believe you can get it done by your own carpenter for very much less than \$1480. The attorney told me over the wire that they had sent one of their best inspectors to look at the wall and he stated to them that it was in a positively dangerous condition. I am inclined to believe that the Inspector is mistaken but you must determine what shall be done.

Very truly yours,

O. F. Hibbard

DEPARTMENT OF BUILDINGS,

NR 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,



OFFICE OF ATTORNEY.

A.E.H.

New York, June 1st, 1896.

Hon. William L. Strong,

Mayer of the City of New York.

Dear Sir:-

In re. letter from Omri F. Hibbard, attorney at law, to Mr. W. G. Stahlnecker, 164 Locust Hill Avenue, Yonkers, N.Y., of May 25th, 1896, which I herein return, would say that I find the records of this Department show that on the 13th day of January, 1896, after a careful examination into this matter, the New York Supreme Court issued an order, signed by a justice of the Supreme Court, ordering me, as Superintendent of Buildings, to make safe this particular building. This order is approved by O. F. Hibbard, attorney for the above mentioned owner, and writer of the letter I herewith return. The building has been examined by two of the best experts connected with the Department, one Mr. John O'Connor, and the other Mr. Richard Upjohn who is a member of the American Institute of Architects. I enclose copies of the photographs taken in the case, and also sketch showing section of wall.

Under this order I have no discretion in the matter but to act, and unless the owner will do the work himself I have to order it done at his expense, hence the bids for said work which are referred to in Mr. Hibbard's letter.

Hoping this will explain the matter clearly, I am,
Yours respectfully,

Stevenson Constable
Sup't. of B'ldgs.

Mayor of the

Mr. William L.

11

Office of Attorney

SUPERINTENDENT
STEVENSON CONSTABLE

ENDING

June

Police Department.
of the City of New York.
300 Mulberry Street.

Stahnecker
3

Hon. William L. Strong,
Mayor.

DEPARTMENT OF BUILDINGS,

NO 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,

STEVENSON CONSTABLE,
SUPERINTENDENT.

B. W.

New York, June 2nd, 1896.

Hon. Wm. L. Strong,

Mayor of the City of New York.

Dear Sir:-

In regard to Resolution of the Board of Aldermen,
#564, allowing certain projections beyond the building line to be
placed and maintained on building at the Southeast Corner of
128th Street and Fifth Ave., as same are positively illegal and
the Board of Aldermen have no right to grant such a privilege,
I must disapprove the same.

Yours respectfully,

Stevenson Constable
Sup't of B'ldgs.

Resolution returned herewith.

DEPARTMENT OF BUILDINGS,

NO 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,

STEVENSON CONSTABLE
SUPERINTENDENT.

B. W.

New York, June 10th, 1896.

Hon. Wm. L. Strong,

Mayor of the City of New York.

Dear Sir:-

I have the honor to acknowledge receipt of your letter of the 9th inst, requesting report in re application by Philip Koch of 117th Street and Lenox Ave.

I believe that there is a violation of the law on these premises, but examination is being made and I shall report to you as soon as possible.

Yours respectfully,

Stevenson Constable

Sup't of B'ldgs.

DEPARTMENT OF BUILDINGS,

NR 220 FOURTH AVENUE,

S.W. CORNER 18TH ST.,

STEVENSON CONSTABLE,
SUPERINTENDENT.

B. W.

New York, June 15, 1896 *89*

Hon. Wm. L. Strong,

Mayor of the City of New York.

Dear Sir:-

In answer to yours of the 13th inst, I regret exceedingly that this building is only partly occupied by the Department and has no flagstaff upon the same, also that the Department has no flag. Hence, I was unable to carry out your directions, as notice was not received in time by me personally to make arrangements to rent flag, and I could therefore not display one.

Yours respectfully,

Stevenson Constable
Sup't of B'ldgs.

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STUDIES

JUNE 15, 1951

100

DEPARTMENT OF BUILDINGS,

NR 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,



A.E.H.

New York, June 18th, 1896.

W.

Hon. William L. Strong,

Mayor of the City of New York.

Dear Sir:-

As the London Theatre has closed for the season, and as Mr. Donaldson has agreed, before opening in the Fall, to carry out and finish all requirements of this Department, and as this theatre is one in which a very serious accident may happen if this is not thoroughly carried out, will you kindly advise Mr. Burrows regarding same, so as to prevent any misunderstanding.

Yours respectfully,

Stevenson Constable
Sup't. of B'ldgs.

15

OF BUILDINGS

WORTHINGTON

FRONT 18TH ST.

June 18th, 1896.

DEPARTMENT OF BUILDINGS,

NO 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.



OFFICE OF ATTORNEY.

B. W.

New York,

June 22nd, 1896.

Hon. Wm. L. Strong,

Mayor of the City of New York.

Dear Sir:-

Finding that on the Civil Service list, there are frequently present employees of other Departments who have taken the Civil Service examination for this Department, and whereas those who have come into this Department and have been employed in others, have not proven nearly as satisfactory as the new employees who have never been in a public department before, I thought it might interest you to read a letter, copy of which I enclose, which I forwarded to the Civil Service Commissioners, in regard to this subject.

Yours respectfully,

Sup't of B'ldgs.

COPY

B.W.

June 22nd, 1896.

S. Wm. Briscoe, Esq.,

Secretary, N. Y. City Civil Service Boards.

Dear Sir:-

After careful examination and experience of over ten months, I find that the best clerks and other employees, except those for one or two branches of this Department, have generally been those that passed your examination and who have not been employed in any other public department in the City.

In most instances, the men who have been employed in other Departments have gone into the old ruts, doing careless work and depending on influence to hold them in position, and have bad habits and are less amenable to the rules and regulations especially necessary to conduct the Department on a business basis- in fact, in nearly every case, their work cannot compare in amount and quality with that of the others.

I write this merely as a matter of information, as I find since I have established the regular system of advancement here, that clerks from other public departments are taking Civil Service examinations, hoping to get into this Department, and I thought it would be interesting to your Board to learn the facts established after thorough examination and any experience during the time above mentioned.

Yours respectfully,

(Signed) Stevenson Constable,

Sup't of B'ldgs.

DEPARTMENT OF BUILDINGS,

NR 220 FOURTH AVENUE,

S.W. CORNER 18TH ST.,



B.W.

New York,

June 24, 1896. *189*

Hon. Wm. L. Strong,

Mayor of the City of New York.

Dear Sir:-

As there is now being done in this Department three times the work ever done before, and owing to the crowded condition in which I find the three floors of the Department due to the mass of work we have to handle, as a great saving in time and efficiency of the employees and increased facilities for the public can be effected, as the terrible condition of the back records covering a period of thirty-four years interferes greatly with the routine of the Department, because we have to handle them frequently, and as I would be able to do some little sorting and arranging of them, and as a large number of my employees have signified their willingness to work overtime and aid me in every way possible, and as they have by working overtime up to the present date enabled me to save sufficient from my wages, I have decided to take another floor in this building, and would like to have the authorization of the Sinking Fund to do so, also from the Board of Estimate & Apportionment for the transfer of \$750 from my present appropriation of "Salaries", which will be the rental of said floor from July 1st to December 31st of the

DEPARTMENT OF BUILDINGS,

NR 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,

STEVENSON CONSTABLE,
SUPERINTENDENT.

Hon. W. L. S. #2

New York, _____ 189

current year.

Asking your kind co-operation in this matter, I
have the honor to remain,

Yours respectfully,

Stevenson Constable
Sup't of B'ldgs.

Sunday Times

and the rest of the world

RECEIVED
JUN 17 1895

HON. J. B. H.

Chief of Dept.

have the honor to remain,

Asking your kind co-operation in this matter, I

Yours respectfully,

Wm. L. ...
Sub. of 2. 1895.

THE NATIONAL ...

255 ...

S.W. CORNER 18th St.

June

17

DEPARTMENT OF BUILDINGS,

NO 220 FOURTH AVENUE,
S.W. CORNER 18TH ST.,

STEVENSON CONSTABLE,
SUPERINTENDENT.

B. W.

New York, June 25, 1896. 189

Hon. Wm. L. Strong,

Mayor of the City of New York.

Dear Sir:-

Kindly grant me an interview at your earliest convenience, when I can go over with you matters pertaining to the present administration of the various Departments in the city, their action in regard to each other, their co-operation and lack of co-operation.

Yours respectfully,

Stevenson Constable
Sup't of B'ldgs.

18

OF BUILDINGS

THE ASSOCIATED

157 ST.

June 25, 1886.

of New York.