

If not called for in Ten Days, return to

JOHN C. SHAW,

ATTORNEY AND COUNSELLOR,

106 AND 108 FULTON STREET,

NEW YORK CITY.

*San King
W. Dock
Harlem*

25

Hon. Wm L. Strong

City Hall

New York, Jan. 15, 1896.

Hon. Wm. L. Strong,

Dear Mr. Mayor:--

I perceive by this morning's Tribune, that the President of the Department of Docks called upon you yesterday with reference to the improvement of the Harlem River between Third Avenue and Mc Comb's Dam Bridge with a plan for its improvement which has heretofore been before the Sinking Fund in substantially the same form.

On behalf of my client, Mary Pinkney, who owns a large amount of property which will be required for the proposed improvement, I opposed this plan and submitted at that time a letter from the late Gen. Newton, who was the engineer in charge of the Harlem River Improvement, a copy of which I herewith enclose, and in which he objected to the proposed scheme as being subversive of the principle upon which the Harlem River way had been designed by the engineers of the United States. You know it is not usual for property owners to oppose a proceeding in which their property is taken, as they hope to get substantial awards and have always a solvent purchaser in the City government, but this scheme is open to so many defects that my client is very seriously opposed to it, and she desires to have me lay before the members of the Board some of the grounds of her opposition. In view of the objections raised by so competent an engineer as General Newton, one might naturally suppose that the Dock Department would hesitate to advocate a scheme which is to be conducted upon lines antagonistic to the plan for the improvement of the Harlem River which was opened by the United States engineers, but there are other very important ob-

jections to the scheme. When it is remembered that the channel of the Harlem River improvement is only 400 feet wide and the depth of the water is only 14 feet, it would seem ridiculous to make basins along the line of water of a depth such as is called for in this plan of 600 feet.

No vessel that would lie in these basins, could use the water way, and it is evidently the purpose of those who are trying to advocate this plan to make a place where canal boats can lie up for the winter, which as the experience of this City has always shown, has been detrimental to the commercial value of the property in the neighborhood of the basins. This was demonstrated when the canal boats used to lie up for the winter on the North River. When they were driven out from the North River, they went around to the East River and the same unfortunate condition of affairs took place on the East River. The property opposite the basins became useless for commercial purposes, and owing to the depreciation of property, owners again united in an effort to drive them further from the neighborhood. There is no suitable place on New York Island for the storing of canal boats during the winter. The property is too valuable, and they ought to seek, as they must, some more desirable location where there is no land in the present or future for the building up of a new neighborhood adapted to the wants of commerce. There is another serious objection in my mind to the plan proposed, as you will notice; if you have a copy of the plan accessible, you will see that the department has laid out a street running round the sides and ends of the basins which instead of being really effectual in any way as a street in connection with the use of the basins would

simply be a patchwork approach to the basins themselves.

It has occurred to me for the first time that one of the great evils that New York City at present suffers from is the blind confidence which seems to be placed by the municipal authorities, in the heads of departments, and their engineers. It must have been apparent to you while sitting as a member of the Street Opening Board, that plans which have been devised for the improvement of the 23rd and 24th wards are no sooner adopted than changes are sought by property owners whose interests have been seriously affected by the proposed plan of improvement, and the Board has in nearly all cases listened with approval to the application for the changes asked for. The present plan for the improvement of the 23rd and 24th wards, above is the fifth in order which has taken place in just twenty years since the 23rd and 24th wards became a part of the City of New York, and the same is true of many of the public improvements which have been devised in different parts of the City under the Department of Public Works, as well as the Department of Docks.

What seems to me to be needful is that before the plans formulated by engineers of these departments and receiving the sanction of the head of the department is, that they should be submitted to engineers of distinction and ability for their approval so that we could reach conclusions which are definite and satisfactory both to the City and property owners.

I take the liberty of addressing you in regard to this important matter affecting my client's property, in view of the fact, as I said in the beginning, that I noticed in the morning's papers that the President of Dock Departments has laid these plans before you for your personal

inspection and I desire to administer the antidote as soon
as possible, to this very imperfectly conceived scheme.

I am
Very truly Yours
John T. Shan

PANAMA RAILROAD COMPANY,

New York, September 12, 1891,

JOHN C. SHAW ESQ.,

Dr. Sir: In reference to the arrangement of piers and slips (made presumably by the Dock Department) on the south bank of Harlem River between Fifth and Seventh Avenues as per sketch left with me, I desire to state that I perceive no good reason for the excessive dimensions of the slips, some as much as 600 feet within river lines, and some about 227 feet wide. If I remember aright, the proposed improvement was to obtain a depth of 12 or 15 feet, in the channel, at mean low water on the part of the Government, and the State law in reference to the Harlem (according to recollection) forbids the construction of a tunnel or other structure under the river, which should not permit a free depth of 18 or 20 feet below mean low water.

The maximum depth of water thus possible, and the width of river between the adopted line of 400 feet, would limit both the length and draught of the slips which under the contingency might seek the Harlem River, and at the same time would practically settle the extreme dimensions of the slips.

It might be the idea of the projectors of the lines of piers & slips, that it were advisable to leave long and broad slips, and as many of these as possible, in order to afford large spaces to be filled and emptied at each tide, and thus help to scour the channel but such provisions for the scour is unnecessary here, because the theory of the improvement, adopted by the Government, rests upon the fact of the difference of times and of heights of the tides in

the North and East Rivers, by which currents would be maintained in the improved Harlem alternately of about six hours duration, from the Hudson to the East River, and from the East River to the Hudson and upon this reliance is placed to maintain the channel, after once being dredged to a suitable depth.

Yours faithfully,

JOHN NEWTON.

P. S. By reference to the U. S. Engineer Office in this City, and to the State Laws to aid the Government improvement, you will find the data to which I have alluded in the first page of this letter. J. N.

LOCAL — NEW YORK COUNTY.

[Ten folios.]

LAWS OF NEW YORK.—By Authority.

[Every law, unless a different time shall be prescribed therein, shall not take effect until the twentieth day after it shall have become a law. Section 43, article II, chapter 8, General Laws.]

Chap. 495.

AN ACT to amend the title and sections eight, nine and eleven of chapter three hundred and fifty of the laws of eighteen hundred and ninety-two, entitled "An act to provide for the acquisition of necessary sites for buildings for police purposes by the board of police of the police department of the city of New York."

Accepted by the city.

BECAME a law May 2, 1895, with the approval of the Governor. Passed, three-fifths being present.

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

Section 1. Section eight of chapter three hundred and fifty of the laws of eighteen hundred and ninety-two, entitled "An act to provide for the acquisition of necessary sites for buildings for police purposes by the board of police of the police department of the city of New York," is hereby amended so as to read as follows:

§ 8. At any time after the final confirmation of the report of the commissioners of estimate as hereinbefore mentioned, the board of police of the police department of the city of New York is hereby authorized to erect and construct, upon the consent of the commissioners of the sinking fund of the city of New York, first had and obtained, a building or buildings for police purposes upon the site or sites acquired under this act. The said board of police shall cause the preparation of plans for said building or buildings and shall submit the same for approval to the commissioners of the sinking fund of the city of New York, and upon the approval of the said commissioners of the

sinking fund of said city of said plans, the said board of police shall proceed with the construction of the said building or buildings. The work of constructing the said building or buildings shall be done by contract, made at public letting, to the lowest bidder, pursuant to the general provisions of the laws and ordinances regulating the letting of contracts in the city of New York. The said board of police, with the approval of the said commissioners of the sinking fund of the city of New York, first had and obtained, is further authorized and empowered, with the consent in writing of the contractor and his sureties, to alter the plan of any building or buildings hereunder erected, and the terms and specifications of any contract entered into by authority of this act, provided, however, that such alteration shall, in no case, involve or require an increased expense greater than five per centum of the whole expenditure provided for in the said contract. And the said board of police is further authorized to provide for the fitting up and furnishing of any building or buildings hereunder erected, and to let at public contract to the lowest bidder the contract for the said fitting up and furnishing of said buildings, the consent of the commissioners of the sinking fund of the city of New York to the said fitting up and furnishing being first had and obtained.

§ 2. Section nine of said act is amended so as to read as follows:

§ 9. The damages awarded and the expenses incurred in the acquisition of sites for a building or buildings for police purposes in the city of New York, under the authority of this act, including the fees of the commissioners of estimate and the compensation of their employees, and all other necessary expenses in and about such proceedings provided for in this act, all reasonable expenses incurred by the said counsel to the corporation for the proper presentation and defense of the mayor, aldermen and commonalty of the city of New York, before the commissioners hereinbefore mentioned and in court, as well as all the expenses of the erection of the building or buildings hereinbefore mentioned, including the expense of the preparation of the plans of said building or buildings, and also the expense of the fitting up and furnishing of said building or buildings, shall be paid by the comptroller of the said city of New York out of the proceeds of bonds of the said mayor, aldermen and

commonalty of the city of New York, to be issued as hereinafter directed. And the comptroller of the city of New York is hereby authorized, upon the application of the board of police of the police department of the said city, and upon the approval of a majority of the board of estimate and apportionment of said city, to issue bonds in the name of and on behalf of the mayor, aldermen and commonalty of the city of New York, to be known as police department bonds, for an amount sufficient to pay the damages, costs, charges and reasonable expenses as enumerated in this section.

§ 3. Section eleven of said act is hereby amended so as to read as follows:

§ 11. The said bonds, the issue of which is herein directed, shall run for such term or terms of years as the said comptroller shall direct, but no longer than fifty years, and shall draw interest at not more than four per centum per annum

§ 4. The title of said act is hereby amended so as to read as follows: "An act to provide for the acquisition of the necessary sites for, and the erection, fitting up and furnishing of, buildings for police purposes by the board of police of the police department of the city of New York."

§ 5. This act shall take effect immediately.

STATE OF NEW YORK,
Office of the Secretary of State. } ss.:

I have compared the preceding with the original law on file in this office, and do hereby certify that the same is a correct transcript therefrom and of the whole of said original law.

JOHN PALMER,
Secretary of State.

In Common Council

The Committee on Docks, to which was referred the petition of James S. Dale and others, dated November 27, 1895, praying that action be taken by the Commissioners of the Dock Department of the City of New York, at the request of the Common Council, for the improvement of the Harlem river water-front between Fifth and Seventh avenues, do respectfully

REPORT :

That your Committee has investigated the situation and find that that portion of the city is in serious need of improved facilities for the delivery of goods and merchandise along the water-front, and that some action should be taken by the local authorities which will afford relief to the property-owners and the building trades from the inconveniences which they suffer by reason of the absence of proper wharves and dock facilities along the Harlem river.

Your Committee is informed that a plan for the improvement of this portion of the river has been devised by the Department of Docks for the City of New York, and that said plan, subject, however, to a few modifications, is now before the Sinking Fund Commissioners of said city for their consideration and approval, and that it is the opinion of both the Commissioners of the Dock Department and the said Sinking Fund Commissioners that the improvement contemplated by the proposed plan, as modified, should be carried out.

As there seems to be a universal demand for such improvement and dock construction, your Committee approve of the application of the petitioners and respectfully report that the same should be granted.

The proposed resolution submitted herewith is submitted for adoption :

Resolution.

Whereas, A petition, bearing date November 27, 1895, having been presented by James S. Dale and others, praying that the Common Council of the City of New York request the Commissioners of the Dock Department of said city to take such action as shall be necessary for the immediate improvement of the Harlem river water-front between Fifth and Seventh avenues, having been presented ; and

Whereas, The Committee on Docks, to which said petition was referred, has investigated the subject of the said petition and are of the opinion that the relief prayed for therein should be granted, and that the improvement of the northern portion of the city, by the construction of proper water-front facilities, should be brought about ; it is

Resolved, That the Department of Docks of the City of New York be and the same hereby is requested to hasten the completion of the water-front according to the plans now submitted to the Sinking Fund Commissioners of the City of New York, as the same may be modified, and to take such other action as shall lead to the improvement of the said portion of the Harlem river water-front and secure the relief prayed for in the petition.

Adopted by the Board of Aldermen Jan'y 28, 1896, a majority of
all the members elected voting in favor thereof.

(signed)

Wm. H. Ten Eyck

Clerk of the Common Council.

Locks

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Adopted by the Board of Aldermen Jan'y 28, 1886, a majority of



GEO. S. TERRY, Secretary.

PIER "A" N.R.
BATTERY PLACE

New York

Feb. 7th, 1896.

Hon. William L. Strong,

Mayor and Chairman of the Commissioners of the Sinking Fund.

Sir:

At a meeting of the Board of Docks held Feby 6th, the report of the Committee on Docks of the Board of Aldermen, together with the preamble and resolution adopted at a meeting of said Board January 28th, 1896, requesting this Department to hasten the completion of the water front on the Harlem River, was received, and I was directed to transmit a copy thereof to your Honorable Body.

Yours respectfully,

G. S. Terry
Secretary.

ENCLOSURE.



CITY
OF NEW YORK,

DEPARTMENT OF DOCKS,
COMMISSIONERS
EDWARD C. O'BRIEN, Pres.
EDWIN EINHORN, Treas. JOHN MONKS.

GEO. S. TERRY, Secretary.

PIER "A" N. R.
BATTERY PLACE

New York

Feb. 19th, 1896

Hon. William L. Strong,

Mayor of the City of New York.

Sir:

I have the honor to invite your attention to the plans for proposed improvements on the North and East Rivers, and to the subject of the moneys available for the execution of such plans.

The Board of Docks deems the construction of the five new piers between West Eleventh and Gansevoort Streets on the North River, for the use of the largest Transatlantic steamships, and the construction of five large piers on the East River between Seventeenth and Twenty-third Streets, for the use of certain domestic shipping now located on the North River, to be absolutely necessary for the commercial welfare of the City. Such improvements will also permit the allotment of space on the North and East Rivers, for the use of market boats and vessels carrying building and bulky materials, which is very much needed.

These improvements, when carried out, will give great relief to shipping in the most congested section of the water front, by providing suitable accommodations for all classes of vessels, now cramped in their facilities and inconvenienced in transacting their business.

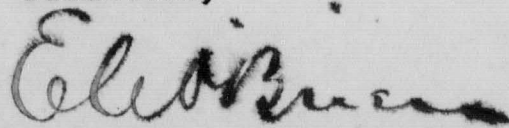
It is estimated that the purchase price of the property for the West Eleventh Street improvements will approximate \$3,000,000.; for

the East River improvements, \$1,000,000., and that the cost of the construction work will reach \$2,000,000., making a total of about \$6,000,000 required to carry out these improvements. It may be proper here to state that while the encouragement to the commerce of the city rather than the amount of the revenue to be derived from the contemplated improvements should be the incentive to prompt action in the matter, yet on this expenditure of six millions of dollars, the city would receive a direct return of at least five per cent of the investment.

The Board of Docks, appreciating the necessity for these improvements, and in view of the fact that the limitation of the amount of bonds to be issued in any one year is \$3,000,000., requested the Counsel to the Corporation to discontinue pending condemnation proceedings for the acquisition of property less needed, and to push to the utmost, proceedings for the acquisition of property for the West Eleventh Street improvement. It will be required, however, in accordance with law, to improve the upland between East 49th and East 53rd Streets, as soon as the city acquires title to the property.

It will therefore be necessary, in order that the Board of Docks may properly and speedily execute the plans above mentioned, to have the limit of expenditure increased to \$5,000,000. per annum for a term of three years. The Counsel to the Corporation has been requested to prepare bills to be introduced in the Legislature to enable the Department to speedily carry out the improvements.

Respectfully submitted,



President.

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Department of Docks,
Office of the President.

PIER 4 N.R. BATTERY PLACE.

New York 24th February 1896.

Dear Mayor Strong:

Enclosed I hand you the memorandum promised some days ago, which explains the needs of the legislation desired by this Department. Bills have been prepared by the Counsel to the Corporation, and I expect to proceed to-morrow morning to Albany to have the same introduced into the Legislature. If you have time this evening before going to Mr. Quigg's Reception, I will thank you if you will read the same.

I am, my dear sir,

Very sincerely yours,

Elbridge

Hon. Wm. L. Strong.

President.

New York.

Memorandum for the Mayor.

In relation to the improvement of the water front between Charles and Gansevoort Streets.

On June 1st, 1893, the Board of Docks submitted to the Commissioners of the Sinking Fund for their approval a map or plan for the improvement of the water front between Charles Street and the Southerly side of West 23rd Street.

No action having been taken by this Commission, the Board at a meeting held March 9th, 1894, substituted a map or plan for the improvement of the water front between Charles Street and a point 18.02 feet North of the Northerly side of Gansevoort Street. This plan was approved by the Commissioners of the Sinking Fund at a meeting held March 30, 1894

Between Charles and West 11th Streets.

The bulkhead and water rights extending from Charles Street to a point 100 feet South of Perry Street belong to the city. For the 100 feet next Southerly from the Southerly side of Perry Street negotiations are in progress with the Farmer's Loan and Trust Company, trustees, and

others, owners of the property, for the purchase of their rights for the sum of \$500. per foot, namely, \$50,000. This agreement when completed will be submitted to the Commissioners of the Sinking Fund for their approval, and if approved, and the title is pronounced good by the Counsel to the Corporation, title thereto will be taken by this Department.

The 89 $\frac{1}{2}$ feet next Northerly of Perry Street was purchased by the Department from A. A. Budke, February 8th, 1896, for \$42,512.50, or at the rate of \$475. per foot.

The 23 feet next Northerly of the Budke property belonging to Charles E. Lane, will soon become City property. The necessary agreement having been entered into between the owner and this Department, and approved by the Commissioners of the Sinking Fund. It is expected that the Comptroller will shortly request this Department to draw requisitions for the amount of the purchase at the rate of \$450. per foot, namely, \$10.350

The 46 feet next Northerly of the Lane property is in the hands of a Committee in charge of Ambrose E. Brockner, an incompetent person.

It has been practically agreed between this Department and the Attorney for said committee to purchase this property at the rate of \$450. per foot, but before the sale can be consummated the consent of the Supreme Court is necessary, This we understand is now being applied for. The amount of the purchase will be \$20,700.

The 43^{feet} next Northerly from the Brockner property was purchased from Henry Chastain on December 10th, 1894, for \$19,462.50, or at the rate of \$450. per foot.

Block between West 11th and Bank Streets, West Street and 13th Avenue, with wharfage rights.

At a meeting of the Board held June 7th, 1894, the negotiations for the purchase of this property having failed, the Counsel to the Corporation was requested to institute legal proceedings for the immediate acquisition of the same. Proceedings were commenced December 18th, 1894. On December 31st, 1894, Lawrence Godkin, William B. Ellison and C. C. Baldwin were appointed Commissioners, and the hearings commenced on or about May 16th, 1895. It is estimated that the amount of the award to be made by said Commissioners for this property will approximate \$600,000.

Southerly half of the block between Bank and Bethune Streets,
West Street and 13th Avenue, with wharfage rights.

The Counsel to the Corporation was requested to institute legal proceedings for the acquisition of this property, October 4th, 1894, the negotiations with C. F. Hoffman, owner, by his attorneys, Olcott & Olcott, having failed. Proceedings were commenced December 18th, 1894, and Peter B. Olney, George C. Clarke and Walter Stanton were appointed Commissioners, December 31st, 1894. It is estimated that the amount of the award to be made by said Commissioners for this property will approximate \$730,000.

Northerly half of the block between Bank and Bethune Streets,
West Street and 13th Avenue, with wharfage rights.

The offer for the purchase of this property made to A. W. Cruikshank, attorney for the Livingston Estate, owners, at \$450,000., not having been accepted, the Counsel to the Corporation was requested to institute proceedings for the immediate acquisition of the same. Proceedings were commenced March 11th, 1895, and John De Witt Warner, Wilbur Larremore and Lawrence Godkin were appointed Commissioners, March 25th, 1895. The first hearing was held May 24th, 1895. The preliminary estimate of these commissioners for the acquisition of this property by the City is \$590,000.

It will thus be seen that the amount of the awards to be made by the Commissioners of Estimate and Assessment for these two blocks, namely, between West 11th and Bank Streets, and between Bank and Bethune Streets, will approximate \$2,000,000.

In order to complete the improvement between Charles and Gansevoort Streets, the plans of which have been approved by the Commissioners of the Sinking Fund, it will be necessary for the Department to acquire the property, together with the wharfage rights, bounded by West Street and the North River, between the following streets: Bethune and West 12th Streets, West 12th and Jane Streets, Jane and Horatio Streets, and Horatio and Gansevoort Streets. It is estimated that the value of this property with the structures thereon will reach \$2,250,000. This, in addition to the two blocks above referred to between West 11th and Bethune Streets, will aggregate over \$4,000,000. for all the property and wharfage rights necessary to be acquired by the Department between Charles and Gansevoort Streets. The acquisition of the above property by the City for the purposes herein mentioned will change its use, and it is the only available property that will give relief to commerce in the congested sections of the water front.

East River, between Seventeenth and Twenty-third Streets.

Plans have been prepared and adopted by the Commissioners of the Sinking Fund, ^{in December, 1888.} for five large piers on the East River between 17th and 23rd Streets, for the use of certain domestic shipping now located on the North River. It is estimated that the purchase price of this property will be \$1,000,000.

Condemnation proceedings are now in progress for the acquisition of the following property:

North River, north of Watts Street.

125 feet of bulkhead next north of Watts Street, to enable the Department to build a new first class pier in place of Pier old 40, North River, estimated cost, \$ 62,500.

North River, between 33rd and 34th Streets.

Northerly half of bulkhead between West 33rd and 34th Streets, to enable the Department to complete 13th Avenue from Twenty-third to Thirty-fourth Streets, estimated cost \$ 11,000.

North River, between West 42nd and 43rd Streets.

Bulkhead and water lots between West 42nd and 43rd Streets, to make needed improvements on West Street, sewer outlet, etc., estimated cost \$ 100,000.

Pier at West 43rd Street

Estimated cost \$ 75,000.

East River, between Market and Pike Streets.

303 feet 10 inches of bulkhead, etc., between Market and Pike Streets, including Pier old 39, (Screw Dock property) estimated cost \$ 200,000.

Harlem River, between East 104th and 105th Streets.

Bulkhead between East 104th and 105th Streets, to complete improvements thereat; estimated cost, \$ 47,500.

It is therefore obvious that the total value of the property sought to be acquired for immediate improvement will approximate six million dollars. The cost of the construction work in improving this property and putting it in condition for the uses intended is estimated

by the Engineer in Chief at \$3,000,000., thus making a grand total of \$9,000,000.

These improvements will, when completed, provide six new piers on the North River for the largest Transatlantic steamships, five new piers on the East River for the use of certain domestic shipping now located on the North River; will also permit the allotment of additional space to coastwise steamers, sailing vessels, market boats, and vessels carrying building and bulky materials, now cramped and inconvenienced in transacting their business.

It is thought proper to state here that while the encouragement to the commerce of the City, rather than the amount of revenue to be derived from the contemplated improvements, should be the incentive to prompt action in the matter; yet, on this expenditure of \$9,000,000., the City will receive, without exacting burdensome rentals, a direct return of \$500,000. per annum, or at least five per cent on the investment.

The Board of Docks believes that the improvement between Charles and Gansevoort Streets on the North River, between 17th and 23rd Streets on the East River, and between Market and Pike Streets (including Pier old 39) East River, to be of paramount importance, and feels that if there is any extraordinary measure that can be taken to facilitate and hasten the completion of the improvements, the needs of shipping are so great that it should be taken.

In this connection, it might be well to call attention to the report of the Committee of Seventy in its report made in April last, on the improvements of the water front, referring to the acquisition and improvement of this property between Charles and Gansevoort Streets, which reads as follows:

"This section of the City is now urgently needed to provide suitable accommodations for our greatly crowded commerce. It is difficult to exaggerate the importance of restoring this most important district to modern commercial use. It would relieve, for many years, a district in the busiest commercial part of the City, and afford the means to supply demands which are continually being made and which it is criminal to disregard, if, in any reasonable way, they can be supplied."

In view of the fact that the amount of Dock Bonds to be issued in any one year is limited to \$3,000,000., the Counsel to the Corporation has prepared a bill providing for additional Dock Bonds. The

amount of the bonds to be issued under this bill shall not exceed six million dollars, and not more than two million dollars of said bonds shall be issued in any one year, and none of the bonds shall be sold for less than par value. Also a bill providing that the title to the property between Bethune and Gansevoort Streets, North River, and between 17th and 23rd Streets, East River, shall be vested in the City, within four months after the Commissioners of Estimate and Assessment shall have filed their oaths of office, provision being made for proper and reasonable compensation for damages which the owners or lessees might suffer, until the City pays for the properties taken.

In addition to the properties above referred to, under chapter 266 of the Laws of 1889, the Department is directed to acquire the property and build an exterior ~~wharf~~ from 49th to 53rd Streets on the East River. For two blocks of this property, the Dock Department offered the Beekman Estate for its interests therein, \$10,000., but the legal representatives of said Estate declined this offer and demanded \$325,000., claiming that they owned the property by grants antedating the City's charters. At this rate, the necessary water front to be acquired from 49th to 53rd Streets would cost

\$ 650,000.

The improvements between 49th and 53rd Streets, are estimated to cost

\$ 287,703.

making a total, with the cost of the property as \$650,000., \$ 937,703.

Further, there are proceedings for the acquisition of the water front property for building an exterior street from 64th to 81st Streets, on the East River, now in progress under chapter 697 of the Laws of 1887, as amended by chapter 272 of the Laws of 1888, and chapter 257 of the Laws of 1889. For this property, the Department does not have to pay out of the Dock Fund, but will have to expend for construction, an amount estimated at

\$ 910,000.

making a total estimated cost for construction upon these two last parcels, of

\$1,197,703.

As soon as the title to these parcels becomes vested in the City, this Department will be required to proceed at once with the work of construction, in accordance with the statutes above referred to, and therefore, the cost of these improvements should be added to the total previously stated.

Respectfully submitted,

Edo Br...

President, Board of Docks.

New York,
24th February, 1896.

To Hon. William L. Strong,
Mayor.

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6-1-18



CITY
OF NEW YORK,
DEPARTMENT OF DOCKS,
COMMISSIONERS
EDWARD C. O'BRIEN, Pres.
EDWIN EINSTEIN, Treas. JOHN MONKS.

PIER "A" N.Y.C.
BATTERY PLACE

New York April 2, 1896.

GEO. S. TERRY, Secretary.

Honorable William L. Strong,

Mayor of the City of New York.

Sir:-

I beg to acknowledge the receipt of your communication of the 31st ultimo, transmitting for the attention of this Board, communication from Louis L. Rendt 129 Broad Street, concerning the removal of ashes of the New York Steam Company.

As this is a matter which relates entirely to the Department of Street Cleaning, the communication has been sent to Commissioner Waring with a copy of your letter.

Respectfully yours

G. S. Terry
Secretary.

Respectfully,
The Secretary

Enclosed with a copy of your letter.

of Street Cleaning, the communication has been sent to the Board of

As this is a matter which has been referred to the Board of

the New York Street Cleaning

from the N.Y. Board of Street Cleaning, the Board of Street

Cleaning, and the Board of Street Cleaning, the Board of Street

I beg to acknowledge the receipt of your communication of the 11th

Sir:-

Mayor of the City of New York

Enclosed with a copy of your letter

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City and County of New York SS.

William R. Bell, being duly sworn, deposes and says: I am a member of the firm of Bell Brothers, doing business at 53rd Street & East River, and I have been engaged with said firm in the lumber business for twenty-five years, and during all of such time have furnished lumber to the City of New York and its Department of Docks. On June 26 I received a request for prices of spruce timber from the Department of Docks, and submitted the price of \$21. per thousand feet B. M., which was then, and ever since has been, the lowest market price for spruce timber, the price having been advanced between the 26th of May and the date of said request. I further say that at no time since the receipt of such request and the submission of said price has the firm of which I am a member sold Spruce Timber of the quality and size called for to any parties, either public or private, for less than \$21. per thousand feet B. M., etc.

*Sworn to before me this
6th day of April 1896*

*Arthur M. Sully
Notary Public
City & Co. of N.Y.*

William R. Bell

41.

BELL BROTHERS,
Timber Dealers,

53D STREET, EAST RIVER,

TELEPHONE CALL, 174,
38TH STREET.

New York, April 6, 1896. 189

Mr. Edward C. O. Brien.

Commissioner of Docks.

Dear Sir:

We can confidently inform you that all the city departments have been paying since the time we quoted you June 26th. 1895. and are now paying twenty-one 21. dollars per M ft. B. M. for Spruce timber of the size and quality that we have been delivering to the Dock Dept. The ones we can positively state who are doing so. from information from the parties selling them. are the Dept. of Street Cleaning and the Dept. of Charities and Corrections. Any other information you may want we will cheerfully give. We also enclose affidavit about the price of timber.

Yours truly.

Bell Brothers

STATE OF NEW YORK
City and County of New York, ss:

JOHN M. PHELAN, being duly sworn, deposes and says, that he has been employed in the Department of Docks since June 18th, 1891, and that he has been Chief Clerk in said Department since May 11th, 1893; that it is his duty to draw and countersign Treasurer's Orders, and audit bills for payment, and he is therefore familiar with the practice prevailing in said department relative to the purchase of material and supplies; that it has been customary to use spruce timber purchased under Treasurer's orders, for the work of repairs to piers and bulkheads where the combined cost of the labor and material necessary for any single piece of work did not exceed one thousand dollars; that an examination of the records of the Department shows that the bills for spruce timber used for repairs, purchased under Treasurer's orders, for the four years ending April 30th, 1895, amounted to about forty thousand dollars, and that the specifications for said timber were practically the same as those contained in the orders issued since July last to Bell Brothers, the payment of which is being withheld by the Comptroller, and that he has never heard, until the present instance, the right of the Department to make such purchases questioned or of the payment of such bills having been refused.

Sworn to before me this
7th day of April, 1896.

John M. Phelan

Charles Stanley
Comptroller of Docks
N.Y.C.

State of New York, :
City and County of New York : ss:
:

George S. Greene Jr, being duly sworn deposes and saith:-

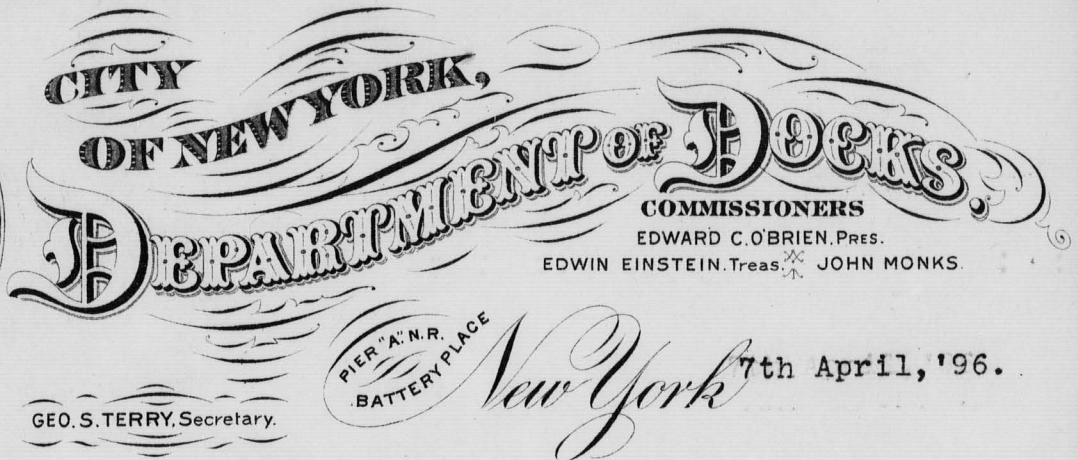
That he is, and has been, Engineer-in-Chief of the Department of Docks for more than 20 years; that as such he is, and has, been familiar with the methods of said Department in purchasing materials, and that it has always been the custom of the Department to purchase the material for any particular job of repairs to wharves and Piers, where the total cost of the materials and labor for such job did not exceed \$1000.00 in value, by Treasurer's Order, when no contract existed under which they could be obtained, and that in particular this custom applied to the purchase of timber for such repairs, and to the late purchases of spruce timber for repairs from Bell Brothers, which are now the subject of controversy, and that he has never known or heard, until recently, of any objection to, or criticism of, the legality and right of the Department to make such purchases.

Sworn to before me this 7th
day of April, 1896.

G. S. Greene Jr

Ned Lange
Notary Public (15)
New York C.





Hon. William L. Strong,

Mayor of the City of New York.

Sir:

I have the honor to submit for your information the following statements relative to the claims of Bell Brothers for sawed spruce timber furnished this Department, and Max Gombossy for Kalsomining, painting, etc., done for this Department, under Treasurer's orders, which bills the Comptroller refused to pay.

In the matter of the bills for spruce timber furnished by Bell Brothers, I have to state that on May 28th, 1895, the following bids were received by the Board of Docks for sawed spruce timber:

Yellow Pine Company, \$20. per thousand feet, B. M.

Church E. Gates & Co., \$20. per thousand feet, B. M.

John C. Orr, \$20. per thousand feet, B. M.

The Board did not believe it could properly award the contract to any one of the three bidders, as it was evidently a combination price, and accordingly rejected all bids, believing it to be for the best interests of the city so to do. A representative of the Comptroller was present at the meeting, and offered no objection to this action.

The cost of readvertising for bids on this contract would have amounted

to upwards of \$100., and as the quantity of timber desired for immediate use was only twenty thousand feet, the following resolution was adopted at a special meeting held on the same day:

"RESOLVED, that the Treasurer be and hereby is authorized to purchase all materials and supplies required by this Department subject to the limitations prescribed by law."

Under this resolution the Treasurer sent out requests on June 25th, for prices for furnishing 20,000 feet of sawed spruce timber under the same specifications as in the case of the contract on which bids were rejected, and received the following bids:

Bell Brothers, \$21. per thousand feet, B. M.

East River Mill & Lumber Co., \$21. per thousand feet, B. M.

H. C. Stevens & Sons, \$21. per thousand feet B. M.

As this price was one dollar more per thousand feet than that named in the rejected bids, enquiry was made as to the reason therefor, and it was ascertained that since May 28th the quality and kind of timber called for by the specifications had advanced in value, and that \$21. per thousand feet was the lowest market price. Attached hereto is an affidavit made by one of the firm of Bell Brothers, certifying to these facts, and also statements showing that this was the price paid by other city departments for the same quality of timber covering this period. There has been purchased under Treasurer's orders since the rejection of the bids first mentioned, as needed from time to time for repairs at the various piers and bulkheads around the water front, 420,000. feet B. M. sawed spruce timber, these purchases extending over a period of

about nine months: The first three bills were audited and paid by Comptroller Fitch without any objection; but it now appears that the Comptroller has changed his mind about the propriety of these purchases and has refused to pay Bell Brothers the amounts justly due them.

The action of the Treasurer, it is submitted, is not a violation or evasion of the provisions of ^(law, for) Section 64 of the Consolidation Act, ~~which~~ provides:

"...Whenever any work is necessary to be done to complete or perfect a particular job, or any supply is needful for any particular purpose, which work and job is to be undertaken or supply furnished for the corporation, and the several parts of the said work or supply shall together involve the expenditure of more than one thousand dollars, the same shall be by contract, " etc.

A statement was prepared and submitted to the Comptroller showing that in no case had the material and labor amounted to or exceeded one thousand dollars on any one particular job or piece of work upon which this material had been used. It further appears that it has been the practice for many years for materials to be purchased in the manner referred to in the case of Bell Brothers, on Treasurer's orders. It seems that owing to an advance of one dollar per thousand in the market price of sawed spruce timber the action of the Board in rejecting the bids and purchasing under Treasurer's orders made a difference of \$420/ on the 420,000 feet of timber purchased during the nine months. From this must be deducted the cost of readvertising, \$100., which would reduce the difference to \$320. A similar action of the present Board of

Docks about the same time in rejecting a bid for Portland cement under the belief that the price named was a combination one and directing the Treasurer to purchase on Treasurer's orders when needed, resulted in the Department being able to procure the cement at a considerably lower price, from the same company which made the rejected bid, with a total saving on the cement contract of \$480., and a net saving on the two transactions, including the \$100. which it would have cost to readvertise for the cement, of \$260 . The provision of law on which we understand the Comptroller bases his present objection has been on the statute books over twenty-five years, and an examination of the records of the Department shows that hundreds of bills, identically the same in character, have been paid by the Finance Department heretofore, a great many of them being bills of Bell Brothers for lumber furnished this Department under former administrations, which will be shown by affidavits hereto attached made by the Engineer in Chief, Mr. Greene, and the Chief Clerk, Mr. Phelan.

In order to relieve the Board of Docks from future embarrassment in the case of tie bids, and permit it to award the contract to one of the bidders without impropriety, the following clause has been inserted in the contracts and has just received the approval of the Counsel to the Corporation:

"In case there are two or more bids at the same price, which price is the lowest price bid, the contract, if awarded, will be awarded by lot to one of the lowest bidders."

This clause has been inserted in Contract No. 531, for furnishing sawed spruce timber, which is just being advertised, and it is hoped

will also relieve the Comptroller from the necessity of making it difficult for the Department of Docks to procure its work and materials at the lowest prices by refusing to pay bills justly and legally due.

In relation to the claim of Max Gombessy, in order not to annoy you with too much detail, I will simply make the statement that I saw Mr. Fitch personally and thoroughly explained the matter to him, until he said he understood it perfectly. He, however, declined to pay the claims. I told him the Corporation Counsel was the legal adviser of this Department as well as his, and that I would accordingly submit the matter to him. The Counsel to the Corporation advised this Department that it had acted entirely in accordance with the law, and also advised Comptroller Fitch that the claim should be paid. Mr. Fitch still refused to pay it, and subjected the creditor, who could ill afford it, to the hardship, delay and expense of a law suit, when the Corporation Counsel was forced to inform the claimant that the City had no defence, and allow judgment to be taken. The judgment has since been paid, after a levy by the Sheriff which received a good deal of attention in the press.

In view of the fact that so much publicity has been given these cases by the Comptroller, it has been thought proper that this information should be in your possession and be made public.

Yours respectfully,

Edwin Cristen

Treasurer.

Department of Docks,

Office of the Treasurer,

PIER "A" N.R. BATTERY PLACE.

New York 7th April, 1896.

My dear Mr. Mayor:

I enclose herewith an official letter to you with affidavits attached, relative to Comptroller Fitch's insinuations, which are utterly unwarranted and devoid of truth. I beg your careful perusal of the same, and also your permission to furnish copies to the papers to-day.

Kindly let me have an answer, and oblige,

Yours very truly,

Edwin Christie

Hon. William L. Strong,

New York City.

Hon. William L. Strong,

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Yours very

Kindly let me ha

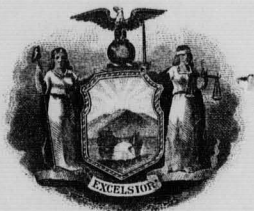
to the papers to-day.

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Witch's insinuations, whic

You wish attention to



CHARLES B. PAGE.
SEVENTEENTH DISTRICT.



Albany April 9. 1896.

Genl. E. C. O'Brien.

My dear Sir:

Your letter dated April 7. is recd., The bill you refer to was introduced by me for one Albert Lyons ^{224 E. 119th} by request. All I know about him is that he claims to be a Dock builder & a member of the order known as the Knights of Labor. I don't know anything about his being a "Fakir" I know the Dock Cnrs. of N.Y. City have nothing whatever to do with the bill.

Don't give yourself the slightest concern about this bill

Yours truly
Charles B. Page

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Department of Docks,

Office of the President,

PIER "A" N.R. BATTERY PLACE.

New York 10th April, 1896.

Dear Mr. Mayor:

Referring to my conversation with you the other day in regard to the bill introduced in the Senate by Mr. Page, by request, providing that the Board of Docks, be authorized by a majority vote to have construction work done by the force of the Department, I send you a letter received this day from Senator Page in reply to a note of enquiry I sent him as to who was responsible for the introduction of the bill, the number of which is 1293. You will see that the Dock Department was in no wise responsible for its introduction, and does not advocate its passage.

Yours very sincerely,

Eleo B. ...

MEMORANDUM FOR COMMISSIONER EINSTEIN IN REGARD TO SENATE BILL 747 RE-
LATING TO CHANGING AND ESTABLISHING GRADES OF STREETS ADJACENT TO THE
WATER FRONT.

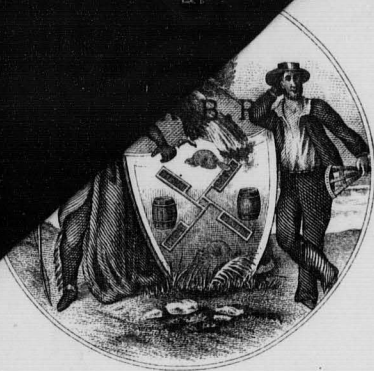
New York 12th May 1896.

It frequently happens that when the Department of Docks has established a plan for the improvement of the water front, consisting in part of a Marginal Street, Wharf or Place, among its features, that the streets from the interior of the city have different grades established many years ago, where they meet or intersect the Marginal Street, wharf or Place, which is not in harmony and accord with the grade established for it in the improvement of the water front. It is necessary, therefore, in order to make a proper approach and give proper access to and from this Marginal Street, Wharf or Place, to change the grade of the intersecting streets, and this bill gives the Board of Street opening and Improvement power, if it sees fit so to do, upon application of the Department of Docks, to change the grades of the streets, roads and avenues, which may be adjacent to and which intersect the Marginal street, wharf or Place of the City.

As the Board of Street Opening and Improvement consists of the Mayor, Comptroller, Commissioner of Public Works, President of the Department of Public Parks, President of the Board of Aldermen and Commissioner of Street Improvements of the 23d and 24th Wards, there is no probability of any change being made without full consideration of all the Departments of the City interested in such a matter. I think, therefore, that the bill should be approved.

Respectfully Submitted

Engineer-in-Chief.



CITY
OF NEW YORK,
DEPARTMENT OF DOCKS,
COMMISSIONERS
EDWARD C. O'BRIEN, Pres.
EDWIN EINSTEIN, Treas. JOHN MONKS.
PIER "A.N.R."
BATTERY PLACE
New York May 7, 1896.
GEO. S. TERRY, Secretary.

Hon. Edwin Einstein,
Treasurer.

Sir:-

At a meeting of the Board of Docks held this day the communication from the Mayor's Office advising that there will be a public hearing on Friday May 15th 1896 at 3 o'clock P.M., on Senate Bill No. 747, in relation to proceedings to open and improve streets, avenues, roads, public parks and places in the City of New York, was referred to you, and Commissioner Monks.

Respectfully yours

G. S. Terry
Secretary.

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COPY.

9th Feby, '76.

Hon. William C. Whitney,
Counsel to the Corporation,
City of New York.

Sir:

By direction of the Board governing this Department, I have the honor to advise that one Henry Anderson has presented, for payment, a claim for overtime worked during time while employed on the scows of the Department, as Scowman, for the sum of \$218.75, and that a similar claim for the sum of \$248.12 has also been presented by one Patrick Sullivan.

Both of these persons claim to have worked ten hours each day employed or two hours longer than is required to make or constitute a legal day's work, as regulated by the Laws of this State. Their claims, therefore, consist of a charge of 31 1/4 cents per hour for the two hours overwork each day of the whole time they were employed as scowmen during 1874 and 1875. It is believed that neither of the men have been employed by the Department since Augt or Septr last. An examination of the Pay Rolls of the Department shows that both of these persons were employed as scowmen at \$2.50 per day and were so employed during several months in 1874 and 1875, they being paid at that rate every two weeks during the period employed. Upon all the works of the Department regular time-keepers are employed, and the time of employees engaged by the hour is returned in hours and of those engaged by the day in such manner as to show those present at the regular musters each day.

It has been the custom of the Department to work its gangs generally about 10 hours per day, and often longer, depending upon the state of the work each day, and it has always been believed, heretofore, that this ~~custom~~ custom was well known to all the employees of the Department. This irregularity in number of working hours is more frequent upon the dredging machines and scows, than elsewhere, the tides interfering more or less with the work of dredging. The Officers of the Department have not been nor are they now actuated by any wish or desire to openly violate or otherwise evade the provisions of the laws of the State, by exacting or requiring more hours of labor, for the compensation agreed to be paid per day, than is regulated or fixed by the said Laws; but have always been governed, in carrying on the work under their charge, by a determination to secure for the city a faithful discharge of duties by every employe of the Department.

In view of the fact that there may be hundreds of other persons heretofore employed in the service of the Department, who may be disposed to present similar claims for overwork performed, the Commissioners respectfully request to be advised as to the right, not only of said Anderson and Sullivan, but of all similar claimants, to claim of this Department wages or compensation for overwork performed after the completion of a legal day's work, when an agreement has not been previously entered into for additional wages or compensation therefor, and also, as to the duty of the Department, in the two present cases or in any like cases which may hereafter arise.

Respectfully, your ob. Serv't,
Eugene T. Lynch, Secretary.

Copy.

New York, 1st March, 1876.

Eugene T. Lynch, Esq.,
Secretary of the Dock Department.

Sir:

In your letter to me of the 9th of February last, you state that two persons, formerly employed by the Dock Department, as scowmen, and who have been already paid at the rate of \$2.50 per day, have presented claims, one for \$218.75 and the other for \$248.12, for overwork alleged by them to have been done during the period for which they were so employed by the Dock Department. You also state, in substance, that it has been the custom of the Department to work its gangs generally about ten hours a day and sometimes longer, and that such custom has been well known to all the employees of the Department, and that the officers of the department in so doing have not been actuated by a desire to evade the laws of this state, but to promote the best interests of the city. In view of the fact that there may be hundreds of other persons heretofore employed in the service of the department, who may be disposed to present similar claims for alleged overwork, you request my advice as to what course should be taken by the department in reference to the two claims already presented, and as to the right of laborers to claim compensation for overwork performed after the completion of a legal day's work, when no agreement for additional wages has been previously entered into.

The first section of Chapter 385 of the laws of 1870, provides that on and after the passage of that Act, eight hours shall constitute a legal day's work for all classes of mechanics, working men and laborers, excepting those engaged in farm and domestic labor; but overwork for extra compensation by agreement between employer and employe is permitted.

Under the circumstances stated in your letter, I am inclined to the opinion that the laborers mentioned in your letter have no legal claim against the city for the overwork alleged to have been done by them, and I do not think if the attempt shall be made, that they will succeed in establishing such claims in the Courts. I am not, however, disposed to rest my advice to the department in this matter upon this ground. It seems from your letter that the custom of the Department in regard to the number of hours during which the gangs of laborers are employed has been heretofore well known to all the employees of the department, and that any work done in excess of eight hours a day must have been done voluntarily, and with the full understanding on the part of the Department and its employees, that the sum paid per day was to be full compensation for all the work done during each day. Under these circumstances, the persons presenting the two claims for overwork, referred to in your letter, have certainly received all that they were equitably entitled to, and I think the department should refuse to recognize these claims and similar ones in any manner whatever, and if actions in law should be brought to collect the same they should be resisted to the court of last resort.

In view, however, of the stringent and ~~peculiar~~ peculiar provisions of the Act of the Legislature above cited, and for the purpose of avoiding all question in this matter, and to prevent similar claims arising in future, I respectfully advise that the department shall either employ its laborers, when it is possible to do so by the hour, or, if it employs them by the day, shall stipulate to pay a certain sum for a day's work of eight hours, and at a certain rate for all overwork.

I am, sir, Yours respectfully,

Wm. C. Whitney,
Counsel to the Corporation.

Superior Court of Buffalo, General Term.

The People, etc., :

Respt., :

-vs- :

Henry J. Warren, :

Applt. :

This is an appeal by the defendant from a judgment of this Court convicting him of a violation of that part of section two of chapter 485 of the Laws of 1870 as amended by Chapter 622 of the Laws of 1894, which makes it a crime for a contractor with a municipal corporation for the construction of public works to employ an alien as a laborer upon such works.

Frank R. Perkins and John G. Milburn, for Appellant.
James L. Quackenbush, for Respondent.

White, J.

The Barber Asphalt Paving Company is a West Virginia Corporation engaged in the business of paving streets in the cities of this State under contracts with the municipal authorities. In June, 1894, the paving company entered into a contract with the City of Buffalo to pave Kensington Avenue, a public street in said City. The defendant was the superintendent of the company, and as such hired and discharged its laborers on that work. During the progress of the work Warren employed an alien Italian as a laborer, and for that he has been indicted, tried and convicted. No question is made as to the defendant's liability, although he acted solely as the agent and servant of the paving company in employing the alien.

The Appellant contends:

1st. That the facts stated in the indictment do not constitute a crime.

2nd. That the statute under which he is adjudged to be a criminal is repugnant to our state and national constitutions and to the treaty between the United States and the King of Italy.

Section one, article one, of our State constitution provides that no member of this state shall be deprived of any of the rights or privileges secured to any citizen thereof unless by the law of the land or the judgment of his peers.

Section six of article one provides that no person shall be deprived of liberty or property without due process of law.

Article five of Amendments to the Federal Constitution provides that no person shall be deprived of liberty or property without due process of law, and section one of article fifteen provides that no State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, and that no state shall deprive any person of liberty or property without due process of law.

By article three of the treaty with Italy it is provided in substance that resident Italians in the United States shall enjoy the same rights and privileges in respect to their person and property as are secured to our own citizens.

The only way by which a member of the state, whether citizen or alien, can be deprived of the rights and privileges thus secured to him is by due process of law, namely, a proceeding for that purpose conducted in accordance with the forms and methods and by the means prescribed for the enforcement of law.

The relation of the paving company to the City of Buffalo was that of an independent contractor, and while engaged in the transaction

of its business in this State, it is entitled to the same protection and enjoys the same liberty, rights and privileges as individual members of the state.

Santa Clara Co. vs. S. P. R. R., 118 U. S., 394.

Personal liberty, that is the right among others to make contracts, to labor for others and to employ others to labor, is secured by constitutional law to all members of this State, and the right is inalienable.

Greenhood on Public Policy Rule 8.c.c.111.

In re Baker, 29 How Pr., 485.

It will not be profitable, as it seems to me, to argue at length the foregoing propositions of law. If, however, authorities are deemed necessary, see dissenting opinion in the case of the People vs. Beck, 30 N. Y. Sup., page 473, and cases there cited.

Indeed the respondent's counsel does not dispute that such is the law, his contention is that the statute in question does not in any way effect or relate to the right of pursuit, but that it simply prescribes rules for the management or "regulation" as he puts it, of its use of its own property by the state, and he concedes that it is the only theory upon which the validity of the statute can be sustained. His argument is, that as Kensington Avenue in Buffalo is a public street, it is owned by the city; that as the city is a political sub-division of and a municipal corporation within the state, the ownership of Kensington Avenue is in the State, and as the Italian worked on the pavement being constructed in Kensington Avenue, he was in fact working for the State, and the state had the same absolute right to say who should or should not work on that pavement, that Warren would have had if he had been doing private work for an individual member of the State. In other words, that the state had the same right to designate what laborers the paving company should employ and refuse employment to, as it, the state, would have had if it were doing the work directly through its agents and servants.

The position thus assumed by the People is novel and not altogether lacking in plausibility.

It is undoubtedly true that if the State engages in the construction of public works it may employ and refuse employment to whom it will. It can do that in precisely the same way and to the same extent that an individual member of the state may exercise the same right in reference to his private and individual affairs. The right is the same in either case. It is at this point, as it seems to me, that the respondent falls into error; the contention is, as we have seen, that the state owns the street and that therefore, notwithstanding the pavement in it is being constructed under a contract between the municipality and an individual member of the state, the act of employing laborers is one of dominion over and regulation of its own property by the state. The statement of the case carries with it a complete destruction of the theory upon which the claim is made.

That the state surrenders its public and governmental functions and stands on an equal footing with an independent contractor with it as to such work as that in question here, and that as a state it exercises no dominion over the property or control over the employment of laborers upon the work being done, is well stated by Dillon in his work on Municipal Corporations, as follows:

"Each one of the United States in its organized political capacity, although it is not in the proper sense of the terms a corporation, yet it has many of the essential faculties of a corporation... private rights, the power to sue and the like. Like corporations ... a state can make contracts ..., maintain actions to enforce its rights and redress its injuries. While the power to contract is a necessary constituent of the sovereignty of a state when it enters into a contract with a private individual it relinquishes its sovereign character by such transaction and as a general rule can claim no exemption from the rules of law applicable to the contract of private parties under like conditions.

Delafield vs. Illinois, 2 Hill, 159.
Indiana vs. Worman, 6 Hill, 33.
Lloyd vs. N. Y., 6 N. Y., op. of Foot J. p. 374.
People vs. Stephens, 71 N. Y., 549.
Patton vs. Elmorn, 94 Am. Dec., 665.

The right by virtue of which the state regulates the use of its property is one of dominion and sovereignty, as clearly appears from the case of McCready vs. Virginia, 94 U. S. Reports, 391, and other cases cited by the respondent's counsel, whereas the right of the state under a contract with one of its individual members as in the case at bar is private and legal, the same in quality and character as the rights of the individual with whom it contracts and in no wise different therefrom.

The exercise of the right or power of dominion over property possessed by the state then can have no application to the personal liberty of its members. In matters of independent contract its rights, powers and functions in a case like the one at bar are the same as those of an individual, and therefore it cannot dictate the terms and conditions of a contract between an individual and one of its municipal corporations, which would be illegal if the contract were made directly by itself.

If the views here expressed are sound, the statute in question seeks unlawfully to interfere with the personal liberty of the individual. I think it does, and that it is in conflict with our federal and state constitutions and the treaty with Italy as well, and, until compelled by judicial authority to yield assent to such legislation as that in question, I shall esteem it a privilege and solemn duty to stamp it with my disapproval.

Copy.

Superior Court of Buffalo.

The People of the state of New York,
Respondents,

-again-st

Henry J. Warren,
Appellant.

Judgment.

The appeal of the above named Henry J. Warren from this judgment of conviction herein, entered on the 12th day of March, 1895, having been heard at a General Term of this Court and the said General Term having duly made and entered an order directing that said judgment be reversed,

It is hereby adjudged, that the said judgment of conviction be and the same hereby is in all respects reversed and the defendant is hereby discharged from custody and his bail is hereby exonerated.

Judgment signed this 13th day of August, 1895.

Charles S. Hatch, Clerk.

Seal and certificate of certification.

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sent and certificate of cert

judgment signed and

herby discharged from arrest

COPY.

National Citizen's Industrial Alliance,
Clarendon Hall,

New York, July 2nd, 1896.

Hon. Wm. L. Strong,

Mayor City New York.

Dear Sir:

It has come to our knowledge that the Dock Department Officials are violating the provisions of Chapter 385 of the Laws of 1870, and also the provisions of Chapter 622 of the Laws of 1894, known as the Eight Hour Law, and that when this has been called to their attention, instead of immediately complying with such provisions, they referred such complaint to their counsel and we are led to believe that the Counsel cannot find any trace of such law or any book that contains such law in the Public Library, and that he, the Counsel, has stated to the Dock Board that to the best of his belief that there is no such law. Now we call your Honor's attention to the fact that if the Dock Commissioners do not immediately comply with the provisions of our State Statute Laws that we will demand a hearing before His Honor the Mayor to make argument to show cause why the Dock Commissioners should be either compelled to obey the State Statute Law or be removed for refusing to obey said law, in accordance with the provisions of Section 3 of said law, chap. 385 Laws 1870. It is very near time that the Tammany Heeler was pushed out of the Dock Department. He has held sway there long enough, and this thing of swindling poor workmen out of two or more hours' pay per day is just about played out and must be stopped once for all; and if it cannot be done honestly without publication then we will publish the whole business to the people and perhaps they will have something to say about it later on.

Very respectfully yours,

The National Citizens Industrial Alliance.

Edward J. Murray,

Cor. Secretary.

(Old Mansion)

foot East 66th St., N. Y.



CITY
OF NEW YORK,
DEPARTMENT OF DOCKS,
COMMISSIONERS
EDWARD C. O'BRIEN, Pres.
EDWIN EINSTEIN, Treas. * JOHN MONKS.

GEO. S. TERRY, Secretary.

PIER "A" N.R.
BATTERY PLACE.

New York

July 8th, 1896.

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

Sir:-

I am directed to acknowledge the receipt of your letter of the 3d., instant, enclosing one dated July 2d, from the National Citizen's Industrial Alliance, complaining, "that the Dock Department officials are violating the provisions of chapter 385 of the laws of 1870, also the provisions of chapter 622 of the laws of 1894."

Under date of February 9th, 1876 a letter was written by the Secretary of the Board of Docks to the Hon. William C. Whitney, Counsel to the Corporation, asking his opinion, whether the law of 1870 above referred to, had been violated by this Department.

I transmit herewith a copy of said letter, also the reply thereto of the Counsel to the Corporation.

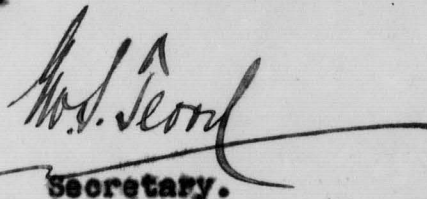
This question has not been raised as an entirety since the amended act of 1894 was passed, but a part of section 2 of chapter 622 of the laws of 1894 has been pronounced unconstitutional in an opinion of the General Term of the Superior Court of Buffalo, The People Etc., respondents, vs. Henry J. Warren appellant, a copy of which is also enclosed.

All the employees of this Department who come within the terms

Hon. W. L. G-2.

of the first part of section 2 of chapter 522 of the laws of 1894, receive for the hours prescribed by law, compensation, equal if not greater than for corresponding trades or callings where such parties are employed by private persons or corporations; but in the prosecution of the work of this Department it is often necessary to work beyond eight hours, and therefore the men are employed by the hour and paid for the number of hours they work.

Respectfully yours


Secretary.

ENCLOSURE.



CITY
OF NEW YORK,
DEPARTMENT OF DOCKS.
COMMISSIONERS
EDWARD C. O'BRIEN, Pres.
EDWIN EINHORN, Treas. * JOHN MONKS.

GEO. S. TERRY, Secretary.

PIER "A" N.R.
BATTERY PLACE.

New York Sept. 3, 1896.

Messrs. R. W. Cameron & Co.,
23 So. William Street,
New York City.

Gentlemen:

A communication has been received by this Department requesting the Board to set aside Pier 14, E. R. for a special kind of commerce, and also requesting permission to erect a shed on said pier.

A hearing on this application will be had at a meeting of the Board to be held Thursday, September 10th, 1896 at 12 o'clock noon, and if you desire to be heard on this subject you are respectfully invited to be present at that time.

Respectfully yours.

Chalres J. Farley,

Assistant Secretary.

Similar letter sent to John A. Cormack, Esq.,
Chairman Water Front Committee of
the Maritime Association of the
Port of New York,
Produce Exchange Building, N.Y.

copy
New York, September 8th, 1896.

To the

Department of Docks,

N. Y. City.

Gentlemen:

A notice has been issued by you to the effect that a communication had been received by the Department, requesting the Board to set aside Pier 14, East River, for a special kind of commerce, with permission to erect a shed on said pier.

We, the undersigned merchants, doing business at this Port, respectfully enter a protest against this being done, there are but few piers left on the river fronts of this city for the business required by sail vessels, as a matter of fact there is not one single berth on the North River, and below the Bridge on the East River, there are only left Piers 9, 11, 12, 13, 14 and 19.

In placing before you this earnest protest against a further interference with our business, we append a copy of letter addressed to Mr. O'Brien, your President, under date of Dec. 13, 1895, as well as of a statement of the piers available for sailing vessels from Corlears Hook to the Battery, this is in itself sufficient evidence of the importance as regards the accommodations of sail vessels, and we respectfully urge that permission to shed Pier 14, East River, will not be given. The letter before referred to is written by Messrs. R. W. Cameron & Company.

Sailing ship lines

to be accommodated on
Piers 9, 11, 12, 13, 14, -- are
California,
Australia,
West Indian,
Brazilian,
River Platte,
Southern Ports, U.S.
Cape Ports,
West Coast of South America,
Central America,
Steamers and sailing vessels in fruit trade.

R. W. Cameron & Co.,
p.pro

Henry W. Peabody & Co.,
Henry Sciper,
Mailler & Zuvean,
Flint & Co.,
American Fruit Company,
I Cadnang, Prest.,
N.A. Benner & Co.,
Leaycraft & Co.,
Per Arthur A. Cater,
F. T. Montell & Sons,
Cadenas & Coe,
Thomas Norton & Co.,
P. P. Brown, Bieche & Co.,
Robt. Jaffray, Jr.,
A. D. Straus & Co.,
A. S. Lascelles & Co.,

23 South William Street.

58 New Street.
31 and 35 Stone Street.
66 Broad Street.

85 Front Street.
77 Water Street.

140-142 Pearl St.
63 Pine St.
50 William St.,
104 Wall St.

47 Cedar St.
18 Broadway.
Coffee Exchange.

(C O P Y)

New York, December 13, 1895.

Edward C. O'Brien, Esq.,
President, Department of Docks,
Pier A, North River, N. Y.

Dear Sir;--

In the interest of commerce of this port, and more particularly of sailing vessels in long voyage trade, we beg to place before you the conditions surrounding wharfage accommodations, and would premise by saying that the North River from the Battery as far north as Piers are now built, is exclusively taken up by steamships, Railways, Steamboats and for other purposes to the exclusion of sailing vessels. East River, from the Battery to Corlears Hook, there are only nine piers available for sailing vessels, the rest of them being taken up by the Canal district from pier 1 and up to and including pier 7, and the remaining piers by Steamships, Railways, Steamboats and for other purposes; as a matter of fact today, the only space of berthing which can possibly be availed of, is on the East River, and in order that you may have that condition clearly before you, you will find enclosed herewith, a statement showing the piers available for sailing vessels from Corlears Hook to the Battery. Up to and including pier 7, as before said, is taken up by the Canal Boats, Pier 8 by the Erie Railroad Company, Pier 10 shedded up and is used by a Steamship Company, from Pier 14 up to and including Pier 48, with one exception -- that is No. 19 -- is taken up by steamships, ferry lines and other trades to the exclusion of sail vessels. Piers 37, 47 and 48 are in use by steamers and sailing vessels combined for discharge of inward cargoes only, but not for outward.

Our business is chiefly with Australasia, and berthing accommodation is required for about 100 vessels each year, aggregating fully 100,000 registered tons, and today the only piers that we have for our business are Piers 9 and 14, and we only hold these by lease from the owners necessitated for our protection to keep steamers from berthing there.

We have understood that the owners of Pier 9 contemplate leasing this pier to a railroad company, which will require its being shedded and deprive us and the sail commerce of this port of one of the few Piers left for their accommodation, and we earnestly protest against any permit being given to the owners of this pier, or any other pier on the East River to be shedded for the purpose of renting to steamships, railways or any other trade to the exclusion of sailing vessels.

The long voyage business of sail vessels to Australia, South America, South Africa and California require a place of convenience for loading, and that place of convenience has existed and should always exist as between the Battery and Pier 21, and it is our feeling that such Piers, which are private property, should not be accorded privileges for the sake of increased income to the detriment of the commerce of the port.

It would very much relieve the congestion now existing if the Piers of the Canal District could be turned over to sailing vessels, but we understand that they are not at present suitable, owing to depth of water, which, however, could be readily overcome; and trusting that the subject matter of this letter will receive attention, we remain, Dear sir

Your faithful and obedient servants,
(Sgd.) R. W. CAMERON & CO.

*This is the letter
mentioned by W. Cameron
in the Pic-Con and protest.
J.B.*

Piers available for sailing Vessels,
From Corlears Hook to the Battery.

Pier 48 Pier 47	{ China Japan Singapore Sumatra California	Steamers & Sailing ships.
Pier 37	Do.	Do.
Pier 19	California Lines only	Very large Vessels.
<u>Pier 14</u>	{ Australia 2 lines South America West Coast Outward West India	Very large vessels Sailing Ships
Pier 13	{ California Line Fruit steamers	upper side Lower side.
Pier 12	{ Fruit Steamers West India Southern Ports	Upper side Lower side, small vessels only.
Pier 11	{ West India South America Southern Ports West Coast Cape Ports	Upper side, small vessels only Lower side, large vessels
Pier 9	{ Australia 2 lines, Cape Ports West India Southern Ports	very large vessels.

Australia requires for outward loading about 100 ships a year, aggregating 100,000 registered tons.