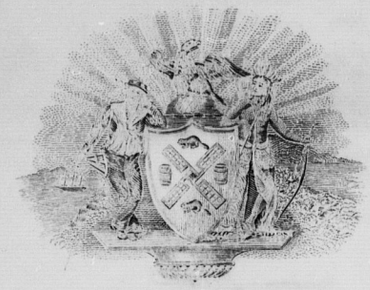

HERBERT PARSONS,
ALDERMAN, 27TH DISTRICT,
111 BROADWAY, - - MANHATTAN.
CHAIRMAN OF FINANCE COMMITTEE
——AND——
COMMISSIONER OF SINKING FUND.

City of New York.
Board of Aldermen.
City Hall.

March 27th, 1903. W. J. M. 190

Personal.

Hon. Seth Low,
Mayor,
City Hall.

Dear Mr. Mayor:-

May I express the very earnest wish that youwill veto the ordinance passed by the Board of Aldermen on Tuesday, March 24th, amending Section 179 of the Revised Ordinances. If this ordinance is permitted to become a law, it will be the source of injustice and corruption. For the following reasons:

1. It gives to each Borough President and Park Commissioner despotic power. It is directly contrary to the spirit of the Charter in regard to encumbrances. Prior to the revision of the Charter, the law was that projections could be authorizedby resolutions of the Municipal Assembly. By etiquette such resolutions were adopted in regard to a locality if the Alderman of the District ~~of~~ that locality favored them. Partly at the earnest request of former members of the Board of Aldermen and myself, this was changed so that the matter should be thereafter uniform and not dependent upon the favor of anybody. This ordinance simply substitutes the Borough President for the Alderman. Let me say that for the important districts of Manhattan Island it would be a great deal better to have the Alderman. Whatever the Borough Presidents may be now, the history of the City has shown what we may expect sometime, and the opportunity for corruption and blackmail that this would give should not be made possible by your administration.

2. No right to even reasonably object is given to adjoining property owners. This right is one which they should have. I passed a number of resolutions for projections in the Municipal Assembly, but in every case, unless the projection was on a comparatively small part of a building with a large front,

so that the projection could not be held in any way to interfere with the neighboring property owners' rights, I gave notice to the adjoining property owners of what I was going to do, stating that they had until such and such a time to enter any reasonable objections if they had them. This provision was inserted in the bay-window ordinance. Perhaps it should be amended so as to mean that if A erects a bay window by the consent of B, A must be ~~admitted~~ deemed thereby to have given his consent to any bay window that B may wish to erect, or similarly have the matter apply to the successors of each, but that amendment would only emphasize the really good principle.

May I give an instance. Despite the etiquette in the old Municipal Assembly, at the second meeting which I attended as an Alderman, I was requested to introduce a resolution authorizing the portico in front of the Savoy Theatre in West 34th Street. I said I wished to think it over and see what the adjoining property owners thought about it, but I was bogusly called to the telephone and they then attempted to put the thing through while I was at the telephone. It did go through because Senator Timothy D. Sullivan was one of the owners of the property, and he and his faction do not know what justice is. I at once communicated with the adjoining property owners. Everyone of them objected vehemently and appeared before the Mayor. The Herald Square Hotel was one of the objectors. Dr. Jacobi, who was still living on 34th Street was another. The portico, in my opinion, destroyed to a certain extent the value of the property to the west of it. Property owners and lessees realize this. I had considerable trouble about some signs in 21st Street or 20th Street, between Broadway and Fifth Avenue. A, who was nearer Broadway, put out an illegally large sign, which shut out B's sign from being seen on Broadway, and it meant a money loss to B. Under this ordinance, A could put out a whole front and cut out B. B would have no rights. He would have to have the favor of the Borough President.

It is time we quit government by favor in The City of New York. For it means injustice.

3. The compensation is wholly inadequate, if large projections are to be permitted.

4. This ordinance should be scanned most suspiciously because it is made to fit a particular case. It is backed by the same people who foisted that portico in front of the Savoy Theatre on the people in that neighborhood. They know no one's rights. If you sign this ordinance you play into their hands. They will undertake to legalize anything and it might not be possible to stop them even by your veto.

Respectfully yours,

Herbert Parsons

TELEPHONE 3960 MAIN.

CITY OF NEW YORK.
BOROUGH OF BROOKLYN
BUREAU OF BUILDINGS
OFFICE OF SUPERINTENDENT.

WILLIAM M. CALDER,
SUPERINTENDENT.

BOROUGH HALL.

April 2, 1903.

Hon. Seth Low,

Mayor of The City of New York.

Dear Sir:

Permit me to call your attention to the ordinance passed March 24, 1903, regulating the ornamentation on the fronts of buildings in The City of New York and which is now awaiting your approval.

I understand this ordinance will legalize the erection of certain porticos and porches on several buildings in the Borough of Manhattan. I do not believe its far-reaching effect was appreciated by the members of the Board of Aldermen.

Over one thousand buildings were erected in Brooklyn last year on the building line, every one of which has sills and lintels projecting from two inches to five inches, and the cornices from ten inches to two feet. Hereafter, if this ordinance becomes a law, it will be necessary to file plans and make application for a permit to the Borough President and pay a fee for these embellishments.

The effect of this ordinance will be apparent to you when you look at almost any building in the Borough of Manhattan and notice the sills and lintels of the windows, also the store and roof cornices, which, no matter how plain the rest of the building may be, come under the provisions of this ordinance.

It seems to me that we are at present taxing the builders to the utmost limit. Builders of three-story, three-family tenement

houses in the out-lying sections of Brooklyn are now compelled to apply for permits to seven different departments and providing the building is erected on the building line, this will make the eighth. Previous to our own administration they were obliged to have but five permits.

The Bay Window Ordinance now in force requires the payment of a certain fee for bay window projections to which I, personally, see little objection, but this ordinance will require the payment of an additional fee and the filing of plans for the very smallest ornamentation.

I do not believe the erection of porticos, porches, etc., should be permitted without a permit and the payment for same having been made, but the other items mentioned in this ordinance, it seems to me, will not only bring down upon the administration a great deal of adverse criticism but will also have the effect, in poor neighborhoods where the cost of a building must be kept down, of encouraging the erection of buildings with flat fronts and no ornamentation whatever.

I sincerely trust this ordinance will be vetoed.

Yours respectfully,

William H. Calder

Superintendent of Buildings,
Borough of Brooklyn.

COLUMBIA UNIVERSITY
NEW YORK

SCHOOL OF ARCHITECTURE

April 2. 1903.

My dear Stevens.

The condition of things in the matter of unauthorized projections from buildings is plainly an intolerable one. If my name can be of any service to you in taking measures to remedy it, you are welcome to make use of it.

Yours very truly

William R. Ware,

COLUMBIA UNIVERSITY
NEW YORK

SCHOOL OF ARCHITECTURE

April 2 1903

W. A. B. Nerto
32 East 28th St.

My dear Sir:-

In the present chaotic condition of affairs relative to the right to erect architectural features or decorations beyond the building line, I am emphatically in favor of any ordinance which will establish, under suitable safeguards and with fair compensation to the City, the definite right to do what has so long been tolerated by custom, in the erection of such projecting architectural features within the limits of the "block area". I understand that the ordinance recently passed by the Board of Aldermen establishes this right upon a definite basis of compensation to the City, taking it out of the domain of special privilege & be-

COLUMBIA UNIVERSITY
NEW YORK

SCHOOL OF ARCHITECTURE

gained for and made a medium or occasion for public or private blackmail, and places the administration and supervision of the exercise of this right where it belongs — under the Department of Buildings, thus removing the occasion for clash between that Department and the Department of Highways. If I am right in this understanding, I do not hesitate to express my approval of the ordinance. It is a good step in advance, in the cause of good and orderly government. I regret that I shall probably be unable to attend the hearing on Saturday, and do hand you this note in writing for such use as you may wish to make of it.

Sincerely yours

A. D. P. Hamlin

STUDIO
119 WEST FIFTY SECOND STREET

April 3rd 1903

It seems to me eminently proper that the matter referred to in Mr Hartley's letter should be intelligently and definitely settled by some municipal legislation that would not interfere with artistic decorations on any thing that would add to the beauty and comfort of the city streets as sidewalks —

Respectfully —

S. A. Ward

Vassar College.

LEWIS FREDERICK PILCHER,
PROFESSOR OF ART,

POUGHKEEPSIE, N. Y., Apr. 3 - 190 3 -

My dear Starts ——

as one deply interested in the architectural embellishment of New York I desire to urge most strongly the adoption of the proposed ordinance relating to the placing of decorative work beyond the building line. It is necessary to make some definite provision governing this question, for as it now obtains the jurisdiction is undecided & the situation is productive of serious confusion. The dimension restriction stated is absolutely defined and the jurisdiction concerning the work in the hands of a single department - a compensation to the city of a percentage of the land valuation is also essential. With such limitations, which I think are substantially those in force in Berlin, the ordinance would give a chance to architecturally accentuate those edifices of important and monumental character in our streets & make it possible to relieve

the monotony (structural) so deadening to the artistic atmosphere of our American cities —

Truly yours

L. T. Talcher

A. A. I. A.
Staff. Lect. Univ. of Pa (Dept. of Arch)

DANIEL CHESTER FRENCH
125 WEST ELEVENTH STREET
NEW YORK CITY.

April 3. 1903.

A law to regulate the projection upon the sidewalks or beyond the line of the buildings of ornament, or cornices or colonnades would appear to be a necessity. and I am heartily in favor of the Bill which it is proposed to discuss in the office of the Mayor on Saturday April 4.

Daniel C. French

ASPET, WINDSOR, VERMONT.

Dear Mr Perry.

I write in great haste but I must to state that I am entirely of the opinion of Messrs Ward and French in the matter of the passage of this new bill. I hope it will be signed by the Mayor

Yours very truly
Augustus Saint Gaudens

April 7 1903

JOHN P. LEO, President. JUDSON LAWSON, 1st Vice President. J. A. ROSSMAN, 2d Vice-President.
J. F. SAYWARD, Secretary. L. E. LANDON, Treasurer.

THE BUILDERS' LEAGUE OF NEW YORK.

(INCORPORATED.)

74 WEST 126th STREET.

Telephone Call, 935 Harlem.

New York, April 3d, 1903. ~~XXXX~~

Hon. Seth Low,

Mayor City of New York.

Sir:-

I am instructed by our Board of Directors to write you in re to the proposed ordinance providing for ornamental projections on buildings and on which I understand you give a public hearing to-morrow morning at your office.

While we are in hearty sympathy with any movement which will result in the beautifying of our City, yet the proposed ordinance would affect the simpliest structure of any kind, even to the projection of the ordinary window sills or the cornice of the simpliest dwelling and would add another hardship to the ~~law~~ lot of the small real estate owner who was already carrying the burden in this City.

We would therefore suggest that a simple amendment be made to govern such cases and the building superintendents of the three principal borough of the City would certainly be most capable advisers as to the text ef such an amendment.

Yours truly,

John P. Leo

Pres't Builders League

CAPITAL AND SURPLUS $ 8,000,000.

Title Guarantee and Trust Company,

175 Remsen Street,

REAL ESTATE TITLE INSURANCE.

Brooklyn, April 3, 1903.

Hon. Seth Low,

Mayor of Greater New York,

NEW YORK CITY.

Dear Sir:-

You have before you for consideration, Ordinance No. 1814 with reference to projections in the streets. I would respectfully ask that you do not approve of this Ordinance -

1st - because it seems to me that the erection of these ornamentations and minor projections does not injure the public in any manner, and

2nd - because the embellishment of Real Estate is to the advantage of the City as a whole, provided no one is injured.

Where large amounts are involved, of course this question is not so important but in this borough I should look at the enforcement of this Ordinance as creating many encumbrances on titles which would be most unfortunate.

Very truly,

Vice President.

Telephone, 253 Columbus.

THE ARCHITECTURAL LEAGUE OF NEW YORK

H. J. HARDENBERGH, Pres.,
10 West 23d St.

WM. LAUREL HARRIS, 1st Vice-Pres.,
423 West 59th St.

R. HINTON PERRY, 2d Vice-Pres.,
51 West 10th St.

215 WEST FIFTY-SEVENTH STREET

FRANK E. WALLIS, Sec'y,
1123 Broadway.

EDWARD PEARCE CASEY, Treas.,
215 West 57th St.

New York Apr. 4th 1903

Hon. Seth Low
Mayor of the City of New York

Dear Sir:—

I wish to add my voice to that of the gentlemen urging the passage of the law to regulate the nature and extent of architectural projections on the fronts of buildings, and which was under discussion before you today. I was present and followed the argument throughout.

As an active member of the National Sculpture Society, the Municipal Art Society and the Architectural League of New York I wish to express my hearty approval of the bill and in doing so I can assure you that it is

Telephone, 253 Columbus.

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EDWARD PEARCE CASEY, Treas.,
215 West 57th St.

the sentiment of a large majority of the members of this organization.

This measure will I am sure be a powerful factor towards encouraging the architectural embellishment of our streets and at the same time it will not unduly restrict the space reserved for the public. I therefor hope you will cause this bill to become a law.

I beg to remain

Very Respectfully Yours

R. Hinton Perry

2nd Vice-Pres., Architectural League N.Y.

CITY OF NEW YORK,

OFFICE OF THE MAYOR,

April 4th, 1903,
10:30 A.M.

Hearing before His Honor, MAYOR LOW, on an ordinance amending Section 179 of the Revised Ordinances of the City of New York of 1897.

THE MAYOR: Public hearing will now be given upon an ordinance amending section 179 of the Revised Ordinances of the City of New York of 1897, by adding a section providing for the issuing of permits for ornamental projections on certain buildings beyond the building line.

I ought to say I have just been served with an injunction forbidding the Mayor to approve or disapprove the ordinance,--rather a remarkable document, but the Mayor still seems to be at liberty to go on with the hearing, and therefore we will take that up.

I have letters here from the Title Guarantee & Trust Company objecting to it, and from the Builders League, objecting to the ordinance unlessit be amended so as to make provision for window sills, cornices and the like; also a letter fromAlderman Parsons objecting to the ordinance, and from the Superintendent of Buildings of thr Borough pf Brooklyn upon apparently the same grounds as the Builders League. I shall be very glad now to hear anyone

upon the ordinance . Those who are opposed to it I think should speak first.

SPEAKERS IN OPPOSITION TO THE ORDINANCE:

Henry Young, (representing certain property owners)

Superintendent of Buildings, Borough of Brooklyn

William J. Fryer

JamesF. Dunn

Mr. Hottenroth

SPEAKERS IN FAVOR OF THE ORDINANCE:

Mr. Erlanger

Henry B. Hurst

Mr. Clark

Mr. Young.

HEARING CLOSED.

CITY OF NEW YORK,

OFFICE OF THE MAYOR,

April 4th, 1903.
11 A. M.

Hearing before His Honor, MAYOR LOW, on ordinance amending Section 179 of the Revised Ordinances of the City of New York of 1897, by adding a section providing for the issuing of permits for ornamental projections on certain buildings beyond the building line.

ARGUMENT OF MR. ERLANGER.

I represent the owners of the Amsterdam Theatre on West 42d Street, and I had the honor to appear before you some weeks ago when the first ordinance was passed and for which this is a substitute, and I understand that this substitute was drafted by your own advisers, by a man, the Corporation Counsel, who was one of the framers, was on the commission to frame the charter.

Without going into more detail and rehearsing what has occurred, or what took place rather, before

you some weeks ago, I am going to address you now as to the legal aspects of this ordinance, and I want to say as a fundamental proposition, that the best way of opening a case is to get an authority that is directly in point, and then there is some show of success. My brother lawyers have come here and we have had rehearsed some speeches that have appeared in our publications of this city, one especially, and I recognize that speech by the use of two words "ejusdem generis" that appeared on Thursday in the Journal, and they inveigh against 42d Street, and they had also this ordinance which they claimed applied to this particular street, and at the same time chapters or sections or paragraphs from Section 50 of the charter.

I said to youat the last hearing, and I was willing at that time to pledge my professional standing, if I have any,upon this absolutely true statement, that the word "obstruction" in Section 50 of the charter never was intended to have the effect that is contended for by Mr. Donnelly and by the others.

I have taken the pains to have examined critically and carefully, at the Law Institute, all the publications bearing upon the subject of laws and ordinances of the Mayor, Aldermen and Commonalty of the City of New York, and I find that for a period of sixty-five years, commencing with 1839, the first publication including the ordinances and by laws as they were in force in 1838, five feet was always allowed to property owners as an area and seven feet, not to exceed seven feet, for a street line. I was curious to ask then, if possible, what that meant, and I had a theory of my own that it meant that so much of the street from the house line, may be appropriated by property owners, so long as the building stands, they may have five and seven feet respectively for area and for stoop line. Now, let us see for a moment where the public is interested. With a building, for example, fronting on Broadway (of course they have areas on Broadway, but it is good enough for illustration,) has an area of five feet and which is enclosed by a rail with a gate working inwardly,

then the public is excluded from five feet of that highway. If there is a stoop of seven feet, then the public is excluded from that highway to a distance of seven feet.

Now, look at the charter for a moment. That was the law for sixty-five years, and I am going to show you in a moment what the ownersof property did on 42d street against those laws which have existed for all that period. The charter, or Section 50, is framed substantially upon the old Section 86 of the charter of 1873, which has been popularly known as the Consolidation Act. The same language appeared almost in the old charter that appeared in the new charter of 1901. The wording that no obstruction shall be placed and permitting no obstruction upon the sidewalk, except for the temporary use of builders and in alterations is word for word the same; and it is important in this connection for the reason that the Title Company have suddenly changed their minds. Now they say there may be a question of passing the title. At the last hearing you remember we

had a letter to the effect that they would make no objection and would pass the title; but whether they would pass the title or not, the lawyers are not concerned in any way about it, for the simple reason that our courts have held that there is absolutely no defense to an action for specific performance and you would have to perform, despite the fact that there were those projections.

A case arose from this state of facts: A bay window had been placed upon a piece of property and the stoop ran six or seven feet beyond the line limited by law, and the purchasers refused to take title. "Why", they say, "here is an obstruction, and encroahhment upon the public highway; we want take title,"-- and an action was brought to compel them to take it; and I call your attention to a very interesting discussion of the question by Judge Patterson, and I will read a sectionofit:

"Prima facie, any obstruction in a highway is unlawful, but it is urged by the plaintiff that these constructions are lawful for various reasons, and,

"first, because they are built pursuant to a usage which has existed in the city of New York for many years, and that there are thousand and perhaps tens of thousands of stoops and bay-windows and area openings and coal-shutes and cellar doors and other appurtenances to houses fronting on city highways, which have allowed to exist in the public streets beyond the building line".

Another section:

"But the right of the plaintiff to build the bay-windows and the stoop or portico is founded in the law; for the fair inference from the statutes of the state and decisions of the courts is that it is within the power of the Common Council to pass appropriate ordinances regulating the subject of the fronts of buildings facing on public streets, and to grant permission to owners of buildings to occupy a certain space for certain purposes beyond the building line."

THE MAYOR: What case is that?

And that is the very thing to which I wish to address myself, that is an ordinance may be passed

MR. ERLANGER: Broadbelt vs. Loew (15 App.Div.)

Another section:

"The ordinances above referred to come distinctly within the 3d subdivision of the 86th Section of the Consolidation Act and within the power to regulate the use of the streets for the purposes mentioned. By the 17th subdivision of Section 86 of the Consolidation Act the Common Council is authorized to pass ordinances with respect, among other things, to areas, and an ordinance has been referred to above which authorizes the setting apart of areas extending five feet from the house lines."

That has been the law, for fifty-five years.

"This subdivision relates to the construction, repairand use of such areas, and the ordinance allowing bay windows read in connection with that relating to areas, authorizes the construction of such bay windows within the enclosure of the area, for it is an ordinance affecting the use of that area."

And that is the very thing to which I wish to address myself, that is an ordinance may be passed

by the Common Council or the Board of Aldermen within the line of the area or within the line of the stoop, because that portion of the highway has already been taken from the public for the use of pedestrians.

Now, this final clause is interesting, and I am going to read the whole of it:

"But it is said that subdivision 4 of Section 86 of the Consolidation Act applies and places an interdict upon the Common Council granting authority to build these bay windows and the stoop or portico. That subdivision of the section provides that the Common Council shall have no power to authorize the placing or continuing of any encroachment or obstruction upon any street or sidewalk, except the temporary occupation thereof during the erection or repair of a building on a lot opposite the same. This subdivision of Section 86 must be construed with reference to the other subdivision, and is not to be interpreted and nullifying such express authority to do particular things as is given by such other

subdivisions, but is to be construed as excluding or excepting such things as are specifically authorized by the other subdivisions. The provision cited of subdivision 4 of Section 86, relating to placing or continuing encroachments upon any street or sidewalk, can only be reasonably applied to that part of the highway which is used by the public; that is to say, the carriage-way and the sidewalk proper outside of the street line, and as to the space within that line is inoperate as affecting certain constructions authorized by the Consolidated Act, as was held in the case cited."

Now, here is an express authority under the old section 86 that projections may be allowed within the stoop line.

Section 50 of the Charter also reenacts this old section of the old Consolidation Act, allowing, with the consent of the owner, booths for the sale of papers or soda water stands or booths within the street line. It seems to me, if I understand this case, Now, it seems to me, Mr. Mayor, that if the

Legislature and the framers of this charter had anything in mind at all, they had in mind this thought, unless we specifically mention this, why, it is possible that the sale of booths and soda water stands may be held to be without the provision. Now, if consent is given, I may erect along a public front of the City of New York, within the stoop line, a series of booths for the sale of papers, if the property owners consent, or for the sale of soda water, and it is not an obstruction andit is not a violation of law; and yet the public are excluded from that section of the walk; surely, they are absolutely excluded; you cannot walk over a soda water counter and stand, you cannot walk over a stoop; if you attempt to go up a house stoop unless you have business there, you know you are a trespasser;so that I say for a distance of seven feet, house line, in the city of New York, the public are practically excluded.

Now, see about this four foot projection in this ordinance. It seems to me, if I understand this case, of Broadbelt vs. Loew, if I understand the

rules and canons of construction, it is within the power of the Board of Aldermen to pass a law permitting ornamental projections beyond the house line providing they do not extend the stoop line, and I believe the original ordinance did contain the words "Beyond the stoop line"; and then it was deemed wise by Your Honor's advisers to limit the four feet. Well, be it as it may, whether buildings are within four feet or beyond four feet of the house line, are they a greater nuisance or do they injure the public any more than the areas or than the stoop?

Now, Mr. McMillan, told us this week that he bought this property adjoining the Amsterdam Theatre because he thought it was a good speculation. Now, he comes in and says that No. 250 down towards Eighth Avenue is going to be injured by this projection. Why, Mr. McMillan swore that within forty-eight hours he would give $250,000 for two lots of the same frontage adjoining this present property.

MR. McMILLAN: I am ready to do that.

MR. ERLANGER: To the east?

MR. McMILLAN: Yes, sir.

MR. ERLANGER: Assuming, Mr. Mayor, that this projection is not damaging or will not cause all this great fluctuation in value downward, as we contended at the last hearing, you remember they have changed their base. At the last hearing the damage to the adjoining property would be considerable. At this hearing they could not say that, because there is an oath that the property adjoining immediately to the east is worth $250,000., and I say that that building, adjoining all those old rookeries, has tended largely toward the increment of value in that district and will continue so to do.

Now, I am in favor of this ordinance. The injunction proceeding which has been brought against you is a most extraordinary act on the part of the taxpayer -- I don't know who it is, but I had an intimation that it was to be done, and all this lapse of time that has intervened between the passage of this ordinance has simply given Mr. McMillan and his followers the very weapon that they wanted. They are

using every endeavor to stop that building, and they have proclaimed under seal and sent out an edict as far as it will reach their friends, that never, if they can prevent it, will that building be completed, and they will not permit this building to be completed; I suppose if all manner and forms of taxpayers' actions may be brought and it ~~xixx~~ be finally contested, and even though they may be brought not in the hope of final success, because there cannot be final success; but meantime they are delaying the completion of this construction at the expense of thousands of dollars to these property owners, and if they can perhaps tire them out, there will be some hope of accomplishing their aim.

I understand this ordinance is designed to meet the situation of affairs which your Honor has characterized as being unendurable and correctly so. Surely if the consent of an adjoining owner was necessary, you can readily see that Mr. McMillan would only give his consent upon receiving a very large sum of money. Pardon me for the use of the name. I do

not intend at all to be persona; I never am personal; and when the circumstances require me to be so, I want to be within at least respectful limitations. I refer to this thing merely as showing and bringing back to your mind the real estate of affairs that exist on 42d street, of which so much has been said by all thespeakers with the exception of the Superintendent of Buildings from the Borough of Brooklyn, who did not mention any street but who made one or two good suggestions but is heartily in sympathy with the measure. All the rest could not but refer to 42d street, and one speaker was willing to take off four feet from the sidewalk so as to broaden the carriage way, and others were willing to almost do anything but don't sign this ordinance, because if you do we have got them on the run. The minute you sign this ordinance, we will try to maintain its validity. We are the ones that will be injured, we are the only ones that can be injured; because the Knickerbocker Trust Company and all the other persons in New York who are offending against the Building Laws to a

greater extent than we are, are not at all represented here or attacked at all; we are singled out as malefactors and we are singled out in a street which for fifty years was a common lane and which has largely been brought into prominence because of these great structures which have gone up there, those features, and which will be brought into greater prominence because of other buildings which are in contemplation of construction in that same locality.

One word and I will quit. I have shown you that for sixty-five years the line of the area was five feet and the limitation of the stoop was seven feet, and that has been the law; and it has always been within the intentment of the law makers of this city that the public shall be excluded from so much of the walk and their rights for every purpose shall be limited between the line of the area or the stoop to the curb for promenarding purposes, if you please, and for carrying upon the sidewalk such things as are not prohibited by law. Mr. McMillan is the owner of 210 and 212 West 42d Street, and his building projects, as we have

shown by an actual survey, from four and one-half inches on the east to five and one-half inches on the west from the street line, but they may be protected by the laws of 1899 which contains a general provision referred to by my good brother Donnelly; but be that as it may one individual in the city of New York was obliged to go to the Legislature to legalize an act because somebody was after him at that time exactly as some one is after us now, and they have practically legalize all buildings that occupy within ten inches in front of the building line, and Mr. McMillan happens to fall within that recent act of our Legislature, for he occupies pretty nearly sixteen feet of the stoop and he occupies prettynearly ten feet of the area and there is no dispute about that; and so all along 42d street. The church has fenced in seventeen feet I believe of sidewalks of the city of New York where their right is only limited to five feet. I call your Honor's attention again in order that you may have before you a birdeye's view of 42d Street.

We favor this ordinance, despite the fact that an injunction has been granted against you, and we realize who are behind you. We realize that your hands for the moment tied. We believe that your advisers will not permit you to go into court and make default. We believe they will be prepared to show by authorities that it is the most extraordinary act on the part of the taxpayer, that it was an act that was perpetrated as means to an end, and there is not a court of equity in the entire world and especially in this great city that would stand for a moment to see the hands of its Chief Magistrate tied in a manner that may involve the rights as between two citizens and yet does not involve the rights of the entire inhabitancy of this City. The moment your hands are free, we beg of you, and we ask you, in the interests of fair play and of justice, that you sign this ordinance, and that you make any recommendation to the Board of Aldermen in respect of it that may occur to you with any additional suggestions that may be deemed by you wise which may assist or

tend towards the end that no man's rights may be impaired, and then let the Board of Aldermen make such changes as you suggest; but in the meantime we ask you, as long as we alone are singled out as malefactors and as long as we who pay taxes on five millions of real estate in this city, are singled out, give us the right as taxpayers not to violate any law, but give us the right, if this law shall only be enforceable for a week and shall thereafter be amended whether enlarged in its scope or amended by defining the rights of property owners more distinctly, I will say again, do not wait a moment but sign that ordiance, that that building may be completed, because on May 1st we stand in a position (and they know it well) that if our tenants cannot get possession, we will have damage suits staring us in the face, and that property, representing a total investment of over a million dollars, aside from its fixed charges, aside from the loss of investment, thirty thousand dollars in rents all will be lost and all will be destroyed; but, and I say this in conclusion, -- that if Gabriel

was to blow his trumpet and announce the entire extinction of the inhabitants of this City except McMillan and the officers of this defendant, and the condition was imposed upon the officers of this defendant that they could only survive by having McMillan king, we would go down rather than allow McMillan to be king, rather than submit to blackmail.

6187-03.(5).

GEORGE L. RIVES,
Corporation Counsel.
ARTHUR F. COSBY,
Assistant Corporation Counsel.

City of New York.
Law Department,
Bureau for the Recovery of Penalties.
No. 119 and 121 Nassau Street.

April 6th, 1903.

Dear Mr. Clark:

I enclose the draft of the proposed ordinance as to permitting ornamental projections with certain changes that were agreed upon.

As amended the ordinance provides, that no charge shall be made for an ornamental projection within one foot of the building line, and that no charge shall be made for such projections beyond one foot of the building line for each story through which it is carried. These were the suggestions made by the Brooklyn Superintendent of Buildings, and it seemed to me to be reasonable that if a man pays for a certain amount of area space he should be allowed to carry that beyond one story if he so desires.

The original bill, on careful consideration, really applied to the City at large, and was so understood by those attending to the hearing. Inasmuch as no objection was made from any Brooklyn people, I think we had better have it made clear that the ordinance extends to the City at large, and have therefore added in Section 4 the words "in the City of New York."

The suggestion that the width of ornamentation should be limited to one-third the width of house frontage, I have not incorporated as I do not know what is the opinion of the Mayor on this point.

All other objections made at the hearing do not seem

to me to be valid:

First. It was said that a discretionary power was vested in the Borough President and Park Commissioner. This discretion is a reasonable one which they could not arbitrarily refuse, and should they refuse without a valid reason the courts could mandamus them to issue the permit.

Second. It was said that the Board of Aldermen had no power to define what was an ornamental projection. The law must be clear, however, as to what is meant to be included, and for this purpose a definition is essential.

Third. It was said that the charge of ten per cent. per square foot of the assessed value of the property was indefinite. This is the same as in the bay window ordinance.

Fourth. Strangely enough no one made the point of the discrimmination in the ordinance as passed by the Board of Aldermen in providing that the two feet limitations should be on the crosstown streets of 14th, 23rd, 34th and 59th, but omitted 42nd Street as originally included in the ordinance presented by us. Of course, this was so as to legalize the obstructions on the New Amsterdam Theatre.

Very truly yours,

Arthur J. Cosby

Asst. Corporation Counsel.

John C. Clark, Esq.,
Asst. Corporation Counsel,
City Hall.

Supreme Court,

John Walsh :
vs.
Set& Low, as Mayor. :

MEMORANDUM OF DEFENDANT ON MOTION TO CONTINUE AN INJUNCTION RESTRAINING THE MAYOR OF NEW YORK FROM APPROVING A CITY ORDINANCE OR PERMITTING IT TO BECOME OPERATIVE BY FAILING TO REJECT IT.

POINT I.

The action is not properly brought and the motion to continue the injunction must therefore fail.

The Action is brought under Chapter 301 of Laws of 1892, "to prevent any illegal act on the part of" an officer or to prevent waste or injury to or to restore or make good any property funds or estates" of a municipal corporation.

The statute provides that a person bringing such an action shall upon the commencement thereof furnish a bond to the defendant "conditioned to pay all costs that may be awarded to the defendant in such action of the court shall formally award the same in favor of the defendant."

The bond furnished is an undertaking in the usual form of injunction undertakings. It contains no provision for the payment of costs. It is not executed by plaintiff at all.

The giving of a bond is a prerequisite and condition precedent to the commencement of the action. The defect is radical. It cannot be cured by subsequently filing &/serving an approved bond in proper form.

Hutchinson vs. Skinner, 21 Misc. 729.
Olpp vs. Hawkes (Greenbaum, J.) Law Journal, Aug. 14, 1902.

P O I N T II.

THE COMPLAINT AND THE AFFIDAVITS USED ON THE MOTION SHOW NO CAUSE OF ACTION UNDER THE TAXPAYER'S ACT.

1. It plainly appears that the act sought to be restrained is a legislative act and it is established that municipal boards and officers are beyond the direction and control of the courts in the exercise of their legislative authority. The Common Council of a city cannot be restrained in the performance of legislative acts. The Mayor in acting upon the ordinances passed by the Board of Aldermen is acting in the performance of the legislative work of the municipality.

Kittinger vs. Buffalo Traction Co. 160 N.Y. 377.

The taxpayers statute is not intended to be used for the purpose of subjecting the official acts of municipal boards, officers or bodies, acting within the limits of their jurisdiction and discretion, to the supervision of judicial tribunals because some taxpayer may consider them unwise.

Talcott vs. Buffalo, 125 N.Y. 280.
Ziegler vs. Chapin, 126 N.Y. 343.

Nor is the statute intended nor will it be permitted to be used for the purpose of controlling the discretionary act of a municipal officer which is not tainted with fraud or conruption.

Talcott vs. Buffalo, supra.

Zreger vs. Chapin, supra.

These cases have established beyond dispute that it is only illegal, wrongful and dishonest official acts which can be inquired into under this statute's provisions, and restrained.

In what respect is the Mayor's Act in approving or disapproving this ordinance within any of these descriptions? How is his default in acting upon the ordinance to be complained of for any of these reasons? The presumption, of course, is that the Mayor intends to perform his duties properly and is acting in good faith. Robinson v Gilroy, 10 Misc. 205.

This injunction order in effect is a mandate of the Supreme Court directing the Mayor to veto this ordinance. If it is continued the Mayor must veto it or pay the penalty for his contempt of the Court in disobeying.

No stronger argument can be presented on his behalf than this potent fact.

In this connection the language of the Court of Appeals in Peo. ex rel Broderick vs. Morton, 156, N.Y. 143., is pertinent. There was question there of mandamus to the Governor - The Court says:

> "To do this would be * * * to assert a right to make the governor the passive instrument of the judiciary in executing its mandates within the sphere of his own duties. Were the courts to go so far they would break away from those checks and balances of government which were meant to be checks of co-operations and not of antagonism or mastery and would concentrate in their own hands something at least of the power which the people either directly or by the action of their representatives decided to entrust to the other Departments of the government.

II. There is no allegation even of fraud or misconduct. Anything of that sort is eagerly disclaimed. But there are some statements in the moving papers about illegality of the ordinance and of waste of and injury to the City's property which would follow upon its passage.

The first charge of illegality in the ordinance we shall consider in the next point . The charge of waste and injury may now be discussed.

If the ordinance is illegal, it has no effect. If it contravenes the provisions of the Constitution or a statute, it is void.

Mayor v. Nicholls, 4 Hill, 209.

If it is void how can any waste of or injury to the City's property follow upon its adoption. The courts have power certainly to declare the ordinance invalid in any proper proceeding.

Village of Carthage v. Freedman, 122 N. Y., 268.

If mandamus is desired the plaintiff may prevent the President of the Borough from issuing permit under the ordinance. If injunction is wished for, a neighboring property owner may apply for one. Other proceedings may be conceived of. In any one of these the validity of this ordinance may be thoroughly tested.

It is certainly more orderly, regular and dignified to obtain an adjudication in this way, or thus to prevent injury if it is threatened than to seek by an action of this sort to stay the acts of the Mayor of New York and the due performance of his high duties.

The mere passage of the ordinance

certainly doesnot constitute injury to the City's property.

(Lacombe J.) Seecomb vs. Wurster, 83 Fed. Rep. 856.

The proof of waste and injury, as Judge Lacombe said in this last case, must be clear and certain when the official act even if wrong would not confer any rights. It gives nothing away nor does it confer a single privilege which affects the tax payer. What proof is attempted to be given here? None whatever as to the City at large. The plaintiff does not show any fact from which special damage comes to him. He does not even suggest how "ornamental projections" of the kind described (Sec. 1 of ordinance) which cannot in any case extend more than four feet beyond the building line (Sect. 4 of Ordinance) are to obstruct passage upon the streets or interfere with the performance by the City of New York of its duties as the owner of the fee of the streets for highway uses.

He might better complain of the stoops and areas and railings and steps of every kind and the vaults and carriage blocks, posts and poles in the streets, which are much more obstructive and which yet as we shall see are legal.

The irreparable nature of the loss which shall follow on the adoption of the ordinance is not established at all. Onreading its terms it appears that none of these ornamental projections is permanent. Every one has the character of temporary structures placed in front of the building line by the mere license of the municipality and at its pleasure- (Section 6 of Ordinance).

The claim of waste of the City's property is at once disproved if it is necessary to do so by the provision of the ordinance which provides for fees and revenue from these licenses, instead of loss and injury.

A mere revocable license is not a waste of a city's property and cannot be attacked in an action brought by a taxpayer.

Hart vs. Mayor, 16 A.D., 227.

An equity court is not bound to issue an injunction when it will produce great public or private mischief merely for the purpose of protecting a technical or unsubstantial right.

Wormser vs. Brown, 149 N.Y., 173.

The papers are bare of any specific facts. That mere conclusions and surmises as to illegality, waste and injury are not sufficient in such actions as this is well established. Facts must be pleaded expressly.

Barhite vs. Telephone Co., 50 A.D., 25;
Gilgar vs. Low, et al, 38 Misc., 292;
American Steel House Co. vs. Willcox, Id. 571;
Sheehy vs. McMillan, 26 A.D., 140.

III. There is no precedent for an action of this sort.

Most of the cases which can be found in which a restraining order has granted against a Mayor and Common Council, or the legislative body of a municipality have been those in which

grants of franchises or other specific grants of property were involved. In all of them the illegality of the proposed legislative act was established beyond question and the injury to the tax payer and the waste of the municipal property was most evident. Of this sort were

People ex rel. Trustees of Jamaica, vs. Supervisor of Queens Co., 131 N.Y. 468;

Norris vs. Wurster, et al.,23 App. Div. 124;

Blaschko vs. Wurster 156 N.Y. 437.

All the other cases of the kind are where unconstitutional statutes were attacked and the municipal bodies were restrained from acting under their provisions. Of these last sort were

Rathbone vs. Wirth, 150 N.Y. 459;

Bush vs. Supervisors of Orange Co., 10 APP. DIV. 542;

No where can be found a case where a restraining order has been granted preventing the Mayor of a City from acting in discharge of his duty upon an ordinance which has regularly passed the Common Council. No where certainly can a precedent be found supporting the amazing proceedings pursued here whereby the Supreme Court is plainly and almost expressly asked to mandamus the Mayor to veto such an ordinance.

III.

THE ORDINANCE IN QUESTION IS VALID AND WITHIN THE POWER OF THE BOARD OF ALDERMEN TO ADOPT.

Sections 49 and 50 of the Charter reenacted in substance the provisions of Section 86 of the Consolidation act.

Both the Appellate Division, First Department, and the Court of Appeals have decided that the Board of Aldermen have the power under this section 86 to authorize encroachments upon the street line within proper limits.

Broadbelt v. Law, 15 App. Div., 343; affd.162 N.Y., 642.

The opinion of Justice Patterson in that case disposes of the question of legal power with great lucidity. It would be useless to comment upon it. The ordinances which he discusses are still in force. Others of the same sort have since been made. It is not thought necessary to extend this brief unduly in proving these things. If the Court desires, a separate memorandum on this topic will be submitted.

The practical effect of any conclusion, such as is set forth in the complaint, that the Board of Aldermen have no power to authori ze obstructions on the streets except for building operations is almost inconceivable. Areas, stoops, awnings, steps, posts and every other familiar appliance of the sort, built outside the building line would have to come down. The immemorial usages of the streets of great cities

for other uses than those of passage, would be overthrown as to New York. The rules of law upon this subject are familiar and well settled. The Legislature has power to authorize structures in the streets, even such as without such authority and at common law might be held to be encroachments or obstructions. It may delegate this power to governing bodies of municipal corporations.

Wormser vs. Brown, 149 N.Y., 163.

The use of the streets for uses other than othose of passage is permitted in proper cases. Carriage-blocks

may be put on the sidewalks, hitchimg posts at the curb, vaults may be excavated under the walks without violating law. The authorities have recently been collated and discussed in the case of Robert vs Powell, 168 N. Y. 411 (414) where the rule is laid down as follows:

"There are some objects which may be placed in or exist in a public street * * * which cannot be held to constitute a nuisance. They are in some respects incidental to the proper use of the street as a public highway. To forbid the use of the space within the area in front of houses in the City for ornamental or architectural purposes in a reasonable manner would be to depart from the custom of years and be unnecessary and arbitrary."

Another very recent case in which this matter is discussed is

Deshong vs City of N.Y. 74 A.D. 234

IV.

The motion should be denied and the temporary injunction dissolved with costs.

Dated, April 7, 1903.

George L. Rives,
Corporation Counsel

Edward J. McGuire,
Arthur Sweeny
Of Counsel.

New York Supreme Court,

John Walsh,

-against-

SETH LOW as Mayor,

MEMORANDUM OF DEFENDANT

GEORGE L. RIVES,

Corporation Counsel,

No. 2 Tryon Row,

Borough of Manhattan. New York City.

A.S.
A.M.

Fol. 1

At a Special Term, Part I., of the Supreme Court of the State of New York, held in and for the County of New York, at the County Court House in the Borough of Manhattan in The City of New York on the 7th day of April, 1903.

P r e s e n t :

Hon. Vernon M. Davis,

J u s t i c e .

- -x

J o h n W e l s h ,
Plaintiff :

-against-

Seth Low, as Mayor of The City of New York, :

Defendant. :

- -x

This motion having regularly come on to be heard on an order to show cause, dated April 3, 1903, why an order should not be granted herein, enjoining and restraining, pending the hearing and determination of this action, the defendant from signing or approving, or returning to the Board of Aldermen of The City of New York, with his

2

approval, the ordinance or resolution passed by the said Board on or about the 24th day of March, 1903, entitled "An ordinance amending section 179 of the Revised Ordinances of The City of New York of 1897, by adding a section providing for the issuing of permits for ornamental projections on certain buildings beyond the building line;" or

from suffering the said ordinance to take effect through failure to return the same to the said Board of Aldermen with his disapproval thereof, and granting a temporary injunction until the hearing and decision of such motion,

3 N o w , on reading and filing the said order to show cause and the affidavit of John Welsh, verified April 3, 1903, and the affidavit of Henry Young, verified April 3, 1903, and the summons and complaint herein, and after hearing Henry George Esq., in support of said motion, and Edward J. McGuire, Assistant Corporation Counsel, in opposition thereto, it is

O r d e r e d that the said motion to continue the injunction be, and the same hereby is denied, and that the said injunction heretofore granted herein by the said order to show cause, be and the same hereby is in all respects vacated.

4 E n t e r

V. M. C.

J. S. C.

Please take notice that an Order, of which the within is a copy, was this day duly entered and filed in the office of the Clerk of the County of New York.

New York, ... *190*

Yours, etc.,

GEORGE L. RIVES,

Corporation Counsel,
No. 2 Tryon Row,
Borough of Manhattan. New York City.

To

..... *Esq.,*

Attorney for .....

New York Supreme Court,
Special Term, Part I.

John Welsh,
Plaintiff,

against

Seth Low, as Mayor of The City of New York,
Defendant.

(Copy)

ORDER,

VACATING INJUNCTION

AND NOTICE OF ENTRY

GEORGE L. RIVES,

Corporation Counsel,
No. 2 Tryon Row,
Borough of Manhattan, New York City.

Due service of the within Order and Notice of Entry is hereby admitted.

New York, ... *190*

.....
Attorney for

To

..... *Esq.,*
Attorney for

6562-03-1000 (B)

CITY OF NEW YORK.
OFFICE OF THE MAYOR.

April 7, 1903.h

To the Honorable the Board of Aldermen
of The City of New York:

I return herewith, without my approval, an ordinance adopted by the Board of Aldermen on March 24, 1903, amending section 179 of the Revised Ordinances of the City of New York of 1897, by adding a section providing for the issuing of permits for ornamental projections on certain buildings beyond the building line.

My objection to this ordinance is that it imposes too stringent restrictions upon pilasters, window sills, trims, lintels, cornices, gables, statuary, carvings, and bas reliefs, and it seems to me that they should be omitted from the scope of the ordinance.

I think, also, that no compensation should be asked by the city for the privilege of erecting such ornamental projections unless they extend more than one foot beyond the building line. I am assured by the Superintendentsof Buildings in

6562-03-1000 (B)

CITY OF NEW YORK.
OFFICE OF THE MAYOR.

B. of A., No. 2.

the Borough of Manhattan and the Borough of Brooklyn, that unless these two modifications are made to the ordinance they will inflict great hardship upon builders and property owners, and will also create difficult problems in the calculation of the compensation to be charged by the city. I think this matter should be considered in Committee and action taken as early as possible.

Mayor.

AN ORDINANCE amending Section 179 of the Revised Ordinances of the City of New York of 1897, by adding a section providing for the issuing of permits for ornamental projections on certain buildings beyond the building line,

Be it Ordained by the Board of Aldermen of the City of New York as follows:

SECTION 179-A.

Section 1. The Borough Presidents and the Park Commissioners having jurisdiction, shall, subject to the restrictions of this ordinance, issue permits for the construction of ornamental projections which project beyond the building line, provided in the opinion of the Officer having jurisdiction no injury will come to the public thereby. Permits for the construction of such projections, lying within any park, square, or public place, or within a distance of three hundred and fifty feet from the outer bounderies thereof, shall be issued by the Park Commissioner having jurisdiction, as provided in section 612 of the Charter, as amended by section 1, chapter 723 of the Laws of 1901. Permits for the erection of all other ornamental projections, shall be issued by the Borough President having jurisdiction.

For the purposes of this ordinance "an ornamental projection" shall be taken to mean and include all decorative projections on the face of a building beyond the building line, in the nature of porches, porticos, columns, pillars, pilasters, window-sills, trims, lintels, cornices, gables, statuary, carvings, bas-reliefs, etc., which are erected purely for the enhancement of the beauty of the building from an artistic standpoint.

Section 2. Before the erection of any such ornamental projections shall be commenced, the owner of the building

or his duly authorized agent shall make application in writing to the said Borough President or Park Commissioner having jurisdiction, on suitable blanks furnished by him, for the permit herein provided for, and shall file a plan and drawings showing the nature of the proposed ornament with the dimensions thereof, the number of stories through which it is intended to be carried, and the number of square feet of area covered by that portion of the ornamentation projecting beyond the building line.

Each application shall be accompanied by the amount of compensation due the City for the privilege of erecting said ornamentation, as hereinafter provided.

Section 3. Each application for the erection of an ornamental projection, which projects more than one foot beyond the building line, shall be accompanied by a certified copy of the last assessed valuation of the property, on which said ornamental projection is to be erected, which appears upon the books of the Department of Taxes and Assessments. Except as hereinafter provided, the amount that shall be paid as a compensation to the City for the privilege of erecting each ornamental projection, shall be, for each and every square foot or fraction thereof of area, beyond the building line, for each and every story through which it is carried, covered by said ornamental projection, at the rate of ten per cent per square foot, of the assessed value of the property on which the said ornamental projection is to be erected.

If such ornamental projection does not go more than one foot beyond the building line, and it is not carried higher than the sill of the second-story windows, then the rate throughout the City of New York shall be ten cents for each square foot or fraction thereof of horizontal area covered by

said ornamental projection beyond the building line.

Section 4. Ornamental projections which shall extend not more than two feet beyond the building line, may hereafter be erected on buildings in the Borough of Manhattan situated on Broadway to the south of 59th Street; on 14th Street between Broadway and 6th Avenue; on 23rd Street, between 3rd and 6th Avenues; on 34th Street between 3rd and 9th Avenues; ~~on 42nd Street between 3rd and 8th Avenues~~; on 59th Street between 3rd and 9th Avenues, and on 5th Avenue between 14th Street and 59th Street; and on all other streets ornamental projections may be erected, provided they shall extend not more than one-fifteenth part of the width of the street they are upon, nor in any case more than four feet beyond the building line.

Section 5. The permits mentioned herein shall be issued in duplicate, one of which will be retained by the applicant, and kept at the building during the erection of the projection, and the other shall be filed by him with the plans for the building in the Bureau of Buildings. If it shall appear upon completion that the ornamental projection occupies a greater number of square feet, or has been carried through a greater number of stories than shall have been paid for, the applicant shall pay twice the sum previously paid for each square foot of area occupied by said projection, over and above the number of square feet paid for originally; but in no case shall said ornamental projection exceed the limit allowed by law.

Section 6. Permits granted pursuant to the provisions of this ordinance are revocable permits, and shall have the following clause printed thereon, viz.: "This permit is issued subject to revocation thereof, at any time hereafter

by the Board of Aldermen of the City of New York, upon the recommendation of the Officer having jurisdiction, when the space occupied by said ornamental projection or any portion thereof, may be required for any public improvement, or upon any violation of any of the terms or conditions upon which this permit is issued." A permit for the erection of an ornamental projection shall be deemed to have expired when such projection is taken down, and the space formerly occupied thereby shall no longer be used for the purpose for which the permit was issued, unless a permit for its re-construction shall have been granted, as provided in section 8 of this ordinance. In case it is thereafter desired to erect an ornamental projection on the said property, the applicant shall comply with all of the provisions of this ordinance.

Section 7. Permits as hereinbefore described, and subject to the conditions therein attached, may be issued to the owners of all buildings having ornamental projections, which buildings have been erected or are being erected, and have ornamental projections thereon beyond the building line, without any authorization therefor.

Section 8. No fees shall be charged for granting a permit to re-construct an ornamental projection within the limitations imposed by an original permit therefor.

Section 9. Nothing herein contained shall be deemed to conflict with the provisions of the Building Code. No plans for the construction of a building having ornamental projections thereon, beyond the building line, as defined in this ordinance, shall be approved by the Superintendent of Buildings until the permit therefor is filed, as provided by section 5 of this ordinance.

Section 10. All fees received by the Borough Presidents or Park Commissioners for the issuing of permits provided by this ordinance, shall be accounted for in proper books kept for that purpose, and shall be turned over by them to the City Chamberlain and credited to the General Fund.

Section 11. Any person, firm or corporation violating any of the provisions of this ordinance, shall be guilty of a misdemeanor, and shall in addition thereto be liable to a penalty of ten dollars for each offense, and ten dollars for each and every day that such offense shall continue.

Section 12. All ordinances or parts of ordinances inconsistent or conflicting with the provisions of this ordinance are hereby repealed.

Section 13. This ordinance shall take effect immediately.

GEORGE L. RIVES,

Corporation Counsel,

No. 2 TRYON ROW,

Borough of Manhattan. NEW YORK CITY.

Arthur D. Lesley
119 Nassau St

6562-03-1000 (B)

CITY OF NEW YORK.
OFFICE OF THE MAYOR.

April 7, 1903.h

To the Honorable the Board of Aldermen
of The City of New York:

I return herewith, without my approval, an ordinance adopted by the Board of Aldermen on March 24, 1903, amending section 179 of the Revised Ordinances of the City of New York of 1897, by adding a section providing for the issuing of permits for ornamental projections on certain buildings beyond the building line.

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I think, also, that no compensation should be asked by the city for the privilege of erecting such ornamental projections unless they extend more than one foot beyond the building line. I am assured by the Superintendentsof Buildings in

CITY OF NEW YORK.
OFFICE OF THE MAYOR.

B. of A., No. 2.

the Borough of Manhattan and the Borough of Brooklyn, that unless these two modifications are made to the ordinance they will inflict great hardship upon builders and property owners, and will also create difficult problems in the calculation of the compensation to be charged by the city. I think this matter should be considered in Committee and action taken as early as possible.

Mayor.

THOMAS STURGIS,
COMMISSIONER.
RICHARD H. LAIMBEER, JR.
DEPUTY COMMISSIONER
BOROUGHS: BROOKLYN & QUEENS.
WILLIAM LEARY,
SECRETARY.

Headquarters
Fire Department City of New York.
157 & 159 East 67th Street
Borough of Manhattan, April 20th, 1903.

ACKNOWLEDGED
APR 22 1903

Hon. Seth Low, Mayor,
City Hall, N. Y. City.

Dear Sir:-

As the matter of an amendment of the municipal ordinances to permit the building of projections into the streets, ostensibly for the purpose of ornamentation, is again before you for approval, I take the liberty of laying before you some facts which may have been overlooked.

In the year 1883, upon advice of the Counsel to the Corporation, all permits for projections into the streets were revoked, the Corporation Counsel intimating that the members of the Board of Aldermen could be impeached and removed from office for approving permits of the kind.

Subsequently, a permanent injunction was issued restraining the completion of a bay window on a building on 5th Avenue, the court holding that the Municipal authorities had no power to grant a permit. On at least two occasions attempts have been made to pass through the legislature a bill legalizing the extention of the building fronts of certain houses west of Central Park.

The approval of the ordinance adopted by the Board of Aldermen would appear to have the effect of setting aside the permanent injunction and thus condone the acts of former Boards of Aldermen, which the courts have decided to be illegal.

Respectfully yours,

John R. Shields

Highways. City in the World.

Very grave nuisances.

I

Poetic — light.

I am the criminal.

Art.

General Interest.

250. died. Barnum

212.

Ryer. Knickerbocker Trust Co

Decorative Line

Established

By Alderman Walkley—

Herbert N. Warbasse, No. 189 Montague street, Brooklyn.

By Alderman Ware—

Alfred L. M. Bullowa, No. 46 East Sixty-sixth street, Manhattan.

H. Seymour Eisman, No. 1048 Lexington avenue, Manhattan.

By Alderman Wirth—

Edmund McPeck, No. 127 Sumner avenue, Brooklyn.

John H. Schauns, No. 142 Second street, Manhattan.

The President put the question whether the Board would agree with said resolution.

Which was decided in the affirmative by the following vote:

Affirmative—Aldermen Alt, Baldwin, Bennett, Bill, Brenner, Bridges, Chambers, Coggey, Culkin, Dickinson, Diemer, Dietz, Donohue, Doull, Florence, Foley, Gillies, Goodman, Haggerty, Harburger, Higgins, Howland, James, Jones, Kenney, Klett, John T. McCall, McCarthy, Thomas F. McCaul, Malone, Marks, Mathews, Metzger, Meyers, Nehrbauer, Oatman, Owens, Parsons, Richter, Seebeck, Stewart, Sullivan, Tebbetts, Twomey, Wafer, Ware, Wentz, Willett, Wirth; President Cromwell, Borough of Richmond; President Cassidy, Borough of Queens; President Swanstrom, Borough of Brooklyn; President Cantor, Borough of Manhattan; the Vice-Chairman of the Board of Alderman, and the President of the Board of Aldermen—55.

No. 1813.

By Alderman John T. McCall—

Resolved, That his Honor the Mayor be and he is hereby respectfully requested to return to this Board for further consideration an ordinance now in his hands, Int. No. 1762, entitled "An Ordinance amending section 332 of the Revised Ordinances of The City of New York of 1897, by adding thereto a new section to be known as section 332B."

Which was adopted.

The paper was then received from his Honor the Mayor, and is as follows:

No. 1762.

AN ORDINANCE amending section 332 of the Revised Ordinances of The City of New York of 1897, by adding thereto a new section to be known as section 332B.